

**HEARING ON THE NOMINATION OF NICOLE R.  
NASON TO BE ADMINISTRATOR OF THE  
FEDERAL HIGHWAY ADMINISTRATION**

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**HEARING**  
BEFORE THE  
**COMMITTEE ON**  
**ENVIRONMENT AND PUBLIC WORKS**  
**UNITED STATES SENATE**  
**ONE HUNDRED SIXTEENTH CONGRESS**  
**FIRST SESSION**  
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**JANUARY 29, 2019**  
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COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ONE HUNDRED SIXTEENTH CONGRESS  
FIRST SESSION

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FEDERAL HIGHWAY ADMINISTRATION**

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**TUESDAY, JANUARY 29, 2019**

U.S. SENATE,  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,  
*Washington, DC.*

The committee met, pursuant to notice, at 10:07 a.m. in room 406, Dirksen Senate Building, Hon. John Barrasso (chairman of the committee) presiding.

Present: Senators Barrasso, Capito, Braun, Rounds, Sullivan, Boozman, Ernst, Carper, Cardin, Whitehouse, Gillibrand, Booker, and Markey.

**OPENING STATEMENT OF HON. JOHN BARRASSO,  
U.S. SENATOR FROM THE STATE OF WYOMING**

Senator BARRASSO. I call this hearing to order.

Today, we will consider the nomination of Nicole R. Nason to be the Administrator of the Federal Highway Administration at the U.S. Department of Transportation.

Ms. Nason is well-qualified for this important post. She brings impressive, meaningful experience in Federal transportation policy to this critically important position. I applaud President Trump's nomination of such an accomplished and dedicated public servant.

The Federal Highway Administration plays a central role in American mobility. The Administration is the lead Federal partner to State and local transportation programs that maintain and improve our Nation's roads, highways, and bridges.

America's transportation infrastructure faces a lot of challenges. For far too long, the Federal Highway Administration has been without Senate-confirmed leadership. Moreover, the authorization of Federal highway programs will expire in September of next year.

The Congressional Budget Office projects the Highway Trust Fund will become insolvent sometime in 2021. That is why we must work together in this committee to write and pass a bipartisan highway bill that upgrades America's roads and bridges in a fiscally responsible manner, and do it in this Congress.

We successfully worked together to pass comprehensive, bipartisan water infrastructure legislation. Now let us come together to fix our highways, roads, and bridges. This legislation must address the needs of rural America, and well as urban America.

Rural roads are vital to bringing raw materials and products from the heartland to urban centers. Federal highways like I-80

run coast to coast, bringing goods and services across America. This includes the stretch of I-80 in my home State of Wyoming.

We must maintain and improve these highways in rural States to keep these vital arteries of commerce open. In addition, I strongly support the Federal highway program's current reliance on distributing funds by formula to the States. This is the best way to ensure that funding is transformed into projects quickly.

The Federal Highway Administration will need a strong Administrator to work with Congress on the deployment, development, and implementation of highway infrastructure legislation. Nicole Nason is the right person for the job.

During the Bush administration, Ms. Nason served as Administrator of the National Highway Traffic Safety Administration, the Department of Transportation's top road safety official. Prior to this role, she served as the Department of Transportation's Federal Highway Administration Administrator.

On behalf of MADD, I wholeheartedly endorse her for this position.

The Associated General Contractors of America said that she is a "superb choice to fulfill FHWA's leadership role in improving mobility on our Nation's highways." As such, the Associated General Contractors of America urges the Senate to quickly confirm her nomination.

The Governors Highway Safety Association said: "Throughout her career, Ms. Nason has demonstrated a clear commitment to public service and, during her tenure as Administrator of the National Highway Traffic Safety Administration, a dedication to advancing highway safety."

Confirming her to be Administrator of the Federal Highway Administration will be an important step in supporting our Nation's highways, roads, and bridges. I urge my colleagues to work with me to get this done.

I would now like to turn to the Ranking Member for his statement. Senator Carper.

**OPENING STATEMENT OF HON. THOMAS CARPER,  
U.S. SENATOR FROM THE STATE OF DELAWARE**

Senator CARPER. Thank you, Mr. Chairman.

It is my intent to place a hold on the nomination of Ms. Nason. Not really.

Who are those old people sitting next to you? Are those your kids? Tell us your names.

Senator CARPER. First on the right.

Ms. Abby Nason. I am Abby.

Senator CARPER. Hi, Abby.

Ms. Alex Nason. I am Alex.

Mr. Brady Nason. I am Brady.

Senator CARPER. Who is the big guy?

Mr. David Nason. I am David.

Senator CARPER. I want to thank you guys for your willingness to share this woman with the rest of us. The battle ahead for her confirmation will be hard fought. I have a hunch she will kind of squeak through. We will see. It depends on how she does today.

Ms. Nason, we want to thank you.

It is great to see Norman. Many of us were pleased to previously serve with Norm in the House of Representatives years ago and as Secretary of the Interior, Secretary of Transportation and God knows what else. He is warmly loved in Delaware and on the Delmarva by the horseshoe crab population of our region. There was a sanctuary created and he helped it grow and did that to save the horseshoe crabs which have been around hundreds of millions of years it turns out.

Ms. Nason, thank you for appearing before our committee this morning. We welcome you and your family here today. We welcome your nomination to lead the Federal Highway Administration.

As my colleagues will recall, you are not the first person nominated by this Administration for this job. A fellow from Iowa DOT, the Director of Transportation, Director Paul Trambino, withdrew his name as a nominee because of the illness of his father. He wanted to spend the last weeks and months with his dad. He passed on this job in order to be able to do that. His family's misfortune opened this opportunity for you.

It is interesting that when I was talking with you yesterday, you spoke about your own father and the impact his life, his misfortune with a terrible motorcycle accident, which sort of helped guide you in the end to safety advancements and now brings you before us today.

It has now been more than 2 years since there has been an Administrator, the longest gap in leadership for the agency in more than 100 years, which was long before our Nation's Interstate Highway System even came into existence, back when the Federal Highway Administration was known as the Bureau of Public Roads.

I have long said that leadership is the key to the success of any organization. We have heard many times over the last 2 years that the Trump Administration is eager to enact major infrastructure legislation and make significant investments in rebuilding our Country's roads, highways, bridges and transit systems.

With that in mind, in my view, it is counterintuitive to have left vacant for such a long period of time such an important leadership role in the Federal Highway Administration, an agency with a critical infrastructure mission.

I hope that the President's nomination of you, Ms. Nason, to be Administrator of the Federal Highway Administration is both evidence that the Trump Administration is aware of these organizational needs, and also a signal that the Administration is ready to work with Congress on reauthorizing our Nation's transportation programs.

The Federal Highway Administration is the lead Federal agency that oversees more than 220,000 miles of our national highway system and some 145,000 bridges. Today, far too many of those roadways and bridges have been in use well beyond their original design and as we know, are in poor condition.

Too many drivers, pedestrians and bicyclists put their lives at risk when they use our roadways. In 2017, 2 years ago, there were more than 37,000 fatalities on our Nation's roadways. For context, that is approximately the same number as the number of lives lost annually in our Country to gun violence.

Too many Americans also lack access to reliable transit or safe places to walk or bike, or to charging stations for an electric vehicles or fueling stations for hydrogen. That means the many people in our Country who would like to reduce their carbon footprint may not have many real options to do so.

Next year, the FAST Act, which provided 5 years of funding and policy certainty for our transportation sector, is set to expire. Congress must work now on reauthorizing our Federal surface transportation programs so that we can provide continued certainty for States, tribal communities and cities, while also addressing the opportunities and challenges facing our transportation sector today and in the years to come.

We have a rapidly evolving transportation industry in which new tools, data and technology are disrupting traditional practices of planning, building, operating and using road infrastructure.

As we know, our climate is changing. Our vehicles and travel patterns accelerate and exacerbate that change, while at the same time, increasingly extreme weather events and sea level rise wear down our transportation networks.

In addition to these major policy concerns, we face another big problem. Our Highway Trust Fund is going broke. Last year, we spent almost \$13 billion more from the Highway Trust Fund than we collected in revenues.

I will say that again. Last year, we spent almost \$13 billion more from the Highway Trust Fund than we collected in revenues. Next year, that deficit will be even greater.

To pay for the FAST Act for surface transportation, we took \$70 billion from the General Fund and other programs at a time when our Federal budget deficit last year reached \$750 billion. I believe we are on target to reach a Federal deficit for this year of \$850 billion and may be next year as much as \$1 trillion.

For the next 5-year transportation bill, we will need to find an additional \$85 billion just to keep our programs at the current funding level. Despite spending more than we collect, we still are not even spending enough. The backlog of money needed to rehabilitate and improve highways and bridges has grown to \$800 billion. Think about that, an \$800 billion backlog.

While we are thinking about that, let me conclude by saying that I hope Ms. Nason will prove to be a true partner to those of us here in Congress, one who will work with us from day one to address these and other challenges I just mentioned and other challenges in the months and years ahead.

These challenges are great, but so are the opportunities. I am hopeful that Ms. Nason will prove to be the leader who is needed right now to find opportunity in adversity so that we can seize the day.

Thank you.

Senator BARRASSO. Thank you very much, Senator Carper.

We now have a special privilege in this committee to hear from one of the greats in American politics and history. Norm Mineta is here, the former Secretary of Transportation, with 20 years in the House, Chairman of the Transportation Committee in the House, then Secretary of Commerce for Bill Clinton, and Secretary of Transportation for G.W. Bush.

However, if you Google him, you get Norman Mineta and it says “and Al Simpson.” There is no way to avoid this linkage that began over seven decades ago as Boy Scouts in Cody, Wyoming written about recently in the Washington Post and CBS News did a wonderful story about you, your legacy and the friendship and our kinship with Wyoming.

We are so privileged to have you joining us today.

With this, I would like to ask you, Mr. Secretary, to please proceed.

Senator BOOZMAN. Mr. Chairman.

Senator BARRASSO. Senator Boozman.

Senator BOOZMAN. Could I also just voice the fact that I am so pleased to see you today and thank you for your service?

You were so helpful to me when I was in the House when you were Secretary of Transportation, even before that. You gave me great advice. I think you truly are a model for what this place should be all about, working with both sides, trying to get results.

The Secretary and one of my mentors, General Paul Hamerschmidt, were great friends. Again, thank you for your service. Thank you for helping so many of us in so many different ways. We appreciate you.

Senator BARRASSO. Mr. Secretary.

**STATEMENT OF HON. NORMAN MINETA, FORMER  
SECRETARY, U.S. DEPARTMENT OF TRANSPORTATION**

Mr. MINETA. Mr. Chairman, I thank you for the honor of appearing before you this morning and permitting me to address you.

It is a pleasure to see so many Senators and former colleagues with whom I have had the pleasure to work over the years.

Thank you for this honor and privilege to speak on behalf of Nicole R. Nason, the nominee to be Federal Highway Administrator.

I have known Nicole since 2003 when she came to the Department of Transportation to serve as our Assistant Secretary of Government Affairs. As Secretary of Transportation, I met with Nicole nearly every day to discuss legislative proposals and strategies.

However, her counsel went far beyond legislative issues. She was a key member of my executive team and was one of the department’s liaison’s with the White House and the Office of Management and Budget.

After 3 years as the Assistant Secretary, I recommended to President George W. Bush that she be nominated as DOT’s National Highway Traffic Safety Administrator. She was unanimously confirmed by the Senate and served until 2008 as NHTSA Administrator.

She successfully implemented numerous safety mandates and reporting requirements by SAFETEA-LU. During Nicole’s tenure as NHTSA’s Administrator, significant rulemakings were completed, including electronic stability control, side impact priorities protection and improvement in roof restraint, all because of her leadership skills.

She also instituted a series of public meetings addressing topics such as the New Car Assessment Program, school bus safety, child safety seats, and use of ignition interlock devices. Many of these

proposals originated from these meetings and were later enacted by the agency.

I also turned to Nicole to represent the department and me internationally. She spoke at the United Nations in Geneva on "International Harmonization and Safety Regulations." She conducted an important bilateral with the Chinese government to prevent the sale of fraudulently made automobile tires.

Nicole is an accomplished government executive, an experienced transportation leader and an individual with a high degree of personal integrity and character. Frankly, though, Mr. Chairman and members of the committee, there are several people that Nicole could have had appear before you to attest to her record and the proven attributes of her character.

I responded very quickly to Nicole to appear on her behalf because I believe Nicole's nomination is an important opportunity for this Senate and this Nation. Because of the convergence of certain factors, Nicole's nomination transcends the usual confirmation of one more subcabinet executive.

As this committee so well knows, I served in Congress for over 20 years. As recited by the Chairman, I was the Secretary of Commerce for a Democratic President and the Secretary of Transportation for a Republican President.

In all three of these positions, the key to any success that I had was persistent advocacy in seeking bipartisan collaboration whenever and wherever I could find it. This committee has done remarkable work with those tools and succeeded where others could not. Last year, your outstanding bipartisan work regarding our Nation's water infrastructure was a true public policy achievement benefiting every American.

As you know, our Nation's transportation infrastructure faces similar challenges at a time when bipartisanship can be a scarce commodity. I believe this committee has the opportunity once again to revive this essential practice of governance.

As many experts and pundits have indicated, infrastructure legislation is one of the best opportunities where this can occur. Having Nicole R. Nason as Federal Highway Administrator will assist the committee and this Congress in achieving this national need. She will strive to find common ground on a bipartisan basis on which to achieve needed solutions.

She will be relentless in seeking opportunities and in the critical work the Federal Highway Administration will perform in working with you. She is the right person at the right time for this position. I know she will not let you down.

Mr. Chairman, because of that, I am grateful to Nicole for allowing me to appear before you and this committee to speak in support of her candidacy as Federal Highway Administrator.

Thank you, Mr. Chairman. I would be very pleased to answer any questions the Senators may have with respect to her nomination.

Senator BARRASSO. Thank you so very much, Mr. Secretary. As you said, others could have appeared here to introduce her but certainly in the opinion of the Chair and the entire committee, none more distinguished and none more welcome than you. We are de-

lighted to have you. You are welcome to stay for the rest of the hearing.

Neither the Chair nor the committee has any questions for you but wish to wish you very well and you are always welcome to join us in this committee.

Thank you so much, Mr. Secretary.

Senator CARPER. Mr. Secretary, before you leave, I leaned over while you were speaking and said to the Chairman, this Administration might contract you to come and speak. It might have more success than anything else I can think of.

It is great to see you, my friend. God bless you.

Senator BARRASSO. Now we would like to welcome to the committee our nominee, Nicole Nason, the nominee to be the Administrator of the Federal Highway Administration. We are delighted to have you and congratulations on your nomination.

I want to remind you that your full written testimony will be made a part of the record. We all look forward to hearing your testimony today.

I know you have members of the family here if you would like to introduce them and additional introductions. When you are finished, please proceed with your testimony.

**STATEMENT OF NICOLE R. NASON, NOMINATED TO BE ADMINISTRATOR OF THE FEDERAL HIGHWAY ADMINISTRATION**

Ms. NASON. Mr. Chairman, Ranking Member Carper, members of the committee, thank you for the opportunity to appear before you today to be considered for the position of Administrator of the Federal Highway Administration, FHWA, at the Department of Transportation.

If confirmed, I look forward to working with you to enable and empower the strengthening of a world-class highway system.

I would like to thank President Trump and Secretary Chao for their confidence in my ability to serve in this critical role. I would also like to express my gratitude to Secretary Norman Mineta, not just for his appearance and his remarks today, but for his years of extraordinary service to our Country. His life story is incredible and he remains one of my personal heroes.

I am pleased to have with me today my husband, David. You briefly met my son, Brady, aged 10; my daughter, Abby, aged 14; and my daughter, Alex, aged 17. I am grateful for their love and support always. Although I recognize that they get to miss school today for this, I would like to think they would come even on a Saturday.

Mr. Chairman, Ranking Member Carper, as you are aware, I am currently serving as the Assistant Secretary for Administration at the State Department. My 1,900-plus employees and contractors at the A Bureau manage everything from logistics and shipping to building repairs to all departmental procurement.

I love my position but my heart is in transportation policy. That is why I was so excited and privileged when President Trump and Secretary Chao invited me to return to my roots at the Department of Transportation as the Federal Highway Administrator.

If confirmed, my first priority will be Secretary Chao's first priority, the safety of our transportation system. This focus unites the

department across the modes and will remain top of mind for me always.

Having served as Administrator of the National Highway Traffic Safety Administration and having spent several years on the National Board of Directors of Mothers Against Drunk Driving, I know the grim statistics all too well.

In 2017, as the Senator noted, there were 37,133 people killed in motor vehicle crashes. This is an appalling number and I believe the only acceptable number is zero.

If confirmed, I hope to focus particularly on pedestrian safety. I would like to work with State and local leaders and members of this body to improve pedestrian and cyclist safety by focusing on improved road design and targeting our most dangerous intersections.

Second, if confirmed, I intend to work closely with my fellow administrators and colleagues at the DOT. I believe if we are to effectively respond to our serious transportation challenges, we need to work seamlessly.

I intend to collaborate with my Federal colleagues in Washington, DC. and all of our State, local and tribal government partners to eliminate barriers to project delivery and timely success.

For example, many new technologies cut across several modes and I will work with all of our partners on the development and safe integration of these technologies.

Third, if I am confirmed, I intend to visit our teams in the field. I would like to go out and meet with State, local and tribal partners to personally see their concerns and hear their ideas.

I learned while serving as NHTSA Administrator that it is important to get out of D.C. and understand the challenges firsthand.

Finally, I am aware of the role FHWA will play in the reauthorization of surface transportation legislation as the Fixing America Surface Transportation Act will expire at the end of Fiscal Year 2020.

I was proud part to play a part in helping shape SAFETEA-LU when I previously served at the department. I look forward to the prospect of working together on any legislative efforts. As this committee knows well, there is not a one size fits all solution.

Mr. Chairman, as the daughter of a New York County motorcycle highway patrol officer, I grew up hearing about highway and vehicle safety. I clearly remember Dad's gruesome motorcycle crash while on the job and his extended recovery at home. His helmet with the crack in the back where his head smacked the pavement and knocked him unconscious was his gift to me when I was confirmed as NHTSA Administrator.

If confirmed as FHWA Administrator, I will proudly display the helmet in that office as well. The helmet was his reminder that there is a person and a family behind all the statistics, a reminder that we can and should always strive to do more.

Again, Mr. Chairman and Ranking Member Carper, thank you for allowing me to appear before you today. If confirmed, I commit to you that I will perform the role of FHWA Administrator with accountability to all stakeholders, especially the American public.

I would be happy to answer any questions. Thank you.

[The prepared statement of Ms. Nason follows:]

WRITTEN STATEMENT OF  
NICOLE R. NASON,  
NOMINEE TO BE ADMINISTRATOR,  
FEDERAL HIGHWAY ADMINISTRATION,  
U.S. DEPARTMENT OF TRANSPORTATION

BEFORE THE  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,  
UNITED STATES SENATE

January 29, 2019

Chairman Barrasso, Ranking Member Carper, Members of the Committee, thank you for the opportunity to appear before you today to be considered for the position of Administrator of the Federal Highway Administration (FHWA) at the Department of Transportation (Department). I am grateful to President Trump and Secretary Chao for the opportunity to serve in this position. If confirmed, I look forward to working with you to enable and empower the strengthening of a world-class highway system.

The programs FHWA delivers are key contributors to the economic and social well-being of all Americans. If confirmed, I will work to ensure that FHWA remains focused on the Secretary's priorities of safety, infrastructure investment, and innovation and fulfills its mission with accountability.

Of all the Department's priorities, none is higher than safety. If confirmed as FHWA Administrator, safety will be my number one priority as well. Previously, as Administrator of the National Highway Traffic Safety Administration (NHTSA), I saw firsthand the sobering impacts of highway fatalities, and I look forward to the opportunity to bring the knowledge I gained in that position to a new role focused on the safety of the American people on our highways. In 2017, 37,133 people lost their lives in highway crashes in our Nation. That equates to an astounding average of 102 people dying each day in motor vehicle crashes. This is not acceptable. The *only* acceptable number is zero. If confirmed, I will tirelessly support FHWA's leadership role in providing safety-related assistance and resources to our stakeholders as we work towards a common goal of zero deaths on our Nation's roads.

Rural communities are disproportionately affected by road safety issues. Only 19 percent of the U.S. population lives in rural areas; however, in 2017, there were 17,216 fatalities on rural roads, representing 47 percent of total fatalities that year. FHWA takes a coordinated, national approach with its partners and stakeholders to address local and rural crashes, including through its local and rural road safety program, which encompasses training, technical assistance, guidance, tools, reports and programs on these issues. My priority is safety on *all* roads, but we must recognize and address some of the unique safety challenges faced by rural communities.

One of the key elements of ensuring safety is highway infrastructure investment. The United States faces an ongoing challenge of preserving and improving over four million miles of public roads and over 600,000 bridges and tunnels. Ensuring sufficient investment in these

infrastructure assets is important not only because it enhances safety, but because it further benefits all Americans by increasing mobility and stimulating our Nation's productivity and economic growth. The Highway Trust Fund is projected to have enough cash to cover highway expenditures through the end of fiscal year 2020, but we must find a sustainable, long-term funding solution. If confirmed, I look forward to working with Congress to find a solution.

In addition, I recognize the important role that FHWA will play in reauthorization of surface transportation authorization legislation, as the Fixing America's Surface Transportation (FAST) Act will expire at the end of fiscal year 2020. I was proud to play a part in helping shape SAFETEA-LU when I previously served at the Department and I look forward to the prospect of working together on any infrastructure or reauthorization efforts. I recognize that there are challenges to be addressed, but I am ready to work with the Secretary and the Congress to address these important issues as there is not a one-size fits all solution.

Innovative technologies and practices offer another means to further enhance safety and the performance of our highways. This is an exciting time of rapidly evolving innovation, and I am eager to support FHWA's role in maximizing innovation to improve transportation. Secretary Chao has adopted a technology neutral approach, with a goal of encouraging the widest possible development of safe new transportation technologies. Automated technology has the potential to revolutionize the way we travel, transport goods, and connect with one another and could reduce highway fatalities and injuries by addressing human error. I look forward to continuing the good work that the Department has already undertaken in this area.

If confirmed, I intend to perform my role with accountability to FHWA's stakeholders, including the American public. The Federal-aid Highway Program is a federally funded, State administered program. If confirmed, I will work collaboratively with our stakeholder partners to accelerate project delivery, increase efficiency, and eliminate any unnecessary or overly burdensome requirements in an open and transparent manner.

Thank you for your consideration. I would be happy to answer any questions.

**U.S. Senate Committee on Environment and Public Works**  
**Hearing entitled, "Hearing on the Nomination of Nicole Nason to be Administrator of the**  
**Federal Highway Administration"**  
**January 29, 2019**  
**Questions for the Record for Ms. Nicole R. Nason**

**Chairman Barrasso:**

1. The statistics for 2017 show fewer traffic fatalities in the United States than for 2016, and the preliminary results for the first six months of 2018 show further reduction in fatalities. This is a step forward, but we all want to do much better. You worked to reduce highway fatalities when you were at the National Highway Transportation Safety Administration. What steps would you take to improve road safety if confirmed as the Administrator of the Federal Highway Administration?

*Every fatality on our nation's highways is a tragedy. As I stated at the hearing, I echo Secretary Chao's commitment that safety is the Department of Transportation's number one priority. If I am confirmed, I will work collaboratively within the Department, as well as other agencies and partners to improve the safety of our transportation system. As I stated, zero fatalities is the only acceptable goal for the Department, and if confirmed I will work to continue the Department's focus on safety. I also will make it a priority to understand the safety challenges of individual States and localities, knowing that the issues and the solutions are different across the nation.*

2. From your perspective, what are the most important challenges facing the Federal Highway Administration over the next two years? If confirmed, what will be your top priorities for the next multi-year reauthorization of the federal highway program?

*The programs FHWA delivers are key contributors to the economic and social well-being of all Americans. If confirmed, I will work to ensure that FHWA remains focused on the Secretary's priorities of safety, infrastructure investment, and innovation and fulfills its mission with accountability.*

*Of all the Department's priorities, none is higher than safety. If confirmed, safety will be my number one priority as well. In 2017, 37,133 people lost their lives on American roadways. The only acceptable number is zero, and I look forward to working with Congress toward a common goal of zero deaths on our Nation's roads.*

*The United States faces an ongoing challenge of preserving and improving over four million miles of public roads and over 600,000 bridges and tunnels. Ensuring sufficient investment in these infrastructure assets is important not only because it enhances safety, but because it further benefits all Americans by increasing mobility and stimulating our Nation's productivity and economic growth. The Highway Trust Fund is projected to have enough cash to cover highway expenditures through the end of fiscal year 2020, but it is important to find a sustainable, long-term solution. In addition to improving and*

*repairing infrastructure, it is critical to repair the permitting process and create efficiencies in project delivery while maintaining environmental protections. If confirmed, I look forward to working with Congress on these matters.*

*Finally, FHWA plays a key leadership role in supporting and guiding highway research development and technology. The development and deployment of innovation will continue to be critical in the years to come. If confirmed, I look forward to continuing to work with Congress in these areas.*

3. I think it is fair to say that every Senator on this committee believes that federal highway dollars invested in his or her state not only benefits that state's residents, but serves the national interest. I believe that federal highway dollars invested in rural states like my home state of Wyoming ensure that commerce can move across the country. Do you agree that federal highway dollars invested in rural states serves the national interest?

*I understand the importance of our highway system to rural States and communities throughout the country. Households and businesses depend on the efficient and reliable delivery of freight in both rural and urban areas. In addition, rural States have unique needs and challenges that need to be understood and addressed. If confirmed, I will support the rebuilding and modernization of roads and bridges in rural America.*

4. The American Association of State Highway and Transportation Officials has developed an inventory of opportunities to reduce regulatory burdens, including ideas to streamline non-environmental requirements. If confirmed, will you be looking for reasonable opportunities to reduce requirements and streamline programs, and do you already have ideas as to opportunities to provide relief from federal requirements and give state DOTs more flexibility?

*Yes, if confirmed, I will strive to build on FHWA's efforts to reduce regulatory burdens and create efficiencies in project delivery. Stakeholders may have additional ideas, and I will ensure that FHWA carefully considers their ideas.*

**Ranking Member Carper:**

5. At your hearing, I'd asked about opportunities to respond to climate change, both in terms of mitigating emissions from the transportation sector and in terms of increasing resilience of infrastructure. I was pleased with your affirmation of the importance of resilience, but would like to follow up on the question of mitigation. If confirmed as Administrator of the Federal Highway Administration (FHWA), you will have an opportunity to influence roadway designs and availability of electric charging and hydrogen fueling infrastructure, as well as to ensure that safe space is provided on public roadways to be able to walk or bike to transit stations or to jobs and other essential destinations. How will you use your leadership to reduce transportation emissions, through vehicles, travel patterns, and mode choices?

*If confirmed, I would assess all data and review opportunities to reduce transportation emissions. In addition, I understand FHWA is implementing provisions of the Fixing America's Surface Transportation (FAST) Act regarding the potential designation of national electric vehicle (EV) charging, hydrogen, propane, and natural gas fueling corridors. I would be interested in those efforts and in FHWA's work with other Federal, State, and local officials, as well as private industry, so commercial and passenger vehicles of all types can reliably travel between cities, regions, and across the entire Nation.*

6. As was noted at your confirmation hearing, construction delays can result in additional cost. Improving government efficiency and improving our return on Federal investments has been a long-term goal of mine, and one on which I would be eager to partner. Our committee has focused on finding opportunities to reduce delay in the environmental review process, and given the large number of new authorities already created in the last two bills, I believe we should now turn to other areas of state and federal practices to improve efficiency and outcomes.

- a. Do you agree that there are sources of delay outside of the Federal environmental regulations?

*If confirmed, I commit to working with you and the Congress to address unnecessary sources of construction delay.*

- b. Do you agree that better use of data to prioritize investment decisions could improve the return on investments for safety, mobility, and other outcomes?

*Yes. As stated in my testimony, I am a firm believer in good data. The implementation of a performance-based program under MAP-21 and the FAST Act has provided decision-makers with a better understanding of the various metrics that can contribute to improved outcomes. As States and Metropolitan Planning Organizations implement the new performance requirements, it will result in a more data-driven approach to investment decisions for the transportation system.*

- c. Do you agree that new technology and innovative materials and practices should also be an important focus area in our efforts to improve efficiency?

*Yes, new technology and innovative materials and practices are important focus areas to improve the efficiency of our transportation network. The FHWA has robust programs that actively advance innovative technologies and practices and if confirmed, I look forward to continuing to work with our partners to advance innovations that meet the needs of a 21<sup>st</sup> century transportation system.*

- d. Will you commit to working with our committee to identify such opportunities to improve the benefits that result from each dollar of transportation investment?

*Yes. If confirmed, I will work with you to identify opportunities to stretch the use and benefit of every taxpayer dollar invested in highway infrastructure.*

7. In the U.S. Department of Transportation's most recently issued framework for multimodal automation, titled "Preparing for the Future of Transportation: Automated Vehicles 3.0", the guidance is explicit that infrastructural considerations are needed for the safe deployment of autonomous vehicles (AV), including the quality and uniformity of road markings, signage, and other traffic control devices to support safe and efficient driving.

- a. Yes or no, do you agree that transportation infrastructure needs and upgrades must be considered to enable the safe, widespread deployment of AVs?

*Yes, that seems likely, though time will tell. Infrastructure needs and upgrades need to be considered, with the input of all stakeholders.*

- b. Yes or no, do you agree that the Federal Highway Administration is responsible for ensuring that our Nation's roads can safely accommodate AVs?

*FHWA has an important role in advancing innovations, including with regard to whether the nation's roads can support the safe and effective integration of automated vehicles into the transportation system.*

8. During your hearing, you were asked whether you agreed that the existing formula programs enable states to address their priorities more effectively and more expeditiously than creating new programs that are less well understood and can take time to establish. I think it's clear that the formula programs work extremely well for the purpose of providing certainty and getting defined funding levels to states quickly. However, wouldn't you agree that the allocated and discretionary grant programs also serve an important purpose, including incentivizing innovative practices, targeted funding for disadvantaged and minority entities, and programs that allow local and county governments to directly access federal funds?

*While each such program should be assessed on its own merits, the allocated and direct programs have been a mechanism to advance goals in addressing infrastructure needs.*

9. I'd like to ask a few questions regarding the interaction of FHWA with tribal governments.

- a. As you know, the federal government has a unique relationship with Indian Tribes across the country. Would you characterize your understanding of that relationship?

*I understand the importance of FHWA working with Tribes as partners. If confirmed, I will ensure that FHWA continues to foster those partnerships.*

- b. According to the Centers for Disease Control and Prevention, the number one cause of death for American Indians and Alaska Natives ages 1-44 is unintentional injury, including traffic-related fatalities. If confirmed as Administrator, will you commit to taking a harder look at what measures work in Indian Country to reduce serious injuries and death from motor vehicle crashes, especially among native youth?

*My first priority is always safety. Good data is essential for a better understanding of the type and location of needed improvements and programs to address transportation safety in tribal areas, including serious injuries and fatalities involving Native youth. If confirmed, I intend to work with FHWA's Federal partners to assist tribal governments in improving crash data collection, sharing, and use.*

- c. If the Administration promotes infrastructure priorities this Congress, what are some of the transportation infrastructure and highway safety needs you see in Indian country?

*Tribal roads are generally rural in nature, often unpaved and sometimes lack desirable safety features. Many tribally-owned bridges are also an area of improvement. Transportation challenges reduce access for Native Americans to jobs, schools, medical care, and commerce. Rural communities, including tribal communities, are disproportionately affected by road safety issues. If confirmed, I look forward to working to support Indian Country community development and capacity building through surface transportation investment, for self-determination and self-governance.*

10. Recent advances in vehicle safety technology are bringing the widespread deployment of autonomous vehicles closer to reality. With these advances, much of the attention has been on vehicle-to-vehicle communication, and not as much attention has been paid to needs and benefits of smart infrastructure and vehicle-to-infrastructure communication.

- a. Do you believe the development and deployment of smart infrastructure is keeping pace with the development of "smart" vehicles.

*If confirmed, I will actively support the advancement of connectivity as discussed in the U.S. DOT guidance document "Preparing for the Future of Transportation: Automated Vehicles 3.0."*

- b. In your view, what should FHWA be doing now to ensure our nation's roadways are ready to take advantage of the safety benefits that could come from vehicle-to-infrastructure communication? Under your leadership, how will FHWA ensure that smart infrastructure technology and deployment keeps pace with advances in vehicle technology?

*It is important to advance the conversation with all stakeholders involved to better understand the state of readiness that is required to support the safe and efficient integration of automated vehicles into our roadway environment. If confirmed, I will ensure that FHWA continues this dialogue while collaboratively learning from demonstration and testing activities and pilot deployments of smart and connected vehicle roadway infrastructure.*

- c. What do you see as the critical next steps in the development of smart infrastructure?

*Consistent with the U.S. DOT guidance document "Preparing for the Future of Transportation: Automated Vehicles 3.0," if confirmed, I will work to preserve the ability of transportation safety applications to function in the 5.9 GHz spectrum while remaining technologically nimble in accommodating telecommunications technology innovation. I would also promote the incorporation of infrastructure connectivity and smart infrastructure in efforts to demonstrate, test, and evaluate the integration of automated vehicles into roadway operations.*

- d. Do you agree that technology should be used to monitor and report on failing highway infrastructure such as road surfaces, bridges, and roadside safety products? What do you see as the benefits of such monitoring and reporting?

*If confirmed, I will work to ensure FHWA continues to provide the best data and information to States and other partners. The use of technology to monitor transportation infrastructure is an emerging area that could provide a more complete understanding of performance and condition.*

11. Infrastructure projects have the potential to bring tremendous benefits to a community and ideally should be designed and built in ways that do benefit all members of the surrounding community. However, there are instances in which communities have divided opinions on a proposed project and there may be strong opposition to it due to environmental or community impacts. In this case, the planning process and NEPA review is intended to enable all members of the public to come to agreement on the best path forward and identify ways to mitigate harm prior to construction. Sometimes these negotiations with community members can be time-consuming, but they can also significantly improve the outcomes for that community. Would you agree to consult with me and my staff prior to any significant administrative actions that you take as Administrator concerning environmental reviews to ensure that NEPA and related processes continues to save money and time, while cultivating better projects with public support?

*Public engagement is an integral part of the NEPA process. If confirmed, I will work to ensure FHWA fulfills its responsibilities under existing laws, to ensure efficient project delivery while preserving environmental protections.*

12. For decades, both Republican and Democratic administrations alike have had written policies limiting White House contacts with agencies that have investigatory and enforcement responsibilities. These policies have recognized that even a simple phone call from the White House to an agency inquiring about or flagging a specific matter can upset the evenhanded application of the law.
- a. Do you agree that it is essential that in making decisions, the FHWA must be shielded from political influence and spared even the appearance of being subject to political influence or considerations?
  - b. Will you commit to notifying this Committee within one week if any inappropriate communications from White House staff to FHWA staff, including you, occur?

*I will not tolerate wrongful political retaliation, and I would not condone any attempts to intimidate FHWA staff for any reason. If confirmed, I will ensure that FHWA staff are shielded from any unlawful communications, and I will commit to report any incidents of such communications to senior leadership at the Department, and if appropriate, the Committee.*

13. Whistleblower laws protect the right of federal employees to make lawful disclosures to agency management officials, the Inspector General, and the Office of Special Counsel. They also have the right to make disclosures to Congress. Specifically, 5 U.S.C. § 7211 states that the “right of employees, individually or collectively, to petition Congress or a Member of Congress or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied.” Further, 5 U.S.C. § 2302(b)(8), makes it a violation of federal law to retaliate against whistleblower because of “(A) any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences- (i) a violation of any law, rule, or regulation, or (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, any disclosure to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences a violation of any law, rule, or regulation...” In addition, pursuant to 18 U.S.C. § 1505, it is against federal law to interfere with a Congressional inquiry.
- a. If you are confirmed, will you commit to protect the rights of all FHWA career employees to make lawful disclosures, including their right to speak with Congress?  
  
*Yes.*
  - b. Will you commit to communicate employees’ whistleblower rights via email to all FHWA employees within a week of being sworn in?

*If confirmed, I will ensure that all FHWA employees are made aware of their rights.*

14. Do you agree to provide complete, accurate and timely responses to requests for information submitted to you by any Member of the Environment and Public Works Committee? If not, why not?

*Yes.*

15. Will you commit to providing me with materials responsive to my oversight letters at the same time or earlier than they are provided to House Committee Chairs or Freedom of Information Act (FOIA) requestors? If not, please explain why not.

*If confirmed, I will respond timely to your requests concerning FHWA matters.*

**Senator Boozman:**

16. One of our nation's biggest infrastructure priorities in the 116th Congress is addressing the Highway Trust Fund solvency issues. According to a new analysis by the Congressional Budget Office (CBO) the Highway Trust Fund's transit account will run out of money by 2021, with the highway account zeroing out by 2022, without some sort of legislative fix. Can you explain why a long-term, sustainable funding mechanism is necessary to address the highway trust funds shortfalls?

*During my experience at the State Department, our partners and stakeholders were clear on how critical it is to have funding certainty when constructing embassies and consulates. The FHWA's stakeholders need similar certainty when planning highway projects.*

17. If confirmed, outreach will be a large part of your job as Administrator of the Federal Highway Administration (FHWA). How do you anticipate your past experiences will help you in improving the way FHWA engages with stakeholders?

*If confirmed, I will perform the role of FHWA Administrator with accountability to all stakeholders, especially the American public. During my time as Administrator of NHTSA, I made it a priority to hear from stakeholders first-hand about the challenges they faced. It is very important to get outside of Washington and connect with the people on the ground. I intend to continue that practice, if confirmed.*

18. As you know, Congress has continued to support dedicated funding for roadway safety infrastructure through the Highway Safety Improvement Program. As a country, we've made critical investments to save lives on our nation's roadways. However, we have recently seen an increase in roadway fatalities. In your opinion, what can the Federal government be doing better to help address roadway safety?

*I share your concern in the number of fatalities on our roadways. As Secretary Chao has emphasized, safety is the number one priority for the Department of Transportation. I look forward to the opportunity to bring the knowledge I gained as the Administrator of the National Highway Traffic Safety Administration (NHTSA) to FHWA to focus on the safety of the American people on our roadways. While at NHTSA, we worked hand in hand with our partners at FHWA and in the States across all four E's of safety: Engineering, Enforcement, Education, and Emergency Services. I will support FHWA's leadership role in providing assistance and resources to our stakeholders jointly working toward a goal of zero fatalities on our roadways.*

19. Aside from providing grants and funding, what can the federal government do to ensure that infrastructure is delivered in a timelier and more cost-effective manner?

*It is my understanding that FHWA uses several strategies to increase efficiencies and reduce timeframes through the environmental review process and project delivery, such as encouraging agency collaboration early in the process to identify issues and avoid delays later in the process. If confirmed, I would be interested in building on current efforts at FHWA and across the Government that accelerate the delivery of infrastructure and reduce unnecessary delays.*

20. A common complaint I hear from Arkansans is how inefficient the federal government is, in the delivery of infrastructure investment. Projects that should reasonably be completed in a few years typically last decades, delaying public benefits and exponentially increasing costs. How, if at all, can public-private-partnerships help accelerate infrastructure delivery and create better value for taxpayers?

*In some situations, P3s can bring creativity, efficiency, and capital to address complex transportation problems facing State and local governments. If revenues can be generated by the project itself, or if the construction challenges are particularly novel, the P3 delivery method may be appropriate. If confirmed, I will work to ensure FHWA continues to lead in accelerating project delivery through innovative practices whether P3s or other methods.*

**Senator Cardin:**

21. The Fixing America's Surface Transportation (FAST) Act did not increase the gasoline tax or provide another sustainable source of revenues to be paid into the Highway Trust Fund. Unless new revenue sources are found, we face projections of a large gap between Highway Trust Fund tax receipts and spending plans when we begin debating the reauthorization of the FAST Act in 2020. Do you agree that legislation to reauthorize the federal surface transportation programs should include a bipartisan plan that ensures the long-term solvency of the Highway Trust Fund in order to prevent our roads and bridges from returning to a state of disrepair after this initial needed investment?

*I believe it is essential to find a sustainable, long-term solution for our nation's surface transportation infrastructure. As Secretary Chao has said, all options are on the table. If confirmed, I look forward to working with Congress to find a solution.*

22. The transportation sector is now the largest source of climate pollution in the United States, surpassing the electricity sector for the first time. On-road transportation constitutes over one-quarter of the total greenhouse gas emissions in Maryland, a state that has acted by adopting more stringent vehicle emissions standards.
- a. As Administrator of the Federal Highway Administration (FHWA), will you build on bipartisan efforts by Congress to strengthen transportation infrastructure against climate change-driven impacts such as flooding?

*Yes. If confirmed, I would be happy to build on efforts to improve resiliency against flooding in transportation infrastructure in collaboration with FHWA's State and local partners.*

- b. Will you likewise work with the States to address the climate change-driving impacts of the transportation sector, including vehicle emissions?

*Although this is more of an issue for EPA, if confirmed, I would be committed to working with FHWA partners, as well as with my fellow DOT modal Administrators on this issue. As I stated at the hearing, I believe that FHWA can be a resource for good research and data.*

23. Public health demands that we continue down a path of reducing climate pollution. Do you support state and local transportation agencies' efforts to plan for the future by tracking vehicles emissions and setting goals for reducing them?

*My understanding is that EPA regulates pollutants such as lead, ozone, NO<sub>x</sub>, and others, and I am supportive of measures that benefit public health.*

24. You were recognized for your work on the Urban Partnership Agreement Program for developing, coordinating, and implementing a major multi-modal departmental initiative to reverse the growing impacts of congestion in metropolitan areas. Roadway congestion costs the Capital Region more than an \$7 billion annually, with Baltimore metro commuters losing \$1,115 per commuter and Washington metro commuters each losing \$1,845 each year, the highest costs in the nation. Do you feel that the Federal-Aid Highway Program is adapting with the changing demands, or do we need to look at different approaches to support the multimodal demands of business and commerce today?

*Transportation needs are diverse throughout the country. Many factors influence peoples' travel choices, including time, congestion and cost. As a former Administrator at U.S. DOT, I understand the importance of working with other modes within the*

*Department to find solutions to infrastructure problems, including congestion. If confirmed, I will work with the Department to better understand and address the demands on our Federal-aid highway system.*

25. How would you describe the importance of bicycling and walking for state departments of transportation (DOTs)?

*State DOTs often work to achieve safe, accessible, and connected bicycle and pedestrian networks in both urban and rural areas. If I am confirmed, I would like to work with State and local leaders and other partners to improve pedestrian and cyclist safety, and I imagine that FHWA could be a source of valuable information and data.*

26. Please explain your position on the role for active transportation networks, especially as they connect people to transit, in improving safety and increase accessibility. Do you see a connection with federal highways in creating safe networks and in improving transportation options and access to transit?

*Yes, effective transportation systems provide options that allow people to choose the routes and modes that best suit their daily needs as they get from one place to another. If I am confirmed, I would collaborate with my fellow modal Administrators to build on the national leadership that FHWA, in coordination with other U.S. DOT modes, has provided on research and innovation in planning, designing, and operating safe networks in partnership with the States and other stakeholders.*

27. Pedestrian and bicyclist fatalities have been on a steady increase since 2008. This is unacceptable.

- a. What in your view is the main cause(s) to this disturbing trend?

*If confirmed, my highest priority will be safety, and this includes pedestrian and bicyclist safety. Although it is difficult to cite a single cause to the increase in pedestrian and bicyclist fatalities, this trend is likely due to several factors. If confirmed, I look forward to working with FHWA's transportation partners to identify assistance and resources that will help improve the safety of all pedestrians and bicyclists.*

- b. What are some federally-supported solutions to reducing these fatalities?

*My understanding is that FHWA provides technical assistance and funding support for pedestrian safety. During my time at NHTSA, FHWA worked in coordination with NHTSA to assist States and cities with the highest number of pedestrian fatalities through a focused approach to safety. In addition, there were changes made in the FAST Act to the Highway Safety Improvement Program to address pedestrian safety. These include pedestrian hybrid beacons and roadway improvements that provide separation between pedestrians and motor vehicles, including medians and*

*pedestrian crossing islands. If confirmed, I look forward to continuing FHWA's role of providing technical assistance to these States and cities, as well as researching and identifying new ways of addressing this important safety issue.*

28. While much of the Federal Highway Administration remained open during the partial government shutdown, Maryland projects have been slowed due to shut-down functions of the U.S. Department of Transportation, such as environmental review. Maryland grant applications were languishing for weeks at the Secretary's desk unable to be awarded.

- a. As FHWA Administrator, will you commit to addressing the backlog before turning to new initiatives?

*I share the Secretary's goal of getting everything up to speed and expediting project delivery. If confirmed, I will work with the Office of the Secretary to provide any support that FHWA can offer in this regard.*

- b. And will you advocate for the Department's work and the need to keep it open?

*The FHWA remains fully funded during lapses in appropriations. I look forward to supporting the Secretary to keep the Department and FHWA as operational as possible.*

**Senator Duckworth:**

29. Although the Federal Highway Administration was up and running under the partial government shutdown and the year's funding was made available to the states, according to press reports, state departments of transportation were delaying commitments to projects for fear that they might have to de-obligate some of those commitments should a partial-year continuing resolution be enacted. What steps do you think FHWA can take to provide more certainty to the state departments of transportation during future shutdowns should they occur?

*The FHWA has Division Offices in each State. These offices serve as close, front-line partners with State transportation agencies as they deliver the Federal-aid program. If confirmed, I would continue to direct FHWA's Division Offices to work closely with their State counterparts in all current capacities, including to provide guidance to avoid situations that would require States to de-obligate funding after a lapse in appropriations.*

30. Both of the last two reauthorization acts, MAP-21 and the FAST Act, included extensive language regarding environmental streamlining, some of which have not been implemented fully. Do you think additional changes should be included in the upcoming FAST Act reauthorization? What specific changes would you suggest?

*My understanding is that FHWA has completed all but one of the required MAP-21 and FAST Act streamlining provisions. If confirmed, I will ensure that any outstanding provisions are implemented. I believe that it is important to continuously explore ways to do things better to ensure that projects are not unnecessarily delayed, and recognize that additional ideas have surfaced since the FAST Act was passed in 2015. Although I do not have any specific suggestions to offer at this time, if confirmed I look forward to working with you on these issues.*

31. The Trump Administration's infrastructure proposal was based on the assumption that \$200 billion in federal funding would leverage an \$800 billion commitment from state, local, and private sources. Critics have commented that this is the opposite of the typical 20/80% state/federal share under the Federal-Aid Highway Program. Do you think the federal highway program's federal matching share is too high? Or is the share in the infrastructure proposal too low?

*The President's infrastructure proposal would build on strong Federal, State, and local partnerships and tap into private investment, where appropriate, to stimulate new infrastructure investment. The Federal Highway Administration should continue to be a strong federal partner to state DOTs as well as Metropolitan Planning Organizations. If confirmed, I would be pleased to work with this Committee to determine the appropriate balance as legislation moves forward.*

32. MAP-21 required and the FAST Act continued the requirement for the use of performance management toward accomplishing seven national goals, including system safety, condition, and reliability and states and MPOs must incorporate the performance-based approach into their transportation planning. What is your opinion of requiring the states and MPOs to include national goal performance measures in their transportation planning? Do you think it is working?

*My understanding is that this framework is working. Transportation planning is the key process States and Metropolitan Planning Organizations use to integrate the new performance requirements to both consider local priorities and support the national goals. If confirmed, I will look forward to working with you to assist States and MPOs in the shift toward a performance-based approach to planning.*

33. It increasingly appears that the introduction of automated vehicles (AVs) will have to be limited to operational domains, such as the Interstate Highway system, that have standard dimensions and design aspects. What are your ideas about what FHWA can do in preparation for the introduction of Automated Vehicles? Do you believe that AV-related road design standards should be incorporated in proposals for FAST Act reauthorization?

*It is my understanding that FHWA has already announced that it intends to update the Manual of Uniform Traffic Control Devices (MUTCD) to accommodate new technologies. If confirmed, I will review current information with FHWA and other U.S.*

*DOT modes to understand the current state of operational domains and will work with infrastructure owner-operators and automated vehicle providers to identify design and traffic control guidelines and standards that are relevant to emerging technologies.*

34. The Federal Highway Administration's Emergency Relief Program is well regarded for its ability to respond to disaster damage to the nation's roads and bridges, however, the program is reactive more than preventative. What are your views of expanding the program or creating a sister program that would focus on retrofitting highway infrastructure for future extreme weather events, including at risk infrastructure that has not yet been damaged?

*As stated during the hearing, I am very interested in seeing what FHWA can do to improve resiliency in our transportation system as a whole. I am aware that some current funding programs include the eligibility to address resiliency and implement protections against extreme events. If confirmed, I look forward to working with Congress and stakeholders to find innovative ways to address resiliency in the transportation system.*

35. While the TIFIA program's funding was reduced under the FAST Act, it continues to have substantial carryover balances each year. What do you think about broadening the eligibility criteria under TIFIA to include a broader array of projects to help more fully utilize the available TIFIA funds?

*I am aware that the President's infrastructure proposal last February included expanding TIFIA to include ports and airports along with broadening project eligibility for Private Activity Bonds (PABs). Types of facilities eligible for PABs could include airports, docks, wharves, maritime and inland waterway ports and waterway infrastructure, mass commuting facilities, roads, bridges, tunnels, passenger railroads and surface freight transfer facilities. If confirmed, I look forward to further discussion of eligibility-related proposals for TIFIA.*

**Senator Gillibrand:**

36. In a report titled, "Computer Modeling and Evaluation of Side Underride Protective Device Designs" released by the National Highway Traffic Safety Administration (NHTSA) in April 2018, NHTSA suggested the use of side underride protection devices (SUPDs) as a way to mitigate passenger car underride severity during impacts with the side of tractor-van trailers. In this report, side underride protection devices were successfully designed for oblique angle impacts of different severity.
- a. Are you aware of the National Highway Traffic Safety Administration (NHTSA) report I am referring to that substantiates the effective benefits of side underride protection devices (SUPDs) in collisions between passenger vehicles and tractor-van trailers?

*I am aware of the report you cited above. It is my understanding that the report was a preliminary analysis of this side underride issue that was limited in scope in regards to certain types of crashes, such as side-swipes.*

- b. During your time as the Administrator of the National Highway Traffic Safety Administration, did you take any preventative actions or measures towards combatting underride collisions?

*While the Agency did not initiate any formal rulemaking action during that period, it continued to collect data and evaluate crash reports from motorists and commercial vehicles related to underride collisions. This information helped to inform Agency action and research into underride collisions and the characteristics of underride events.*

- c. If confirmed, will you commit to addressing the widespread underride collision issue in our country and prioritize saving lives by mandating side underride guards on certain types of trucks?

*If confirmed I will confer with my modal peers as appropriate on this issue. The Federal Highway Administration (FHWA), National Highway Traffic Safety Administration (NHTSA), and the Federal Motor Carrier Safety Administration (FMCSA) all collaboratively further the Department's safety mission, including advancing efforts to prevent commercial motor vehicle-related fatalities and injuries.*

37. The Government Accountability Office is expected to publish an Underride Report in the coming weeks. Once the report is published, will you commit to reviewing the findings of the report and evaluating how FHWA can work collaboratively within the U.S. Department of Transportation and with relevant stakeholders to improve underride protection?

*If confirmed I will confer with my modal peers as appropriate on this issue.*

38. I have heard from constituents in my state about the value of prioritizing local job creation in infrastructure projects. The use of local hiring preferences could create an even larger economic impact of federal investment and can offer opportunities for low-income and marginalized populations to secure quality jobs building their communities. Unfortunately, longstanding federal statutes have prevented the use of local hiring, an issue that the Obama Administration started to address in a local labor hiring pilot program known as "Special Experimental Project No. 14" or SEP-14. In August 2017, the Trump Administration eliminated this pilot program with little explanation. This withdrawal of the proposed rule change reverted the Federal Highway Administration and the Federal Transit Administration to rules prohibiting geographic-based hiring preferences in contracts using federal transportation funding.

- a. Can you please share your views on local hiring?

*I understand the importance of local job creation and, if confirmed, I would be happy to discuss this issue with you.*

- b. How can federal transportation investments prioritize economic impact and job creation for low-income and marginalized communities?

*I understand that FHWA's existing requirements for Equal Employment Opportunity, On-the-Job Training, Disadvantaged Business Enterprises, and other programs provide requirements and incentives to foster job opportunities and contracting incentives in these areas. If confirmed, I would be happy to look at this issue and to further evaluate how the Federal-aid program can be administered in a way that considers the needs of all communities.*

39. Extreme weather and climate-related events are having a major impact on transportation infrastructure. Following Superstorm Sandy, Congress appropriated more than \$2 billion for FHWA's Emergency Relief Program. After Hurricanes Maria, Irma and Harvey, and the wildfires in 2017, Congress appropriated \$1.37 billion. The Disaster Supplemental bill passed by the House of Representatives this year would appropriate another \$1.65 billion for the program. In short, we are spending billions of dollars to rebuild infrastructure damaged by major disasters. What responsibility does FHWA have to ensure that our federal highway dollars are being invested in projects that make our communities more resilient to the impacts of climate change and extreme weather?

*As I mentioned in the hearing, if confirmed, I will work to see what FHWA can do to improve resiliency in the transportation system. I am aware of and support the steps FHWA has taken to consider how resiliency can be built into the system as repairs are conducted, particularly in cases where facilities have been repeatedly damaged from extreme events. I believe that FHWA can play a leadership role in this area and provide good research and data to States and local governments to assist with resiliency investments.*

**Senator Markey:**

40. According to the National Highway Traffic Safety Administration (NHTSA), speeding has been involved in approximately one-third of all motor vehicle fatalities for more than two decades. What additional resources and innovative solutions could the Federal Highway Administration (FHWA) deploy to help reduce speed-related crashes?

*If confirmed, I will collaborate with my fellow Administrators at the Department of Transportation and with FHWA's partners to address safety issues. Speed management is a cross-cutting issue and requires a multi-disciplinary approach. If confirmed, I look forward to continuing FHWA's efforts to provide transportation professionals with technical and training tools to advance effective speed management and reduce speeding-related fatalities.*

41. In 2017, nearly 6,000 pedestrians were killed and 70,000 injured in traffic crashes. To help reduce this unacceptably high level of pedestrian crashes, the Federal Highway Administration (FHWA) has identified numerous countermeasures that can protect pedestrians, such as giving pedestrians more time to cross intersections, improving the design of sidewalks, and raised medians for pedestrian crossings. As Administrator, what steps would you take to encourage state and local governments to adopt effective infrastructure tools to reduce crashes involving pedestrians?

*If confirmed, I will ensure FHWA continues to provide robust technical assistance to and research new tools for States and local agencies on improvements in pedestrian safety. Such safety improvements are often context-specific, and different countermeasures may be needed by different communities. I look forward to FHWA's continued development of tools and resources that can be used to diagnose and address pedestrian safety issues. I will make this issue a priority if confirmed as Administrator.*

**Senator Rounds:**

42. Section 5516 of the FAST Act provides an opportunity to update and revise the routes designated as eligible for certain use by certain longer combination vehicles in South Dakota. The routes currently available to those vehicles were designated decades ago. Improvements made to the road system in South Dakota, equipment upgrades, rural shipping needs and other factors made an update appropriate, as called for by the FAST Act. South Dakota Department of Transportation (SDDOT) submitted its recommendations for the update by letter, dated August 30, 2016. While the state considers its submission high quality, after significant time had passed, the Federal Highway Administration (FHWA) requested a revised submission. SDDOT submitted its revised recommendations in June 2018, however, no decision has been made by FHWA. If confirmed, can you provide a specific timeline for making a decision? Additionally, should a decision be made that is not to the satisfaction of SDDOT before assuming administrator duties, would you commit to working with the state to review and, if necessary, appeal the decision?

*Yes, if confirmed I will provide you with a timeline and I will work with SDDOT as necessary on this matter.*

**Senator Sanders:**

43. Electric vehicles (EV) are an increasingly popular option for drivers in Vermont, and EV registrations increased by 32 percent in the last year. Improvements in EV charging infrastructure must keep pace. As directed by the FAST Act, FHWA is designating alternative fuel corridors to inform motorists of charging stations on highways.
- a. In your view, beyond the FAST Act requirements to designate EV corridors, how can the nation's highway system better accommodate and encourage EV adoption?

*I recognize the importance some drivers place on electric vehicles and the use of other alternative fuel vehicles. If confirmed, I will work to explore ways beyond the FAST Act to make it easier for these vehicles to travel on our highway network.*

- b. What other steps, beyond the FAST Act requirements to designate EV corridors, can FHWA take to expand on this work and improve EV charging infrastructure?

*If confirmed, I will explore these issues further.*

- c. What are the barriers preventing EV adoption and EV charging infrastructure expansion?

*If confirmed, I would need to look into the barriers that stand in the way of the adoption of electric vehicles and the expansion of charging infrastructure. I would be committed to collaborating with State agencies, the private sector, and stakeholders to better understand those barriers, which are not uncommon with new technology.*

- d. If confirmed, will you pledge to work to make those necessary improvements to the nation's highway system as it relates to EVs?

*If confirmed, I would work with Congress and with FHWA's partners and stakeholders with regard to any appropriate improvements.*

**Senator Van Hollen:**

44. We have a bridge backlog totaling more than \$120 billion and truck crashes continuing to increase at an alarming rate. These two facts do not bode well for the state of American infrastructure, especially when considering the damage done by a truck crashing on or into a bridge. Nevertheless, there have been several attempts over the past few years to increase the Federal weight limit for large trucks in the United States or to grant state and industry-based exemptions to the Federal weight limit. As Administrator, would you oppose efforts to increase the Federal truck weight limits and/or grant exemptions to the Federal weight limit?

*I am aware that the FHWA is exploring what investments would be needed to improve data and is researching the potential effects of increasing the Federal weight limit of trucks on bridges and pavements. If confirmed, I would be interested in the outcome of that data collection and research.*

45. As you may know, the minimum level of insurance required by large trucks per event is only \$750,000. This amount was set in 1980 and has not been raised once – not even to account for inflation despite the fact that this figure is supposed to adequately compensate victims as well as cover any infrastructure damage caused by the crash. As you may also know, commercial motor vehicle crashes cost our country upwards of \$130

billion in 2016, which American tax-payers ultimately pay for when the costs of truck crashes exceed the minimum insurance amount.

- a. As Administrator of the FHWA, would you support efforts to raise the minimum insurance amount to a figure that adequately compensates victims while also covering infrastructure costs associated with truck crashes in the United States?
- b. Would you support indexing this minimum insurance to medical cost inflation following any increase?

*If confirmed, I would be happy to work with my USDOT modal Administrator peers, including FMCSA, to consider this issue.*

**Senator Whitehouse:**

46. President Trump's infrastructure plan proposes \$200 billion in grants to encourage state, local, and private investment in infrastructure. However, it would also would cut over \$240 billion from successful programs like TIGER and the Highway Trust Fund. In our meeting, I discussed with you the importance of programs like TIGER.

- a. Do you think we should be cutting program funding for the successful TIGER program?

*I believe there is universal acknowledgment for the need to invest in infrastructure. Whatever the specific programs and the amount of funding made available by Congress, I will ensure that FHWA assists the Department in administering it as effectively and efficiently as possible.*

- b. Do you think we should be increasing the gas tax to fund infrastructure, as some Republicans in Congress have proposed?

*As you know, the Highway Trust Fund is projected to have enough cash to cover highway expenditures through the end of fiscal year 2020. Some States are participating in a Vehicle Miles Traveled pilot program, which may provide excellent data on the effectiveness of various user-funded scenarios. Other States are looking at Public-Private Partnerships (P3s), and some States have raised the gas tax. If confirmed, I look forward to working with Congress to address the diverse needs of travelers and our communities nationwide.*

47. As I discussed with you in the hearing, current sea level rise is a direct consequence of human activity and is occurring at rates not seen in thousands of years. The Fourth National Climate Assessment's Climate Science Special Report reports that global mean sea level has increased around 7-8 inches since 1900.

- a. Do you agree with the overwhelming scientific consensus that sea levels have risen and will continue to rise at an accelerated rate if humans do not stop emitting fossil fuels?
- b. How should the current and future consequences of climate change, including sea level rise, be incorporated into the transportation planning process?

*It is my understanding that improving the resiliency and reliability of the transportation system as well as reducing and mitigating stormwater impacts to surface transportation have been included as part of the transportation planning process. If confirmed, I will learn more about the process, including by collaborating with States and Metropolitan Planning Organizations (MPOs) and work to improve the resiliency of infrastructure to any changing conditions.*

48. My state's Coastal Resources Management Council is planning for upwards of around nine feet of sea level rise along Rhode Island's coast by 2100. To prepare for this much water overtaking our shores, we need to protect evacuation routes from flooding, reinforce bridges that are exposed to corrosive saltwater and storms, and retrofit lowland wastewater treatment plants. These improvements are not cosmetic; they are essential if my state and others along the coasts have any chance meeting our needs over the next 50 or 100 years. If we want to invest significant federal money on infrastructure, we should make sure those investments will survive for a useful period of time and not be consumed or degraded by rising seas.

- a. The President's infrastructure plan does not mention the terms "coastal," "sea level rise," "storm surge," or "saltwater intrusion" once. How do you plan as FHWA administrator to support the specific investments needed to fortify our coasts against the consequences of climate change?

*Promoting infrastructure resilience will help protect public safety and support the economy. If confirmed, I look forward to working with Members of Congress and FHWA stakeholders to find innovative ways to protect infrastructure investment and ensure a safe and reliable highway system.*

- b. Would you support existing programs like TIGER and INFRA putting a higher priority on grants that help protect our coastal infrastructure from sea level rise?

*These program are not at FHWA. But I understand their selection criteria are publically available on their notices of funding availability.*

- c. Without the Federal Flood Risk Mitigation Standard in place, and with a proposal to undercut the NEPA process that requires federal agencies consider climate change, how does the administration propose designing and funding infrastructure projects that will survive projected future conditions, like higher seas and changes in precipitation?

*Building and maintaining infrastructure projects to last longer and decrease costs from the impacts of extreme weather and changes in environmental conditions is essential for FHWA to deliver a safe and reliable highway system. If confirmed, I would be happy to work with Congress and stakeholders to evaluate how to better support systematic consideration of resilience in our transportation system.*

49. Extreme weather events put infrastructure at risk, especially in New England. In 2010 in North Kingstown a mudslide sent tons of soils on the train tracks near West Davisville Road exist on Route 403. Amtrak had to halt all trains heading northbound as two of the three tracks were covered with 5 feet of mud. This rain was caused by an epic historic March storm, which dropped 9 plus inches of rain in the region. In 2010, during the same storm RI had to shut down parts of Interstate 95 in both directions, and Amtrak suspended the Acela Express Service from New Haven Connecticut, to Boston, because of high water near the tracks. In 2014, another historic rain event in April brought caused damage to Scalloptown Road and Rocky Hollow Road in East Greenwich. McManus reported the mudslide continued down into Greenwich Cove, and also appeared to undermine the area near some Amtrak rail lines. These are just a few examples.
- a. What do you see as the Federal Highways role in helping cities and towns respond to these increasingly frequent extreme weather events and ensure the safety of the nation's critical infrastructure?

*The FHWA has an important role to play in partnering with stakeholders to ensure the safety of our nation's infrastructure, and assists States through the entire transportation cycle. As I stated during the hearing, I think there is a lot of good research and data FHWA can provide to State and local governments on this issue. If confirmed, I look forward to continuing the work FHWA is doing to help cities and towns in ensuring the safety of our critical infrastructure and to working with you on these issues.*

50. I appreciate your pledge at the hearing that you will have an office devoid of any political retaliation or intimidation between staff.
- a. Can you commit that under your leadership no FHWA staff will suffer adverse employment actions for basing any of their work on scientific research or other widely accepted facts?
- b. Can you commit that you will resist any efforts to censor the work of FHWA staff that is based on scientific research or other widely accepted facts?

*I believe that FHWA should use the best available data in support of its work.*

Senator BARRASSO. Thank you for the incredible story of your father's commitment and service to the people of New York, the people of this Country, and you continuing his legacy and concern. We are grateful you are willing to take on this responsibility.

There are a couple of questions that you will get from members here. We ask that you answer those. They will also maybe have some written questions afterward. I hope you would respond to the questions throughout the hearing and respond to the questions afterwards for the record.

There are a couple of questions I have to ask as I do of all nominees on behalf of the committee.

Do you agree, if confirmed, to appear before this committee or designated members of this committee and other appropriate committees of the Congress and to provide information subject to appropriate and necessary security protections with respect to your responsibilities?

Ms. NASON. Yes, sir.

Senator BARRASSO. Do you agree to ensure that testimony, briefings, documents in electronic and other forms of information are provided to this committee and its staff and other appropriate committees in a timely manner?

Ms. NASON. Yes, sir.

Senator BARRASSO. Do you know of any matters which you may or may not have disclosed that might place you in a conflict of interest if you are confirmed?

Ms. NASON. No, Mr. Chairman.

Senator BARRASSO. Let me start with questions.

As we mentioned, you previously served as the Administrator of the National Highway Traffic Safety Administration and were confirmed by the Senate. During your tenure as Administrator, what did you learn regarding the need for Federal policymakers to account for differences in priorities and circumstances among rural versus urban States? Obviously being from a rural area, how do you deal with that?

Ms. NASON. Thank you, Mr. Chairman.

At NHTSA during my tenure, we were very clear that there are unique needs of rural States and even rural communities. With my own State of New York, we always like to say not all of New York is Manhattan.

There are unique needs where I grew up. Infrastructure failings, aging roads, egress concerns which compare to the challenges of New York City, congestion and other quality of life issues, so we tend to focus on messaging, on a rural versus urban center because they have different transportation concerns, different safety concerns. Tribal governments have different safety concerns.

There is one thing we learned at NHTSA. We had a very specific example of advertisements we were running. We learned that you cannot take the same commercial, no matter how much time and money you may have spent in producing and packaging it and expect it to have the same impact around the Country. It will not.

You have to know the specific challenges of those communities. That is something I think I can bring to FHWA if I am confirmed.

Senator BARRASSO. If confirmed, can we be assured that you will work diligently to make sure the Federal Highway Administration is sensitive to the concerns of rural States like Wyoming?

Ms. NASON. Yes, of course.

Senator BARRASSO. Many States and others have appeared before this committee strongly supporting the distribution of highway funds by the formula we have set up. They have told us that adequate formula funding is important because it provides the flexibility needed to plan effectively and that it enables States to put funds to work faster, a key issue for the States.

Do you agree that the existing formula programs do enable States to address their priorities more effectively and more expeditiously than trying to create new programs that are less well understood and would take time to establish?

Ms. NASON. Yes, Mr. Chairman. Thank you.

I think, from what I have heard and speaking with our partners from my experience at the State Department in the construction of embassies and consulates, what is most critical is the certainty in the funding stream.

I think that is something that if I am confirmed, I would be happy to work with you and the members of the committee to make sure that States can plan, which I think is most essential.

Senator BARRASSO. You would also likely agree that there is unanimous consensus that transportation projects often take too long to complete and that we need to work together to find ways to further streamline the process while still protecting the environment.

We have heard testimony before this committee that suggests one of the reasons that projects are significantly slowed down is too many agencies are required to take action to approve a single project.

Instead of being done concurrently, they are being done consecutively. You have to wait for one and then another and another. How important is streamlining to timely project delivery and how can we best achieve it?

Ms. NASON. I think streamlining, as you noted, is essential for helping resolve and making improvements more quickly. Having served as the NHTSA Administrator at a time when we were raising CAFE standards for the first time in many, many years, I can tell you it is a challenge even internally to bring everyone to the table and resolve interagency concerns.

I think that is a role where FHWA can be quite helpful. If I am confirmed as FHWA Administrator, that is a leadership responsibility that I would like to take on.

Senator BARRASSO. We tend to be amazed at the power of innovation, vehicles coming onto the market right now that keep drivers from leaving their lanes, even hit the brakes in an emergency.

Within the next decade, I think we are likely to see even greater advances in connected and autonomous vehicles. The innovations have the potential to provide significant safety and efficiency benefits, I think, to the traveling public.

We had a discussion last night where people said, will I ever actually want to buy another car or will I just use a ride-sharing service for people living in major cities. What role should the Fed-

eral Highway Administration play in preparing our roadways and communities, both rural and urban, for the arrival of these new technologies?

Ms. NASON. Thank you, Mr. Chairman.

As I noted in my opening statement, I think it is going to be very important for modal administrators, all modal administrators at the Department of Transportation to work together and to share research and best data because many of these technologies cut across the modes in impact, NHTSA, but also Federal Motor Carrier and Federal Highways.

If I am confirmed as Federal Highway Administration Administrator, I will work closely with my colleagues to make sure we are providing the best data and information to all of our partners.

Senator BARRASSO. Thank you and congratulations again.

Ms. NASON. Thank you.

Senator BARRASSO. Senator Carper.

Senator CARPER. I would like to follow-up on the Chairman's question with respect to environmental streamlining. I would like to look a little bit at the Federal-State partnership as a recovering Governor. I would like to dwell a bit on safety.

I want to start with climate change. My neighbor to my left, my Delmarva buddy, Senator Cardin, and we have another Maryland Senator here, Chris Van Hollen, who will join us later I suspect but we live in an area where the land is sinking and the seas are rising. In fact, Delaware is the lowest lying State in America. It is of great concern to us.

I have a son in California. North of where he lives, they had these incredible wildfires in Oregon, Washington and Montana, much bigger than Delaware, if you can believe that. In Ellicott City, which Senator Cardin and Senator Van Hollen represent, as I recall they had two 500-year floods, two 1,000-year floods within 20 months of each other.

Some people think climate change is not real, it is esoteric. It is real. We see it every day. Our transportation system is a major source of greenhouse gas emissions. In fact, the greatest source of carbon is from our vehicles as it turns out today.

Our transportation system is highly vulnerable to impact from extreme weather according to the National Climate Assessment report released by 13 Federal agencies across the Trump Administration. This is a quote of what they said: "Expected increases in the severity and frequency of heavy precipitation events will affect inland infrastructure in every region, including access to roads, the viability of bridges, and the safety of pipelines."

For my whole life, we have measured rainfall by inches. Now, we measure rainfall, in some instances, by the foot.

As the Federal Highway Administrator, you are going to have an opportunity to influence highway roadway design, availability of vehicle charging and fueling infrastructure, and space for safe walking and bicycling.

How will you use your leadership to address how our vehicle and travel patterns accelerate and exacerbate climate change? How would you propose to ensure that infrastructure is resilient to extreme weather?

Ms. NASON. Thank you, Senator Carper.

I wrote down what you said, “Our roads are vulnerable to extreme weather.” Having grown up on the very east end of Long Island, we lived through hurricanes regularly and our roads would flood. Then there is no egress and often there is no second egress because there was a ferry. That is not an option either.

I spent my life watching my father, as a first responder, go out in extreme weather and help respond to these challenges, particularly on our roads when peoples’ instinct is to get in a car and try to drive away and then they are trapped.

I am very interested in seeing what the Federal Highway Administration can do to improve resiliency in our transportation system as a whole. I think there is a lot of good research and data that FHWA can provide to State and local governments and the leadership role that FHWA can play.

If confirmed, I would be happy to work with you on those issues.

Senator CARPER. Let us talk a bit more about environmental streamlining. The Chairman touched on it.

This Administration finally filled a number of key positions within the Administration that deal with streamlining. For the first I would say almost year and a half of this Administration, people responsible for dealing with streamlining and working to facilitate building of roads, highways, bridges, those positions were not filled. I am told by my staff that as of the beginning of this year, most of them have been filled.

One of the greatest holdups in moving projects has been the lack of people in the right positions. I think that has been dealt with and that is good.

This committee has provided numerous streamlining measures in both MAP-21 in 2012 and the FAST Act, two major transportation reauthorization bills, the latter was in 2015. Many of these new authorities were only just finalized in Federal Highway Administration regulations just a couple months ago, as you may know.

If you are confirmed, will you commit to providing our committee with updates on how these streamlining measures are having an impact on project timelines and performance of how the FHWA is ensuring that environmental outcomes are being protected and improved?

Ms. NASON. Yes, Senator Carper. I know there were many new, interesting proposals in MAP-21 and FAST for environmental streamlining that FHWA is working to administer. If I am confirmed, I will provide you with an update.

Senator CARPER. I will just say this and close.

It sounds like we have the right people in place within this Administration to do a better job on environmental streamlining. We have spent a lot of time, energy and effort in this committee in the last half a dozen years or more writing legislation focused on environmental streamlining.

We need to find out what is working. We are going to count on you to tell us what is working and maybe what is not.

Thank you very much.

Ms. NASON. Yes, sir. Thank you.

Senator BARRASSO. Senator Capito.

Senator CAPITO. Thank you, Mr. Chairman.

Thank you, Secretary Mineta. It is nice to see you again.

I want to thank you for your willingness to serve the public, for your career at NHTSA and also at the State Department. That demonstrates that you are unquestionably qualified for the position.

I would like to thank your daughter, Alex, for her great studied decision to be attending my alma mater, Duke University next year. Obviously you are going in the right direction.

In our meeting, thank you for coming to our office, we discussed that the position you are up for is so important to all of us because it helps us interact with all of our constituents. We get a lot of constituent issues around transportation issues, small ones and large ones.

As you know, in West Virginia, we have Corridor H which is the last section of the Appalachian Development Highway System that needs to be completed. Because of the way we have treated the Appalachian Development Highway System, it is now funded out of the Highway Trust Fund.

I just wanted a commitment from you, we talked about it, that you would move forward with me to try to find the easiest and best way, most efficient way, to complete that Corridor H part of that system.

Ms. NASON. Yes, Senator. Of course I know how passionate you are about that. I would be pleased to work with you.

Senator CAPITO. Thank you.

By the way, Secretary Chao is fantastic, as you know. You will have a great leader at that department.

The one question I get a lot is can you do an infrastructure package outside of the highway bill, a bipartisan infrastructure package. I think all of us would like to do it but there are a whole lot of deep questions.

One of the questions was the funding issue when it came forward over the last Congress. One of the things that the Administration asked for was to get in the game, what private moneys can be acquired or what kind of State dollars?

I would just like to tout my own State of West Virginia which passed a \$1.5 billion bond called the campaign, not by the Governor but by others, FTDR, Fix the—Roads, because people are very passionate about the safety aspects and are on the roads in rural areas all the time.

As we are thinking about this, it was obvious that we were going to be able to use that new State share as part of our match. I want to put that in your hat as you move forward that any proposal, I think, has to look at what the States are willing to do, what kind of skin in the game States are going to have and hopefully, we can elongate that timeline a little bit to go back to the past to scoop up some of these projects like our State that move forward with that.

I would like to ask you if we could work together on that as we are developing hopefully the infrastructure package, but also the highway bill as well?

Ms. NASON. Yes, of course, Senator, I would be pleased to work with you.

Senator CAPITO. Thank you.

Both Senators talked about streamlining in the permitting process. One of the things that as we see particularly rural States falling behind in the deployment of rural broadband, one of the ways I think we are able to kind of make it more affordable is the dig once proposition, working with the Department of Transportation.

We were on a bill last year, Senator Hatch had a bill, the Highway Right of Way Permitting Efficiency Act. We can work with the Department of Transportation, with the FCC, with the States, broadband councils and others to be able, while you are digging and while you are improving a highway, either new or maintaining, you can also use that as a way to run the high efficiency broadband into these rural areas that if left to their own devices, it is extremely expensive.

I do not know if this is something you have actually thought about. I know it is probably premature but do you have any thoughts on that?

Ms. NASON. Senator, I appreciate the question because we do spend time at the State Department talking about IG. As you know, it is not just 3G plus 2. It is a game changer so I think there may be interesting opportunities to save time and money for States.

I would be happy to work with you on this if I am confirmed.

Senator CAPITO. Yes, it just seems as though we get it our own way on something like this that is really not controversial. It is not controversial. Actually, I ran into a Federal Highway project that actually did provide the channel for the high speed Internet, although there is the cabling and everything but there was nothing in there. It was prepared for it so when and if, it is already ready and it saves a lot of money.

In terms of the safety issues, you mentioned pedestrian and cyclist safety. You mentioned congestion at intersections. I have read several stories here in D.C. with some very tragic outcomes of pedestrian safety.

Do you have any thoughts? Is it educating the American public; is it making signaling better? Is it the driver or is it all the above? What perspectives might you have on that?

Ms. NASON. Senator Capito, thank you.

I think it is all of the above so we always talk about the ease. We need to educate, we need to enforce, but we also need to engineer better. That is a piece where I think Federal Highway could provide some very valuable information and data. It would be something I could work on with my colleagues at NHTSA and in the department to see what improvements we could make.

Senator CAPITO. I would really encourage you there because that to me is just so preventable and the results of tragedies.

Thank you. Good luck. I plan on supporting you.

Ms. NASON. Thank you.

Senator CAPITO. Good luck at Duke.

Senator BARRASSO. Thank you, Senator Capito.

Senator CARDIN.

Senator CARDIN. Thank you, Mr. Chairman.

Ms. Nason, thank you. Thank you for your willingness to serve and we thank your family because this is a family sacrifice. Thank

you all very much for sharing your loved one with the government. We appreciate it.

To Norm Mineta, it is great to see you. I had the opportunity to serve with Congressman Mineta and see his talent as chairman of our committee. I know his reputation as Mayor of San Jose and really a mentor to many of us that are serving today. Norm, thank you for your extraordinary leadership.

You have a really good person introducing you. That was a smart decision you made.

Ms. NASON. My secret weapon.

Senator CARDIN. Yes. It was the right thing to do.

I really want to underscore what the Chairman said about this committee being able to work in a bipartisan manner to produce a strong bill. We did that with water and we want to do that with the reauthorization of surface transportation and perhaps other infrastructure bills.

However, we are going to need your help because, as you said, you want predictable funding for transportation. I think this committee would like to make sure that we have long term predictability, so the longer term the reauthorization, the better it is for local governments that depend upon projects that go for multiple years to have the Federal partnership understood.

It has to be adequate funding. That is going to be the real challenge. There are Democrats and Republicans who want to work together, who want to come up with a bipartisan plan but it is going to take your work with us in order to give us a path forward so we can accomplish those goals. Are you ready for that?

Ms. NASON. I am ready for those, interesting conversations.

Senator CARDIN. I thank you.

I want to follow-up on Senator Capito's point and your point on bicycle and pedestrian safety because we do have a program under the FAST Act that helps the TAP Program, the Transportation Alternative Program, which are funds that go to the local governments, the county governments so that they can plan in their community to try to protect pedestrians and the bicyclists by using a small amount of money for paths, trails and those types of issues. This is a bipartisan commitment to establish that program.

As we work toward the reauthorization, will you work with us to see whether we can perhaps strengthen that program so that we can reduce the growing number of fatalities with bicyclists and pedestrians, so we can work to try to deal with that using the existing tool of the Transportation Alternative Programs, perhaps enhancing that?

Ms. NASON. Yes, Senator Cardin. If I am confirmed as Federal Highway Administrator, I would very much like to work with you and your staff to see what enhancements we can make to already existing programs.

Senator CARDIN. I appreciate that. I think this is a program that does work. The challenge, of course, is it is a little bit unusual because first of all, the money goes directly to the local government and bypasses the States which they do not always like.

Second, of course, it is for local enhancements which, at times, get lost as we look at the challenges we have.

I want to underscore the point that Senator Carper made in regard to climate change and resiliency. It is a major challenge we have, a major challenge in maintaining our existing transportation infrastructure as we look for new but it also recognizes we have to do things in a smarter way in order for public investments to have its maximum advantage.

Are you prepared to work with us based upon what science is telling us so that our infrastructure investments are done in the best way, recognizing that these extreme weather conditions are becoming more frequent?

Ms. NASON. Yes, Senator. I think Federal Highway could be a center of excellence for collection of good data and research. I would be pleased to work with you if I am confirmed.

Senator CARDIN. I want to talk about the multimodal concepts. It took me a shade under 2 hours to get here today from Baltimore. That is a good time. It usually takes me longer than that. A commute that should be 45 minutes usually takes me about 2 hours and 15 minutes. I think it was the weather forecast that kept some people off the roads today so I made it a little bit faster.

We live in the worst congested area in the Country. We really need to invest in multimodal. We have to get people out of cars into transit. We need to deal with the issues of the commuter rails. We have to deal with all of the above.

Are you prepared to use your leadership, if confirmed, so that we have a sensible, multimodal transportation commitment to be as friendly as we can to reduce congestion in the most environmentally friendly way?

Ms. NASON. Yes, Senator. Peoples' transportation needs are diverse. There are a lot of factors that go into choosing how you get from one place to another from time to cost. I would be happy to work with you on those issues if I am confirmed.

Senator CARDIN. I appreciate that and I look forward to working with you.

Thank you.

Senator BARRASSO. Thank you, Senator Cardin.

Senator BRAUN.

Senator BRAUN. Thank you.

It was a pleasure meeting you the other day.

I am from Indiana and we have a lot to address in infrastructure needs. You have to look forward. It is a very capital intensive thing. Our current budget and the condition it is in, where interest is dominating a big portion of it but mostly when it comes to the fact that we seem to be the least capable of taking on a big project like infrastructure across the Country just like we were in Indiana, to keep maintenance in line and actually do new stuff.

Do you think it is realistic to maintain and 80–20 traditional funding role to really accomplish what the Nation's needs would be?

Ms. NASON. Thank you, Senator.

As you and I discussed, Indiana has made some strong choices regarding investment. The question of match and how we are going to finance the next legislative proposal, whatever this committee chooses to do, is one that I do not think FHWA should dictate but

be a part of the conversations because, as you know, what works in Indiana does not work in New York.

I would be happy to work with you as we move forward on legislation to see whether we have the right balance.

Senator BRAUN. Thank you.

My personal opinion is we are going to have to come up with something new.

In Indiana, we were creative. We did what was called a Community Crossings Program which was to challenge counties and cities to actually put skin in the game. Of course they universally complained about it in its formulation. They indicated that was the State's responsibility. All I can tell you is it has been an overwhelming success.

Do you think that States that put more of their own skin in the game should receive some type of priority when it comes to Federal funds that are going to be increasingly scarce?

Ms. NASON. I do think States which have demonstrated leadership are States that we can work closely with and learn from, how they were able to message and what their success was, certainly a State like Indiana.

I would be happy to work with you on whatever changes this committee decides to make in the next legislation.

Senator BRAUN. I would like to ask you to give some thought to how you think a similar dynamic might work because it is my opinion that if we are going to address infrastructure needs, it is going to take something different from what we have had leading up to this point.

In general, on infrastructure, it is not only the condition of maintenance but there are so many new things that need to be done. In your opinion, when it comes to maintenance of roads and bridges, where do you think it really is on the Federal landscape?

I can tell you when we looked at it in Indiana, probably back in 2015, almost half a percent of our roads and bridges were headed in the wrong direction. Until we basically doubled our stream of funding, we were going to let that trajectory continue.

How are you sizing up the Federal picture? Is it similar to what we saw in Indiana or do you think maintenance is less of an issue and new construction might be the bigger challenge?

Ms. NASON. I do think they are both important but I think maintenance is particularly critical. It is a place where Federal Highways can be very supportive and provide good information. They do condition and performance reports, for example, annually on the State of our bridges across the Country, not just State by State but how we are looking nationwide, where and how we need to invest. I think, if confirmed, Federal Highways has a lot of good information we can share with the Senators.

Senator BRAUN. Very good.

In summary of everything we talked about, please give thought and focus on how we get enterprising, responsible States to maybe have some preference when it comes to engaging and if they are willing to put more skin in the game that maybe they should get more of the scarce Federal dollars.

Ms. NASON. Thank you.

Senator BRAUN. Thank you. I yield.

Senator BARRASSO. Thank you very much, Senator Braun.

Senator WHITEHOUSE.

Senator WHITEHOUSE. Thank you, Chairman.

Welcome, Assistant Secretary Nason. We are glad to have you here.

Secretary Chao appeared before this committee in May 2017. When she did, I asked her how sea level rise is affecting our coastal infrastructure. As you and I discussed in my office, Rhode Island has 400 miles of coast, and the measured sea level rise is a very serious and significant issue for us.

The Secretary agreed to look into the issue, and I followed up with a letter to her that I would ask to be made a part of the record of the hearing.

Senator BARRASSO. Without objection.

[The referenced information follows:]

SHELDON WHITEHOUSE  
RHODE ISLAND

COMMITTEES:  
AGING  
BUDGET  
ENVIRONMENT AND PUBLIC WORKS  
HEALTH, EDUCATION, LABOR, AND PENSIONING  
JUDICIARY

**United States Senate**  
WASHINGTON, DC 20510-3905

<http://whitehouse.senate.gov>  
(202) 224-2921  
TTY (202) 224-7746  
120 WESTMINSTER STREET, SUITE 1100  
PROVIDENCE, RI 02903  
(401) 463-5794

June 23, 2017

The Honorable Elaine Chao  
Secretary  
U.S. Department of Transportation  
1200 New Jersey Ave, SE  
Washington, D.C. 20590

Dear Secretary Chao:

At the Senate Environment and Public Works Committee hearing on May 17, 2017, I spoke to you about how sea level rise is affecting our coasts. In particular, I have significant concerns that our transportation infrastructure is not being designed or built with future conditions in mind. I shared my reservations about the accuracy of the Federal Emergency Management Agency's flood maps. These maps rely on outdated information and simplified models that do not accurately incorporate coastal conditions, and ignore the future potential for flooding from sea level rise, increased storm surges, and other changing conditions. You responded: "I am not aware of this issue, but I will certainly be aware [and] be educated about it."

Based on the most recent NOAA analysis, the Rhode Island Coastal Resources Management Council (CRMC) is now estimating between 9 and 12 feet of sea level rise for Rhode Island by the end of the century. This water will change the outline of our state and permanently flood homes, businesses, roads, bridges, and other important infrastructure. I produced a video ([www.whitehouse.senate.gov/news/videos/ri-archipelago](http://www.whitehouse.senate.gov/news/videos/ri-archipelago)) explaining this future, which I encourage you and your staff to view.

Included with this letter is the report "Global and Regional Sea Level Rise Scenarios for the United States." This is the most recent NOAA analysis of sea level rise science. I've also included a recent article from the editor of Risk & Insurance, which speaks to the risks the housing market will face if we continue to do nothing to mitigate and prepare for sea level rise. The federal home loan mortgage corporation Freddie Mac has predicted "[t]he economic losses and social disruption may happen gradually, but they are likely to be greater in total than those experienced in the housing crisis and Great Recession."

If we make infrastructure investments without considering future conditions, we are doing the taxpayers a disservice. Our coasts are particularly prone to a myriad of climate change consequences, and our infrastructure must be prepared for rising seas and increased storm surges.

I hope we can work together on providing our coastal communities with the resources they need to thrive in the coming decades.

Sincerely,

  
Sheldon Whitehouse  
United States Senator

PRINTED ON RECYCLED PAPER

Senator WHITEHOUSE. Before receiving the Secretary's formal response, we managed to get our hands on the draft response, the letter that the career staff sent up to the Secretary's office for her final approval. Then shortly after that, we got the letter from the Secretary's office.

When you compare the two letters, you see some pretty significant, notable differences, which I have redlined here. One is that the phrase "sea level rise" here is struck out of the career letter and the word "rise" is replaced with "variations." The term "variations" implies wrongly that the sea level rise that we're seeing now in Rhode Island is consistent with natural changes over geologic time, when in fact, the current rise in sea levels is a direct consequence of human activity, of carbon pollution, and it is occurring at rates that humankind hasn't seen in thousands and thousands of years. And we actually measure this stuff at Naval Station Newport.

So there is that change. Then down here, the political staff presumably of the Secretary's office, struck out "environmental conditions such as extreme weather events and climate change." Well, we live in Rhode Island, in a world of extreme weather events and climate change. I think we all do.

So what worries me about this is that it looks like we are seeing political censoring for ideological purposes. And I think that the climate denial and the censoring and the nonsense has got to stop. We may have disagreements about what to do about climate change; we ought to be having a bipartisan discussion about solutions. But this business of just striking it out of letters so that it doesn't even come up, and we are not even allowed to talk about it, is ridiculous.

So it forces me to ask you your assurance that you will not censor and ignore the facts and the science in the manner in which you go about your duties as a Federal Highway Administrator.

Ms. NASON. Thank you, Senator Whitehouse. I am unfamiliar with this issue, and I haven't seen the letter.

Senator WHITEHOUSE. And I don't expect you to defend the letter or any of this. My point is that this is a continuing problem, dealing with this Administration. For those of us that have coastal infrastructure and that are coastal States, to have a Federal Highway Administrator who will pay attention to real facts and real science is a matter of importance.

Ms. NASON. At NHTSA we always said, good data is king.

Senator WHITEHOUSE. Good.

Ms. NASON. And I am a firm believer in good data, so I can commit to you that we will give you the best possible information. I also wrote down the words political retaliation. That is not something that I have ever accepted, either at the State Department or at NHTSA. I have never seen any indications of that, but I can assure you I would not support having staff feel intimidated for any reason.

Senator WHITEHOUSE. Good. One of the reasons that this is important is this Providence Journal headline from just a few days ago, Climate Change: Washed Away, Home Values Lost to Rising Sea Levels. What the study that formed the basis for this front page above-the-fold article in my home State newspaper shows is

that Rhode Island has lost nearly \$45 million in home appreciation values between 2005 and 2017.

It is the Rhode Island part of a study that began in Florida and went up the coast through New Jersey. It hit Massachusetts, so when it hit Rhode Island, so Senator Markey had the same study now. If you look at all the different States that have been reviewed in this what was originally a peer-reviewed study in Florida, and has moved, the same methodology, to cover other States, there is a total of \$15 billion lost in coastal home values.

That is a big deal for these families and businesses. And it can't be ignored. They are not alone. If you go on to look at their report, pull up the other one, here is what one of the authors of the report said: "Each time we analyze a new State, we see the same phenomenon. Increased tidal flooding leads to a loss in home value appreciation. As sea level rise accelerates, we expect a corresponding loss in relative home value to accelerate as well."

I can't ignore that. And I can't allow Administration agencies to ignore that, either.

Go on to Freddie Mac. Freddie Mac is not an environmental organization, it is not a green organization, it is not a Democrat organization. It is a housing organization. And what Freddie Mac has warned is that rising sea levels and spreading flood plains appear likely to destroy billions of dollars in property and to displace millions of people. The economic losses and social disruption may happen gradually, but they are likely to be greater in total than those experienced in the housing crisis and great recession.

I just want to make those points, because it shows how important it is to us to be getting fair and factual and properly based scientific determinations out of our Federal agencies. Because this stuff is serious and it is big and it is coming at us.

Thank you to the Chairman for letting me go over my time.

Senator BARRASSO. Thank you very much, Senator Whitehouse.

Senator SULLIVAN.

Senator SULLIVAN. Thank you, Mr. Chairman.

Ms. Nason, welcome. Thank you for your service.

I was looking at your bio. You might not know this, but are you the first potential Administrator of the Federal Highway Administration who is a black belt in karate?

Ms. NASON. You know, I don't know if they keep that statistic. I might be.

[Laughter.]

Senator SULLIVAN. I just thought that was interesting.

Senator BARRASSO. I would point out she is the first one that actually has a TED Talk online of talking about her and showing in action her black belt abilities.

Senator SULLIVAN. So if you ever have any issues with Senator Whitehouse.

[Laughter.]

Senator WHITEHOUSE. I yield without the necessity of any application of force.

[Laughter.]

Senator SULLIVAN. Just thought I might warn him. You have to be careful with her.

Anyway, listen, I wanted to talk briefly about another area where States lose money, and I think it is really important. That relates to permitting time lines. Particularly infrastructure time lines.

My State, the great State of Alaska, is kind of ground zero on groups that like to delay and slow and shut down any kind of infrastructure. We are very resource-rich State, but infrastructure-poor State, almost 10,000 miles of roads, which probably is not much more than a lot smaller States in our Country.

So what we have experienced, let me just give you a couple of examples. The King Cove Road, that is a road on the Aleutian Island chain, the Trump Administration finally approved that. That took about maybe 30 years, 12 miles. A twelve-mile road, dirt road. Took almost 20 years to permit a gold mine in Alaska, because of litigation. By the way, it is the Kensington Mine, it employs almost 400 people at an average wage of \$100,000. But 20 years of fighting and ridiculous delays on that.

Took 7 years to permit an exploration well in Alaska, and \$7 billion. Shell tried to do that and the last Administration made sure that it almost took a decade. It takes on average in America 7 years to permit a bridge. Took over 8 years, almost a decade, to permit the Keystone Pipeline.

This is just ridiculous, and it hurts States, it hurts average citizens. It hurts the Country. I guarantee it doesn't take 19 years on average to go from permitting a highway, your job, to completion. Nine to 19 years. I don't think China permits roads in a two-decade time period.

So can I get your commitment to work with this Administration? I do think it is a bipartisan issue, by the way. I don't think my colleagues on the other side of the aisle think 20 years to permit a highway is a good idea. Can I get your commitment to work with this committee on permitting reform in a way that makes sense for the average American? This is not a partisan issue. Seven years to permit a bridge is madness.

Ms. NASON. Yes, Senator, I would be happy to work with you and members of the committee.

Senator SULLIVAN. I have a bill called the Rebuild America Now Act. It looks at common-sense permitting reforms, particularly for infrastructure and highways, to do what most Americans want, which is not cut corners on the environment, but not take a decade to permit a piece of infrastructure. Can I get your commitment to work with me and this committee on those issues?

Ms. NASON. Yes, Senator, I would be pleased to review that legislation and work with you.

Senator SULLIVAN. Let me ask, I also want to get your commitment to come to Alaska. Like I said, we have a lot of unique challenges in my State, some of which relate to permitting. There are certain groups that usually don't live in my State that want to make sure you can't build a road in Alaska, even though most States and communities can build roads. They seem to want to make sure we can't build roads.

But one of the things, the FHWA recently put out a guidance memo that I would like to sit down with you and discuss a little bit more. It significantly shortens the time line on when the con-

struction projects and seasons close. As you might know, in Alaska, we have a really short construction season relative to any other State because of our long winters. So can I get a commitment from you to work with me just on some of the elements of that memo? Just because I don't think it looks at unique aspects of different States, particularly different construction time lines.

Ms. NASON. Senator, first of all, I haven't been to Alaska in many years. I would be pleased to go, with you and your staff.

Senator SULLIVAN. Good. Great. We would love to host you there.

Ms. NASON. Always a beautiful trip.

Senator SULLIVAN. Good. And then finally, just if you haven't, and I am running out of time here, but your vision, I know you laid it out in your opening statement, but can you list very quickly your top three priorities on what you want to get done as the Administrator?

Ms. NASON. Sure. Thank you, Senator.

I would like to focus, of course, on safety. But I am particularly interested in pedestrian and cyclist safety, which was an issue I didn't get to spend that much time on at NHTSA. We had so many congressional mandates that we were trying to implement. So that is something I would like to go back to, and I think Federal Highways can be very important there.

I also think there is a lot of interesting new technologies that are very cross-cutting across the modes. So I would like to work with my fellow modal administrators to see what the advantages and disadvantages of these new technologies are and how can we implement them safely.

Third, I would like to travel. I would like to go and meet people where they are. That was very important at NHTSA, to go and visit communities locally, instead of bringing everyone to Washington, to hear first-hand about the challenges they are facing. So that would be something I would like to work on.

Senator SULLIVAN. Great. Thank you very much. Thank you, Mr. Chairman.

Senator BARRASSO. Thank you, Senator Sullivan. Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman, very much.

Cape Cod, economic pillar, Massachusetts, recreational oasis. But only accessible by, on land, by two bridges build in the 1930's by the Army Corps of Engineers. They are deteriorating and we are going to need some help in order to make sure that we have, in the 21st century, as good a system as we had in the 20th century. The Army Corps owns the bridges. It is currently conducting a study to evaluate options for replacing the bridge, which could cost up to \$600 million. The Army Corps' entire budget is only \$6 billion a year that they have to use to support every one of their programs.

So we are going to be in a process of talking to the Army Corps, which we are already about this. And as we talk about a surface transportation bill, which the Chairman is talking about bringing through this committee, I am going to be fighting to make sure the Federal Highway Administration has the resources and the authorities it needs to help replace these bridges.

Would you commit to work with me on this very complex project?

Ms. NASON. Yes, Senator Markey. As you know, I am in Connecticut. I have friends who leave for Cape Cod at 2 in the morning so they can avoid the traffic, so I would be happy to work with you on that.

Senator MARKEY. Excellent. So you are an expert on this.

Ms. NASON. I have never been stuck on the bridge.

Senator MARKEY. Yes. Mark Twain used to say an expert is anyone who lives more than 200 miles away from the problem. So people now have to anticipate getting up at 2, knowing that there is a problem they are going to have to deal with when they hit those bridges at Cape Cod.

Senator Whitehouse has already talked about the impacts of climate change on our highway system. What I would ask from you is that you would work with us to encourage transportation planning organizations to reduce vehicle miles traveled, curb greenhouse gas emissions when using Federal funding for highway projects. Can you make that commitment to us?

Ms. NASON. Yes.

Senator MARKEY. Thank you. Next, we have an increasing problem, again related to climate change, because it clearly is having an impact on the ability for people even to escape. We have seen that in Hurricane Harvey, Irma, Maria, western wildfires, flooding in the Midwest, to name a few. The Federal Highway Administration has found that many of the Nation's critical mass evacuation routes face a series of impediments, including evacuation planning equipment acquisition, resiliency and capacity. Would you support providing more resources to State and local governments to improve the ability of people to get out of harm's way?

Ms. NASON. Again, Senator, having grown up on the very east end of Long Island and been stuck, and being the daughter of a first responder, I understand how frightening it is for people when they are trapped during any kind of catastrophic weather event. So I would be pleased to work with you, if I am confirmed, to make sure that are building greater resiliency into our system.

Senator MARKEY. I am going to re-introduce my ESCAPE Act, Enhancing the Strength and Capacity of America's Primary Evacuation Routes, as legislation. I would love to work with you on that as we are moving with the Surface Transportation Bill, which the committee is going to be considering.

Then finally, it is on cybersecurity, it is on the issue of the connected car era that is about to dramatically expand. We already have it, but it is going to be on steroids. Every vehicle will be a computer on wheels, and gathering massive amounts of data about each and every person, each and every family, each and every child in those vehicles. Everything that they are doing is going to be inside of a data base.

But it will also be gathered because there will be a digitization of the roads, bridges, other transportation infrastructure. So I want to work with you on the issue of cybersecurity as we are now planning in the next generation, the 21st generation of all of this infrastructure. Because this information, historically, has just been within the family. Now, the government will have access to it as well. Could you talk about that a little bit?

Ms. NASON. Senator Markey, we spend, as the Assistant Secretary for Administration at the State Department, as you know, State spends a great deal of time talking about cybersecurity, more in closed briefings than open. But it is an issue that as the chief procurement officer, the whole procurement team is spending more and more time on thinking about, where is our tech coming from, who are the providers who are supporting it, what data is it collecting, where is it being stored. So I would be pleased to work with you on that.

Senator MARKEY. Great. So on the one hand we don't want FHWA to be compromising the privacy, but we also don't want our own Federal Government to be compromising the information of people as they innocently are driving the roads and bridges of our Country. It should be their business, not the business of the Federal highway Administration. So I want to work with you on that as well. Thank you, Mr. Chairman.

Senator BARRASSO. Thank you, Senator Markey. Senator Gillibrand.

Senator GILLIBRAND. Thank you, Mr. Chairman. Thank you for this hearing, thank you for your testimony.

Ms. Nason, the construction of the highway system remains one of the most transformative achievements in our Nation's history. While these highways connected cities and towns from coast to coast and to the global market, the construction of this system too often destroyed communities, particularly minority communities.

I have seen first hand in my State where Robert Moses steam-rolled historic neighborhoods in order to build highways that served commuters, often at the expense of those who lived there. InterState 81 cut through neighborhoods in Syracuse, severing residents from the broader community and limiting their economic opportunity.

The I-81 viaduct through downtown Syracuse is now past its useful life and the State is studying options for replacement. After conversations with community stakeholders in Syracuse, I have voiced my support for the construction of a street-level community grid to replace the elevated portion of I-81 as a way to revitalize all of Syracuse's downtown and connect all of the community to opportunity. Communities across our Country face similar decisions as our infrastructure continues to age.

This creates real opportunity to learn from the mistakes of the past and reimagine how we build a transportation infrastructure to be more equitable. What role should the Federal Government play in addressing the past Federal Highway projects that marginalize some communities, especially minority communities?

Ms. NASON. Thank you, Senator Gillibrand. As a New Yorker, I certainly know who Robert Moses was. I have been stuck on that parkway.

I agree that the system was transformative. I think Federal Highways is in a place where, not to dictate to State and local governments, but to make sure that we are working with MPOs and State and locals that are planning for connectivity of all communities, and to help provide good information and the best data possible, so that States and local and tribal governments can make

better decisions about making sure that all communities are connected and benefited.

Senator GILLIBRAND. That sounds good. What do you think the Nation can do to prioritize economic and environmental justice in our transportation planning?

Ms. NASON. I don't want to overstate Federal Highways' role. But I do think there are many ways that we can work with our partners, associations, MPOs and others, to make sure that we are thinking through and we are asking some of these tough questions of State and local governments, and to make sure that they are thinking through all of the challenges.

Senator GILLIBRAND. Thank you. Different topic. Truck underrides are a major cause of death and injury on our Nation's Federal highways. Last year, the National Sheriff's Association was the first law enforcement organization to endorse the Stop Underrides Act, a bipartisan bill. They endorsed this bill because day in and day out, the witness the aftermath of underride crashes and have experienced the loss of their fellow law enforcement officers in these accidents.

First responders know that their own safety and the safety of the public that they serve continues to be put needlessly at risk every day because we don't have effective and comprehensive truck underride protection. Drawing on your experience from NHTSA, do you believe it is necessary to update the 1998 USDOT rulemaking to require stronger performance standards for rear underride guards?

Ms. NASON. Senator, I know there was a horrific crash in up-State New York. And putting on my NHTSA hat for a minute, I can say that we are always interested in knowing if there is better data.

Senator GILLIBRAND. Right.

Ms. NASON. And reviewing and updating standards, I believe IHS has some new information that they might be able to share and provide additional information that Federal Highways, again as I noted in my opening statement, I hope to work very closely with the NHTSA Administrator, with Federal Motor Carriers.

Senator GILLIBRAND. I would like to work with you to make sure we get better data collection, and we can do a more comprehensive solution to this urgent crisis.

Ms. NASON. Sure.

Senator GILLIBRAND. Similarly, last October, 20 people died in a horrific limousine crash in Schoharie, New York, making it the deadliest transportation accident in the United States in 9 years. Since the accident, many concerns have been raised about the safety of stretch limousines, and the loopholes in our Federal safety laws that result in lower occupant safety standards for these vehicles, relative to other vehicles on the road.

Additionally, this accident occurred at a notoriously dangerous intersection on New York State Route 30. If confirmed, will you work with States and local officials to ensure that dangerous intersections are a top priority? As well, will you work to ensure that FHWA is doing everything possible to respond to local concerns about safety of potential dangerous intersections, and to make sure communities can mitigate those dangers that exist?

Ms. NASON. Yes, Senator, that was a horrific crash. I would be pleased, if confirmed, to have FHWA work with State and local governments regarding dangerous intersections.

Senator GILLIBRAND. And I will submit my last two questions for the record. One is about using local work force to do large infrastructure projects, and the second is to talk about extreme weather and climate-related events having a huge impact on our transportation infrastructure. I will submit those for the record. Will you submit answers for those?

Ms. NASON. Yes, Senator.

Senator GILLIBRAND. Thank you very much. Thank you, Mr. Chairman.

Senator BARRASSO. Thank you, Senator Gillibrand. Senator Carper.

Senator CARPER. Thanks, Mr. Chairman.

Mr. Chairman, I ask unanimous consent to submit for the record the January 2018 GAO report entitled Highway and Transit Projects into the record, as it relates to environmental reviews. GAO notes, and had previously reported, that 99 percent of projects are not being held up by complex NEPA reviews. Federal Highway Administration officials expressed that categorical exclusions still constitute the vast majority of NEPA reviews for highway projects. I ask unanimous consent.

Senator BARRASSO. Without objection.

[The referenced information follows:]



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January 2018

# HIGHWAY AND TRANSIT PROJECTS

Evaluation Guidance  
Needed for States  
with National  
Environmental Policy  
Act Authority

## GAO Highlights

Highlights of GAO-18-222, a report to congressional committees

### Why GAO Did This Study

Since 2005, over 30 provisions have been enacted in law to speed up the delivery of highway and transit projects, mainly by streamlining the NEPA review process. NEPA requires federal agencies to evaluate the potential environmental effects of proposed projects on the human environment. These project delivery provisions included new categorical exclusions to streamline the review process, and a provision allowing DOT to assign federal NEPA approval authority to states.

Congress included provisions in statute for GAO to assess the use of these provisions and whether they have accelerated project delivery. This report examines: (1) which project delivery provisions were used by state DOTs and selected transit agencies and the reported effects, and (2) the extent to which DOT has assigned NEPA authority to states and the reported effects, among other objectives. GAO surveyed all state DOTs and interviewed federal and state DOT officials and 11 selected transit agencies GAO determined were likely to have been affected by the provisions, and analyzed information from NEPA assignment states.

### What GAO Recommends

FHWA should offer and provide guidance or technical assistance to NEPA assignment states on developing evaluation methodologies, including baseline time frames and timeliness measures. DOT partially concurred with the recommendation, saying it would clarify environmental review start times. GAO continues to believe further evaluation guidance is needed, as discussed in the report.

View GAO-18-222. For more information, contact Susan Fleming at (202) 512-2834 or [flemings@gao.gov](mailto:flemings@gao.gov).

January 2018

## HIGHWAY AND TRANSIT PROJECTS

### Evaluation Guidance Needed for States with National Environmental Policy Act Authority

### What GAO Found

The Department of Transportation's (DOT) Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) are responsible for National Environmental Policy Act (NEPA) compliance on highway and transit projects. Project sponsors that receive federal funds, typically a state DOT or transit agency, develop documents necessary for NEPA compliance for FHWA and FTA to evaluate and approve. Project sponsors prepare an environmental impact statement (EIS) when a project will have a significant environmental impact, or an environmental assessment to determine if a project will have a significant impact. Projects that fit within a category of activities pre-determined to have no significant impact (such as repaving a road) can receive a categorical exclusion, and an EIS or environment assessment is generally not needed. GAO found:

- State DOTs and selected transit agencies reported using provisions enacted in law to speed up the delivery of highway and transit projects, and while state DOTs reported that a number of provisions they used sped up delivery of highway projects, the effects on transit projects were less clear. For example, according to GAO's survey responses, 10 of 17 provisions that mainly created new "categorical exclusions" were used by 30 or more state DOTs and generally sped up projects. The provision state DOTs and transit agencies most often reported using was one that authorizes parkland or a historic site to be used for a transportation project if that project has a minimal impact on the environment. A majority of the 11 transit agencies GAO reviewed were not clear whether provisions they used sped up project delivery because these agencies did not track how long it took projects to complete the NEPA process, among other reasons.
- DOT assigned NEPA authority to six states: Alaska, California, Florida, Ohio, Texas, and Utah. Under agreements with FHWA, state DOTs calculate time savings by comparing NEPA completion times before (the baseline) and after assuming the authority. Only California and Texas have reported results; California reported that it reduced EIS review time 10 years from a 16-year baseline. However, these reported time savings are questionable because the comparisons do not consider other factors, such as funding, that can affect timelines. In establishing baselines, both states have also faced challenges, such as how many and which projects to include. California reported to its legislature that its baseline may not be meaningful because of the relatively small sample of five projects, but nevertheless presents these data on its web site as evidence of "significant" time savings.

FHWA does not review the states' timeliness measures and time savings estimates, but has broad authority to offer guidance and technical assistance, which can include helping states develop sound evaluation methodologies and baselines. FHWA officials stated that they provide general technical assistance, but that no state has requested help developing evaluation methodologies. Offering and providing such assistance could help ensure that states considering applying for NEPA assignment base their decisions on reliable information, and that FHWA and Congress have reliable information to assess whether NEPA assignment results in more efficient environmental reviews.

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**Abbreviations**

AASHTO	American Association of State Highway and Transportation Officials
CTA	Chicago Transit Authority
DOT	Department of Transportation
EIS	environmental impact statement
FAST Act	Fixing America's Surface Transportation Act
FHWA	Federal Highway Administration
FTA	Federal Transit Administration
MAP-21	Moving Ahead for Progress in the 21st Century Act
MOU	memorandum of understanding
MTA	New York Metropolitan Transportation Authority
NEPA	National Environmental Policy Act of 1969
PAPAI	Project and Program Action Information
SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
SEPTA	Southeastern Pennsylvania Transportation Authority
state DOT	state department of transportation
TrAMS	Transit Award Management System

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January 30, 2018

The Honorable John Barrasso  
Chairman  
The Honorable Tom Carper  
Ranking Member  
Committee on Environment and Public Works  
United States Senate

The Honorable Bill Shuster  
Chairman  
The Honorable Peter DeFazio  
Ranking Member  
Committee on Transportation and Infrastructure  
House of Representatives

The National Environmental Policy Act of 1969 (NEPA)—which requires federal agencies to evaluate the potential environmental effects of proposed projects on the human environment—has been identified by critics as containing time-consuming requirements and praised by proponents for, among other things, helping protect the environment and bringing public participation into the government's decision making. The Department of Transportation's (DOT) Federal Highway Administration (FHWA) through its division offices in each state and the Federal Transit Administration (FTA) through its 10 regional offices are the federal agencies responsible for NEPA compliance on highway and transit projects, respectively. Project sponsors—typically a state department of transportation (state DOT) or a local transit agency—receive FHWA and FTA grant funds, oversee the construction of highway and transit projects, develop the documents on which FHWA and FTA base their evaluations of environmental effects, and collaborate with federal and state stakeholders. In short, project sponsors generally prepare the documents necessary for NEPA compliance, while the federal agencies must ultimately approve the documents. In this report we refer to these activities collectively as "environmental review" or "NEPA review."

We have previously reported that environmental review is one of a number of factors affecting the time frame for completing transportation

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projects (delivery).<sup>1</sup> The past three surface transportation reauthorizations—the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) in 2005; the Moving Ahead for Progress in the 21st Century Act (MAP-21) in 2012; and the Fixing America's Surface Transportation Act (FAST Act) in 2015—contain a number of provisions, called “project delivery provisions”—aimed at accelerating the delivery of highway and transit projects, mainly by streamlining the NEPA review process.<sup>2</sup> These provisions include, for example, the *NEPA Assignment Authority* provision, which provides authority for the relevant DOT administration, under certain circumstances, to assign federal NEPA authority to states and thereby eliminate the federal approval role with respect to individual projects.<sup>3</sup> In this case, FHWA and FTA are the relevant DOT administrations to assign NEPA authority to states for highway and transit projects, respectively.

MAP-21 and the FAST Act included provisions for GAO to assess, among other things, whether project sponsors have used the project delivery provisions and the extent to which the provisions have sped up the delivery of highway and transit projects.<sup>4</sup> This report:

- identifies provisions aimed at accelerating the delivery of highway and transit projects that were included in the last three surface transportation reauthorizations;
- examines which provisions were used by state DOTs and selected transit agencies and the provisions' reported effects, if any, on accelerating the delivery of projects; and
- evaluates the extent to which DOT has assigned NEPA authority to states and the reported effects.

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<sup>1</sup>GAO, *Highway Projects: Some Federal and State Practices to Expedite Completion Show Promise*, GAO-12-593 (Washington, D.C.: Jun. 6, 2012).

<sup>2</sup>Pub. L. No. 109-59, 119 Stat. 1144 (2005); Pub. L. No. 112-141, 126 Stat. 405 (2012); Pub. L. No. 114-94, 129 Stat. 1312 (2015).

<sup>3</sup>This program is authorized in 23 U.S.C. § 327 and is called the “Surface Transportation Project Delivery Program.”

<sup>4</sup>Pub. L. No. 112-141 § 1323, 126 Stat. 405, 553-554 (2012); Pub. L. No. 114-94 § 1318, 129 Stat. 1312, 1404-1405 (2015).

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In addition, in appendix I, we identify available information on the number and percentage of the different types of NEPA reviews and the costs of conducting NEPA reviews.

To address the first objective, we reviewed the past three surface reauthorizations to identify highway and transit project delivery provisions and categorized these provisions. To determine states' use and reported effects of the provisions on highway projects, we surveyed state DOTs within all 50 states, the District of Columbia, and Puerto Rico. We had a 100 percent response rate. Based on the survey results, we conducted follow-up interviews with officials from 10 state DOTs to discuss their perceived effects of the provisions in greater detail. We selected these state DOTs to include geographically diverse states and states that reported varying levels of use of the provisions and effects. To determine use and the perceived effects of the provisions applicable to selected transit projects, we selected 11 transit agencies and interviewed officials at those agencies. We selected these agencies based primarily on the number of times they issued a notice of intent to prepare an environmental impact statement (EIS) in the *Federal Register* from 2005 through 2016 to identify those transit agencies that may have experience preparing EISs or some another NEPA review and experience using transit project delivery provisions. We also considered other factors, such as ridership and geographic location, to select the 11 transit agencies. The results of the states' and transit agencies' interviews are not generalizable.

To evaluate the extent to which DOT has assigned NEPA authority to states, and the effects states have reported from assuming NEPA authority, we identified the states that have been assigned NEPA authority, based on information from FHWA, and interviewed state DOT officials in those states. However, we did not include one of these states because that state did not assume NEPA authority until November 2017. For the states we included, we interviewed state DOT officials and reviewed relevant documentation including memorandums of understanding and analyses the state DOTs conducted on NEPA assignment authority, such as methodologies for calculating NEPA assignment time savings. In addition, we interviewed FHWA officials about procedures to oversee the performance of NEPA assignment states and interviewed FHWA division officials from those states. We compared FHWA's procedures to oversee NEPA assignment states

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against standards for information and communication contained in *Standards for Internal Control in the Federal Government*.<sup>5</sup>

To determine available information on the number and percentage of the different NEPA reviews and costs of conducting NEPA reviews for highway and transit projects, we reviewed relevant publications, documents, and analyses, and discussed these with FHWA and FTA officials.

For all objectives, we interviewed agency officials and stakeholders involved in highway and transit projects including FHWA, FTA, and relevant transportation and environmental organizations. We conducted this performance audit from August 2016 to January 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. For more information on our objectives, scope, and methodology, see appendix II.

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## Background

FHWA and FTA fund and oversee highway and transit projects, respectively. FHWA funds highway projects through formula grants to state DOTs, provides technical expertise to state DOTs, and conducts oversight of highway projects through its division offices in each state. FTA funds a variety of transit programs through formula and competitive grants and conducts oversight of transit projects' planning and design through 10 regional offices. Completing major highway and transit projects involves complex processes that depend on a wide range of stakeholders conducting many tasks. Project sponsors—the state DOTs and local transit agencies—are the entities that develop the environmental review documents to be approved by the federal agencies. Examples of highway projects that may undergo environmental review are bridge construction or roadway repaving, and examples of transit projects include extension of light rail lines or construction of passenger ferry facilities. Project sponsors that do not use federal funds for a project

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<sup>5</sup>GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: September 2014).

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generally do not need to meet NEPA requirements, but may still need to satisfy state or local environmental review requirements.<sup>6</sup>

As we have previously reported, highway projects typically include four phases, and transit projects also follow similar processes.<sup>7</sup>

1. *Planning:* Project sponsors assess the need for a project in relation to other potential transportation needs.
2. *Preliminary design and environmental review:* Project sponsors identify potential transportation solutions based on identified needs, the potential environmental and social effects of those solutions, a project's cost, and construction location. They then analyze the effect, if any, of the project and potential alternatives on the environment. Based on the analysis as well as public input the preferred alternative is selected.
3. *Final design and right-of-way acquisition:* Project sponsors finalize design plans and, if necessary, acquire private real property for the project right-of-way and relocate any affected residents and businesses.
4. *Construction:* Project sponsors award construction contracts, oversee construction, and accept the completed project.

In the preliminary design and environmental review phase, many activities are to be carried out by the project sponsor pursuant to NEPA and other federal laws.<sup>8</sup> NEPA's two principal purposes are to ensure (1) that an agency carefully considers detailed information concerning significant environmental impacts and (2) that environmental information is available to public officials and citizens before decisions are made and actions are

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<sup>6</sup>There are numerous state and local laws that projects must comply with. For example, several states, including California and North Carolina, have laws roughly equivalent to NEPA. GAO-12-593.

<sup>7</sup>GAO-12-593.

<sup>8</sup>Agencies also use the NEPA framework to meet other environmental review requirements, such as requirements under the Endangered Species Act, the Clean Water Act, and the National Historic Preservation Act. Federal resource agencies, such as the U.S. Army Corps of Engineers and Fish and Wildlife Service, are responsible for managing and protecting natural and cultural resources like wetlands, historic properties, and wildlife. We have ongoing work on the environmental permitting by federal resource agencies for highway and transit projects and plan to publish our work in spring 2018.

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taken.<sup>9</sup> For highway and transit projects, the project sponsor is responsible for preparing documentation showing the extent of the project's environmental impacts, in accordance with NEPA, and determining which of the three following documentation types is needed:

- An environmental impact statement (EIS), the most comprehensive of the three documentation types, is required for projects that have a significant effect on the environment. In broad terms, the lead federal agency, FHWA or FTA, starts the EIS process by publishing a notice of intent in the *Federal Register*. The lead agency then must engage in an open process—inviting the participation of affected government agencies, Indian tribes, the proponent of the action, and other interested persons—for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. The lead agency then is to coordinate as appropriate with resource agencies, such as the U.S. Army Corps of Engineers or the Fish and Wildlife Service, solicit comments from the public on a draft EIS, incorporate comment responses as appropriate into a final EIS, and issue a record of decision.<sup>10</sup>
- Project sponsors are to prepare environmental assessments when, among other things, it is not clear whether a project is expected to have significant environmental impacts. An environmental assessment is intended to be a concise document that, among other things, briefly provides sufficient evidence and analysis for determining whether to prepare an EIS. If the agency determines that there are no significant impacts from the proposed action, then the agency prepares a Finding of No Significant Impact that presents the reasons why the agency made that determination. If the agency determines the project may cause significant environmental impacts, it conducts an EIS.
- Categorical exclusions refer to projects that would not individually or cumulatively have a significant effect on the environment. These projects generally require no or limited environmental review or documentation under NEPA. Examples of highway projects that are

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<sup>9</sup>Pub. L. No. 91-190 (1970), codified at 42 U.S.C. §§ 4321-4347.

<sup>10</sup>The EIS must, among other things, (1) describe the environment that will be affected, (2) identify alternatives to the proposed action, including the no action alternative, and identify the agency's preferred alternative, (3) present the environmental impacts of the proposed action and alternatives, (4) identify any adverse environmental impacts that cannot be avoided should the proposed action be implemented and discuss means to mitigate adverse impacts.

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generally processed as categorical exclusions include resurfacing roads, constructing bicycle lanes, installing noise barriers, and landscaping.

While FHWA and FTA are the federal agencies responsible for ensuring NEPA compliance on highway and transit projects, if certain requirements are met, FHWA or FTA may assign a state and that state may assume federal NEPA authority. States assume this authority subject to the same procedural and substantive requirements as would apply to FHWA or FTA. Specifically, the *NEPA Assignment Authority* provision provides authority for FHWA to assign federal NEPA authority to states for approving an EIS, environmental assessment, or categorical exclusion. States must apply to FHWA or FTA, which reviews the state's suitability to assume the authority based on meeting certain regulatory requirements and the state's capability to assume the responsibility. States must enter into a written memorandum of understanding (MOU) and must, among other things, expressly consent to the jurisdiction of federal courts by waiving sovereign immunity for any responsibility assumed for NEPA. The MOU is for a term of not more than 5 years and is renewable. MOUs are unique to each state; however they all contain certain sections such as assignments of authority, acceptance of jurisdiction, and performance measures. For the first 4 years, FHWA is to conduct an annual audit to ensure compliance with the MOU, including compliance with all federal laws. After the fourth year, FHWA is to continue to monitor state compliance with the MOU, using a more limited review.<sup>11</sup>

In prior reports, we identified a number of factors that can affect the length of time required to complete transportation projects. For highway projects, we found that the large number of stakeholders and steps (which include environmental reviews) in the project delivery process, availability of funding, changing priorities, and public opposition can lead to longer project time frames.<sup>12</sup> For transit projects, we found that local factors specific to each project determine the project development time frame, including the extent of community support and extent of local planning prior to approval of funding.<sup>13</sup> We found that for 32 projects we

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<sup>11</sup>23 U.S.C. § 327(h).

<sup>12</sup>GAO-12-593.

<sup>13</sup>GAO, *Public Transit: Length of Development Process, Cost Estimates, and Ridership Forecasts for Capital-Investment Grant Projects*, GAO-14-472 (Washington D.C.: May 30, 2014).

reviewed, the environmental review process was tied with stakeholder coordination as the third most frequently cited factor by transit project sponsors contributing to the length of the project development process.

**The Three Most Recent Transportation Authorizations Included Numerous Provisions for Accelerating Highway and Transit Project Delivery**

We identified 34 project delivery provisions that apply to highway projects and 29 such provisions that apply to transit projects.<sup>14</sup> These provisions are intended to streamline various aspects of the NEPA process, making it more efficient and timely. Most of the provisions apply to both types of projects. Based on our review, we grouped the provisions into four general categories: *Accelerated NEPA Review*, *Administrative and Coordination Changes*, *NEPA Assignment*, and *Advance Planning* (see table 1). See appendix III for the full list and a description of each project delivery provision we identified.

**Table 1: Number of Project Delivery Provisions GAO Identified, Grouped by Category for Highway and Transit Projects**

Category	Highway projects	Transit projects
Accelerated National Environmental Policy Act (NEPA) Review <sup>a</sup>	12	10
Administrative and Coordination Changes	17	17
NEPA Assignment	2	2
Advance Planning	3	0
<b>Total provisions:</b>	<b>34</b>	<b>29</b>

Source: GAO analysis of Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, the Moving Ahead for Progress in the 21st Century Act, and the Fixing America's Surface Transportation Act. | GAO-18-222

<sup>a</sup>In the Accelerated NEPA Review category, 5 provisions apply to both highway and transit projects, 7 apply exclusively to highway projects, and 5 apply exclusively to transit projects.

The *Accelerated NEPA Review* category's provisions generally establish certain conditions that permit projects, if the specific conditions are applicable, to exclude certain actions from a more detailed NEPA review. For instance, these provisions are primarily comprised of new categorical

<sup>14</sup>In order to separately identify each applicable provision, we combined provisions that were modified in later statutory language and did not specify among different versions of the provisions.

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exclusions. Additionally, the *Minor Impacts to Protected Public Land* provision authorizes a historic site, parkland, or refuge to be used for a transportation project if that project is determined to have a *de minimis* impact on the environment.<sup>15</sup>

The *Administrative and Coordination Changes* category's provisions are more process oriented. These provisions, for example: (1) establish time frames for parts of the NEPA review process, (2) encourage the use of planning documents and programmatic plans as well as a coordination plan for public and federal agency participation in the environmental review process, and (3) seek to avoid duplication in NEPA review documents.

The *NEPA Assignment* category's provisions authorize FHWA or FTA, as discussed above, to assign their NEPA authority to states. The first of the two provisions—the 'NEPA Assignment Authority' provision—authorizes FHWA or FTA to assign federal NEPA authority to states for reviewing EIS, environmental assessment, and some categorical exclusion reviews, so long as the categorical exclusion does not require an air-quality review that involves the Environmental Protection Agency. The second provision—the *Categorical Exclusion Determination Authority* provision—allows FHWA or FTA to assign limited NEPA authority to states to review categorical exclusions.<sup>16</sup> This authority can apply to categorical exclusions with air-quality reviews, as well as all other categorical exclusions.

The *Advance Planning* category's provisions are not part of the agency's environmental review process and are not applicable to transit projects. These provisions allow for certain activities in the highway project development cycle, such as land acquisition, to occur prior to NEPA approval. The three provisions in this category include the following:

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<sup>15</sup>This provision is commonly referred to as "4(f) *de minimis*." A *de minimis* impact is one that is minor in nature and after taking into account avoidance, minimization, mitigation, and enhancement measures results in no adverse effect to the activities, features, or attributes qualifying a park, recreation area, or wildlife and waterfowl refuge for protection under Section 4(f).

<sup>16</sup>A state can assume responsibility for certain categorical exclusions under 23 U.S.C. § 326. This program is formally known as the "State Assumption of Responsibility for Categorical Exclusions."

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- The *Advance Design-Build Contracting* provision permits a state to release requests for proposals and award design-build contracts prior to completing the NEPA process; however, a contractor may not proceed with final design or construction during the NEPA process.<sup>17</sup>
  - The *Advance Acquisition of Real Property* provision authorizes states to acquire real property interests, such as land, for a project before completion of the NEPA process.
  - The *2-phase Contracts* provision authorizes the awarding of contracts on a competitive basis for preconstruction services and preliminary project design before the completion of the NEPA process.

Most of the project delivery provisions are optional, which we define to mean that the relevant entities (a federal agency or state or local transportation agency), can choose to use the provision if circumstances allow. For example, a state highway project within an existing operational right-of-way may have the option to use the categorical exclusion for projects within an existing operational right-of-way. Specifically, 22 of the 34 highway project delivery provisions and 17 of the 29 transit project delivery provisions are optional. By contrast, 12 provisions are requirements for both highway and transit projects, which we define to mean that federal agencies, or state or local transportation agencies that are subject to a provision must adhere to the requirements and obligations in the provision, if all the conditions for its use have been satisfied. Required provisions are primarily contained in the *Administrative and Coordination Changes* category. For example, for highway projects, the *Programmatic Agreements for Efficient Environmental Review* provision, enacted in 2012, requires FHWA to seek opportunities with states to enter into agreements that establish streamlined processes for handling routine projects, such as highway repair. Prior to 2012, FHWA actively encouraged programmatic agreements between state DOTs and FHWA division offices, but seeking opportunities to enter such agreements were not required.

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<sup>17</sup>Design-build is a contracting method that combines the responsibilities for designing and constructing a project in a single contract instead of the more traditional approach of separating these responsibilities.

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**State DOTs Reported That a Number of Provisions They Used Sped Up Highway Project Delivery, While for Most Selected Transit Agencies Effects Were Unclear**

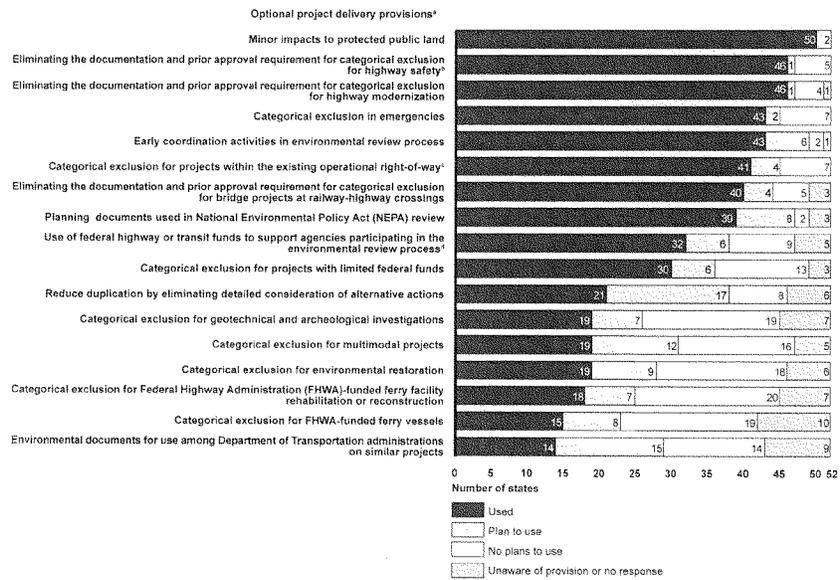
**More Than Half of Optional Provisions Were Reported to Be Used by a Majority of State DOTs on Highway Projects**

According to survey responses, 10 of the 17 optional provisions included in the survey—which primarily fall under the *Accelerated NEPA Review* category—were each used by 30 or more state DOTs (see fig. 1).<sup>18</sup> Fifty state DOTs reported using the *Minor Impacts to Protected Public Land* provision—the most of any of the provisions. Some of the less widely used provisions—the 7 provisions reported to be used by 21 or fewer states—only apply to specific circumstances or highway projects that many state DOTs undertake less frequently. For example, the *Categorical Exclusion for FHWA-funded Ferry Facility Rehabilitation or Reconstruction* provision would only apply to states that operate ferry services, a circumstance that may explain its relatively low use. Also, for 3 of these 7 provisions, 10 or more states reported that they plan to use the provision in the future. For example, while 21 state DOTs used the *Reduce Duplication by Eliminating Detailed Consideration of Alternative Actions* provision, an additional 17 state DOTs reported that they plan to

<sup>18</sup>Our survey of state DOTs included 17 of the 22 optional provisions and all 12 required provisions that apply to highway projects. We did not include the 3 provisions from the *Advance Planning* category, which do not directly relate to NEPA review, as part of our 52-state DOT survey; we addressed these provisions in the follow-up interviews with the 10 selected state DOTs and discuss our findings later in this section. We also did not include the 2 provisions from the *NEPA Assignment* category because we spoke individually with officials in all of the states that have implemented or are in the process of implementing these provisions. We discuss these provisions later in the report.

use it.<sup>19</sup> All of the optional provisions were reported to be used by at least 14 state DOTs.

**Figure 1: Number of States That Used Optional Project Delivery Provisions as Reported by Departments of Transportation in 50 States, the District of Columbia, and Puerto Rico**



Source: GAO analysis of survey responses from 52 state departments of transportation | GAO-18-222

\*We define "optional" provisions to mean that the relevant entity (a federal agency or state or local transportation agency) can choose to use the provision if circumstances allow.

<sup>19</sup>The *Reduce Duplication by Eliminating Detailed Consideration of Alternative Actions* provision authorizes the lead agency to reduce duplication, by eliminating from detailed consideration an alternative proposed in an EIS if the alternative was already proposed in a planning process or state environmental review process.

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<sup>19</sup>“Categorical exclusion” means a category of actions that do not individually or cumulatively have a significant effect on the human environment, and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.

<sup>20</sup>The existing operational right-of-way refers to a strip of land that has been disturbed for an existing transportation facility or is maintained for transportation purposes, such as a highway, public footpath, or rail bed, landscaping, or rest areas with direct access to a controlled access highway.

<sup>21</sup>Funds may be provided: for transportation planning activities that precede the initiation of the environmental review process, for dedicated staffing, for training of agency personnel, for information gathering and mapping, and for development of programmatic agreements.

Some states reported that they have not used certain provisions and have no plans to do so. Our survey served as a nationwide review of the use of the provisions and was not designed to determine why each state did or did not use each provision. However, our discussions with selected states and optional comments provided in the survey provided some additional insight into states’ use of the provisions. Officials at some state DOTs reported that they had not used certain categorical exclusions because other categorical exclusions could also apply to those projects. Specifically, officials in 4 state DOTs told us that they did not use 4 categorical exclusion provisions for this reason. For example, officials at the Colorado DOT said that the *Categorical Exclusion for Geotechnical and Archeological Investigations* provision has not been used in Colorado because other categorical exclusions were more applicable.<sup>20</sup> Similarly, officials at the Oklahoma DOT said that they had not used the *Categorical Exclusion for Projects within the Existing Operational Right-of-Way* provision because most of those projects already qualify for a categorical exclusion under other criteria.<sup>21</sup> For other provisions, such as the *Categorical Exclusion for Multimodal Projects* provision, some state DOTs, such as the Nebraska DOT, indicated that they do not conduct multimodal projects and have no plans to do so for the foreseeable future.<sup>22</sup>

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<sup>20</sup>The *Categorical Exclusion for Geotechnical and Archeological Investigations* provision for highway projects designates a categorical exclusion for geotechnical and archeological investigations to provide information for preliminary design.

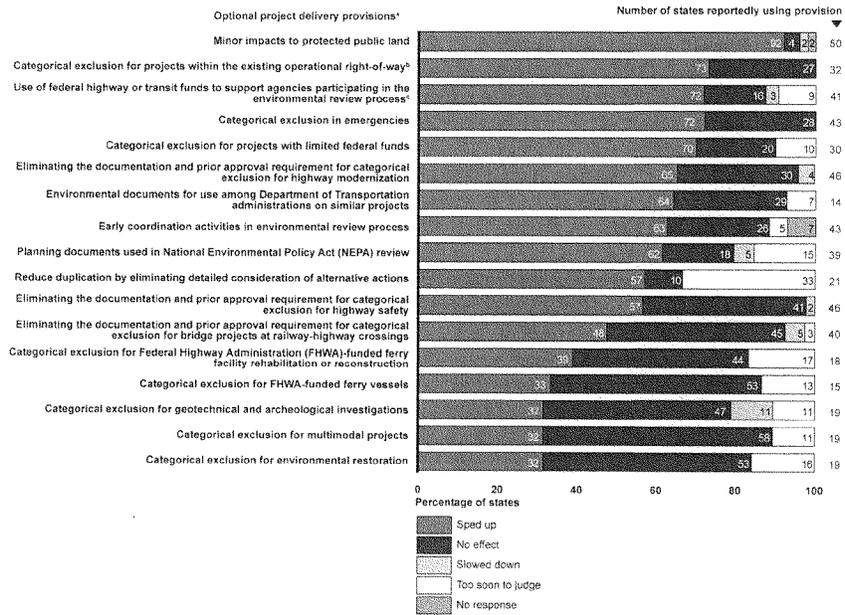
<sup>21</sup>The *Categorical Exclusion for Projects within the Existing Operational Right-of-Way* provision designates a project within an existing operational right-of-way as a categorical exclusion.

<sup>22</sup>The *Categorical Exclusion for Multimodal Projects* provision authorizes a DOT operating administration to apply a categorical exclusion of another DOT operating administration to a multimodal project.

About Two-Thirds of the Optional Provisions Reportedly Sped Up Highway Project Delivery for the Majority of Users

For 11 of the 17 optional provisions included in our survey, a majority of state DOTs that indicated they used the provisions (users) reported that the provisions sped up project delivery (see fig. 2).

Figure 2: Percentage of Departments of Transportation in 50 States, the District of Columbia, and Puerto Rico That Reported Various Effects of Used Optional Highway Project Delivery Provisions



Source: GAO analysis of survey responses from 52 state departments of transportation. | GAO-18-222

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<sup>a</sup>We define "optional" provisions to mean that the relevant entity (a federal agency or state or local transportation agency) can choose to use the provision if circumstances allow.

<sup>b</sup>"Categorical exclusion" means a category of actions that do not individually or cumulatively have a significant effect on the human environment, and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. The existing operational right-of-way refers to a strip of land that has been disturbed for an existing transportation facility or is maintained for transportation purposes, such as a highway, public footpath, or rail bed, landscaping, or rest areas with direct access to a controlled access highway.

<sup>c</sup>Funds may be provided: for transportation planning activities that precede the initiation of the environmental review process, for dedicated staffing, for training of agency personnel, for information gathering and mapping, and for development of programmatic agreements.

Over 90 percent of users of the *Minor Impacts to Protected Public Land* provision reported that it sped up project delivery (46 out of 50 state DOTs using the provision). FHWA officials said that without the *Minor Impacts to Protected Public Land* provision, a state DOT would need to complete an environmental assessment to show that performing even a small project, such as adding a small bus stop on the periphery of a park, would not have significant effects on the environment.<sup>23</sup> The *Minor Impacts to Protected Public Land* provision now allows a state DOT to complete transportation projects that have a minimal environmental effect on historic sites and parklands more quickly because the state DOT can bypass the environmental assessment process. In our survey and discussions with state DOTs, some officials noted how much time the provision can help them save.<sup>24</sup> Officials at the Virginia DOT estimated that a 9-month to 1-year review could be cut to 2 to 4 months.<sup>25</sup> An official at the Colorado DOT said that reviews that used to take 6 months now take 30 days. And officials at the Mississippi DOT said that they used the provision when adding turn lanes near parks and were able to bypass a review process that previously took 6 to 12 months.

Other examples of sped-up project delivery provided by state DOTs include the following:

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<sup>23</sup>Prior to the enactment of this provision, we reported in May 2003 on stakeholders' views about aspects of the environmental review process that add time to the process for transportation projects. We found that 9 of 16 selected stakeholders reported that the statutory "4(f)" requirement protecting properties on historic sites and parkland was burdensome. GAO, *Highway Infrastructure: Stakeholders' Views on Time to Conduct Environmental Reviews of Highway Projects*, GAO-03-534 (Washington, D.C.: May 23, 2003).

<sup>24</sup>We gathered examples of the effects of the provisions, including time savings, both through the follow-up interviews we conducted with officials at 10 state DOTs and in the optional areas for comments included in the survey.

<sup>25</sup>We did not independently verify state DOT officials' estimates of time savings.

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- *Categorical Exclusion in Emergencies* provision: Mississippi DOT officials said that this provision has been helpful, particularly given project delivery lessons learned since Hurricane Katrina. They said the provision allows the state DOT to use a categorical exclusion, which takes 6 to 8 months for some projects, in place of an environmental assessment, which can take 12 to 18 months and involves additional review steps such as providing evidence and analysis as to why a project does not require an EIS.<sup>26</sup>
  - *Use of Federal Highway or Transit Funds to Support Agencies Participating in the Environmental Review Process* provision: Arizona DOT officials said that the state DOT funds positions in the Army Corps of Engineers and the Fish and Wildlife Service that help lessen the time it takes for those agencies to provide comments on Arizona DOT project's NEPA reviews. The officials estimated these positions reduce review time by about one month compared to when these agencies did not have Arizona DOT-funded positions.<sup>27</sup>

For the remaining six optional provisions, 41 to 58 percent of users reported that the provisions had no effect on project delivery. Based on discussions with selected state DOTs and comments included with survey responses, officials at some state DOTs reported that the provisions did not have any effect because the states had already developed similar processes, either through programmatic agreements with their FHWA division office or at their own initiative. As a result, the state DOTs did not realize any new time savings after the provisions were enacted in law. For example, for each of three provisions that allow for certain documentation to be eliminated for categorical exclusions, officials at seven state DOTs reported that they had already developed similar processes through

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<sup>26</sup>The *Categorical Exclusion in Emergencies* provision designates the repair or reconstruction of any road, highway, or bridge that was damaged by an emergency as a categorical exclusion.

<sup>27</sup>The *Use of Federal Highway or Transit Funds to Support Agencies Participating in the Environmental Review Process* provision allows a public entity to use its federal highway or transit funds to support a federal or state agency or Indian tribe participating in the environmental review process on activities that directly contribute to expediting and improving project planning and delivery.



Mothers Against Drunk Driving  
National Office  
madd.org

1200 18<sup>th</sup> Street, NW  
Suite 700  
Washington, DC 20036

877.ASK.MADD  
877.MADD.HELP victim support

January 23, 2019

The Honorable John Barrasso  
Chairman  
Senate Environment & Public Works Committee  
410 Dirksen Senate Office Building  
Washington, DC 20510-6175

The Honorable Tom Carper  
Ranking Member  
Senate Environment & Public Works Committee  
410 Dirksen Senate Office Building  
Washington DC 20510-6175

Dear Chairman Barrasso and Ranking Member Carper,

I write today on behalf of Mothers Against Drunk Driving in support of the Honorable Nicole Nason for the position of Administrator of the Federal Highway Administration.

Nicole has a long history of public service. As the Administrator of the National Highway Traffic Safety Administration, Nicole was a true leader of the highway safety community. MADD's Campaign to Eliminate Drunk Driving is our national and state priority for eliminating drunk driving in America. Nicole served as the first honorary chairman of our Campaign and was responsible for helping launch our initiatives to support law enforcement, ignition interlocks and new highway safety technologies.

In addition to her leadership on drunk driving issues, Nicole oversaw new seatbelt rules for school buses, rulemakings for electronic stability control systems and new car seat safety regulations.

Following her tenure at NHTSA, Nicole served as a member of our national board of directors where she helped shape state and national policy positions for MADD. During this time, MADD achieved record gains for passing ignition interlock legislation across the country as well as working to codify our Campaign to Eliminate Drunk Driving as part of federal law.

Currently, Nicole is once again serving our country as Assistant Secretary of the Bureau of Administration at the U.S. Department of State.

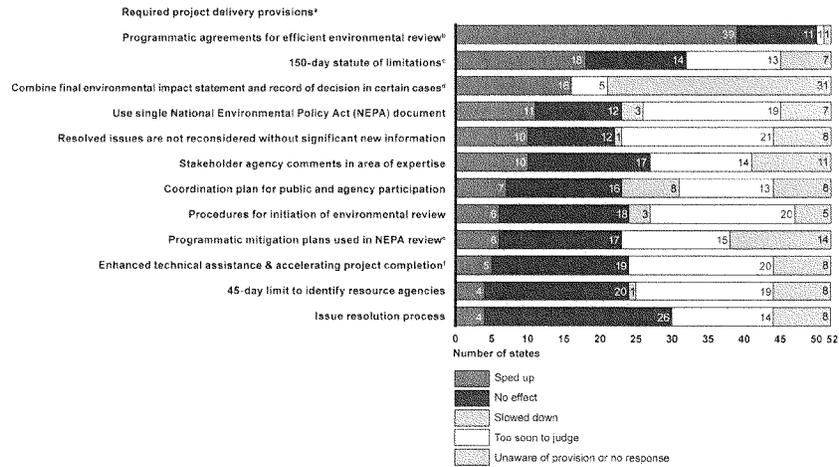
Nicole is a true champion of highway safety and will be an asset to the Department of Transportation as the Federal Highway Administration Administrator. On behalf of MADD, I wholeheartedly endorse her for this position. If you have any questions, please do not hesitate to contact J.T. Griffin, MADD's Chief Government Affairs Officer, at 202-688-1193.

Thank you and best wishes.

Sincerely,

Helen Witty  
National President, MADD

**Figure 3: Number of Departments of Transportation in 50 States, the District of Columbia, and Puerto Rico That Reported Various Effects of the Required Highway Project Delivery Provisions**



Source: GAO analysis of survey responses from 52 state departments of transportation. | GAO-18-222

\*We define "required" provisions to mean that federal agencies, or state or local transportation agencies that are subject to a provision must adhere to the requirements and obligations in the provision, if all the conditions for its use have been satisfied.

<sup>b</sup>"Programmatic agreements" are agreements between state departments of transportation and their Federal Highway Administration division office on processes and procedures to carry out environmental reviews and other required project reviews.

<sup>c</sup>The provision bars judicial review of claims unless they are timely filed.

<sup>d</sup>There may be instances in which a combined document is not the best option.

<sup>e</sup>Once states or metropolitan planning organizations decide to use such plans, federal agencies must give substantial weight to the plans.

<sup>f</sup>Once a project sponsor or governor requests assistance, the Department of Transportation is required to provide it.

For 5 of the 12 provisions, between 10 and 18 states responded that the provisions sped up project delivery. For example, officials at the Ohio DOT estimated that the *Combine Final Environmental Impact Statement and Record of Decision in Certain Cases* provision saves them a

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minimum of 3 months. For the remaining 6 provisions, between 4 and 7 states reported that the provisions sped up project delivery, but each of these provisions also had at least 16 states that reported the provision had no effect on project delivery. Our survey served as a broad-based review of the effects of the provisions and was not designed to determine why each provision had the reported effects; however, some states provided voluntary comments in the survey. As with various optional provisions, some state DOT officials reported no effect because the state had already developed processes and practices that they said achieved what the provisions formalized, for example:

- *Coordination Plan for Public and Agency Participation* provision: In discussions and from optional comments, 4 state DOTs said that they already had a similar process in place. Officials at the Louisiana DOT stated that they performed a similar process prior to the 'Coordination Plan for Public and Agency Participation' provision's enactment in law in an effort to coordinate with the public and other government agencies.<sup>30</sup>
- *45-Day Limit to Identify Resource Agencies* provision: In interviews and optional survey comments, officials at 2 state DOTs said that they already had a similar process in place to promptly identify stakeholder agencies.<sup>31</sup>
- *Issue Resolution Process* provision: Wyoming DOT officials said that they had been performing a similar process prior to this provision's enactment in law to ensure consensus among stakeholders.<sup>32</sup>

Some state DOTs reported that it was too early to determine the effects of several provisions, particularly more recently enacted provisions. For 5 of the 12 required provisions, more than one third of state DOTs (over 17 states) reported that it was too soon to judge the provisions' effects. Four of these 5 provisions were enacted in the FAST Act in 2015. Consequently, state DOTs that used the provision had a short window of

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<sup>30</sup>The *Coordination Plan for Public and Agency Participation* provision requires a coordination plan for public and agency participation in the environmental review process within 90 days of notice of intent or the initiation of an environmental assessment, including a schedule for completion of the environmental review process for the project.

<sup>31</sup>The *45-Day Limit to Identify Resource Agencies* provision establishes a 45-day limit after the notice of intent date for a lead agency to identify other agencies to participate in the environmental review process on EIS projects.

<sup>32</sup>The *Issue Resolution Process* provision establishes procedures to resolve issues between state DOTs and relevant resource agencies.

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time to assess any potential effect on project delivery—particularly given that highway projects often take a number of years to complete. Also, while our survey did not ask state DOTs when they had most recently initiated an EIS, several state DOTs voluntarily noted that they had not done so since the FAST Act. Certain provisions apply only to projects undergoing an EIS; states that have not done an EIS since such provisions were enacted would not have had the opportunity to use the provision. One such provision is the *45-Day Limit to Identify Resource Agencies* provision, for which 19 state DOTs reported that it was too early to judge the effects.

For 5 of the 12 provisions, a relatively few state DOTs, between one and eight, reported that the provision had slowed down project delivery. Eight states reported that the *Coordination Plan for Public and Agency Participation* provision slowed down project delivery, the most for any provision. According to the Minnesota DOT, this provision slowed down project delivery because it formalized and required a specific coordination process in addition to those that had already been voluntarily occurring with relevant federal and state resource agencies. Formalizing this process resulted in resource agencies taking longer to provide responses to the Minnesota DOT. Other states similarly said that this provision's additional formal processes slowed down project delivery.

We defined required provisions to mean that federal agencies or state or local transportation agencies that are subject to the provision must adhere to requirements and obligations in the provision, if all the conditions for its use have been satisfied. States may not have had the opportunity to apply some of the required provisions that apply to them because they did not have exposure to the circumstances and conditions that would invoke this provision's use. For example, a state would not be exposed to the *150-Day Statute of Limitations* provision if it had not been subject to a lawsuit.<sup>33</sup> Unlike the optional provisions, we did not ask states whether they elected to use the required provisions since state DOTs, if

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<sup>33</sup>The *150 Day Statute of Limitations* provision bars claims seeking judicial review of a permit, license, or approval issued by a federal agency for highway projects unless they are filed within 150 days after publication of a notice in the *Federal Register* announcing the final agency action, or unless a shorter time is specified in the federal law under which the judicial review is allowed.

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subject to the provision, must adhere to the requirements and obligations in the provision.<sup>34</sup>

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**Selected State DOTs Reported Using the Three Advance Planning Provisions That Affect Project Delivery but Precede NEPA Review**

Two of the three provisions from the *Advance Planning* category were used by a majority of the 10 state DOTs we interviewed, and most of the state DOTs that used each provision stated that it sped up project delivery. This use is illustrated more specifically:<sup>35</sup>

- *Advance Design-Build Contracting* provision: 8 state DOTs used this provision, 5 of which reported it sped up highway project delivery.<sup>36</sup>
- *Advance Acquisition of Real Property* provision: 6 state DOTs used this provision, 4 of which reported it sped up highway project delivery.<sup>37</sup>
- *2-phase Contracts* provision: 5 state DOTs used this provision, 4 of which reported it sped up highway project delivery.<sup>38</sup>

Some state DOT officials provided examples of how the provisions affected their project delivery. For example, California DOT officials said that the *Advance Acquisition of Real Property* provision saved them a few months on small projects, involving one or two parcels of land; for a large project involving hundreds of commercial and residential parcels, they estimated time savings of more than a year. Similarly, Illinois DOT officials said that the provision has yielded time savings of 6 months to a year in instances where the DOT needs to purchase residential property.

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<sup>34</sup>Based on optional comments from the survey, we found that states that had not had the opportunity to apply a required provision may have responded that the provision either had no effect or that it was too soon to judge its effect.

<sup>35</sup>We did not include provisions from the *Advance Planning* category in our survey because the primary survey respondents were not cognizant of these provisions, as they do not directly relate to the NEPA process.

<sup>36</sup>The *Advance Design-Build Contracting* provision permits states or local transportation agencies to release requests for proposals and award design-build contracts prior to the completion of the NEPA process; however it precludes a contractor from proceeding with final design or construction before completion of the NEPA process.

<sup>37</sup>The *Advance Acquisition of Real Property* provision authorizes states to acquire real property interests for a project before completion of the NEPA process.

<sup>38</sup>The *2-phase Contracts* provision authorizes the awarding of 2-phase contracts (construction manager/ general contractor) with preconstruction services and preliminary design of a project using a competitive selection process before the completion of the NEPA process.

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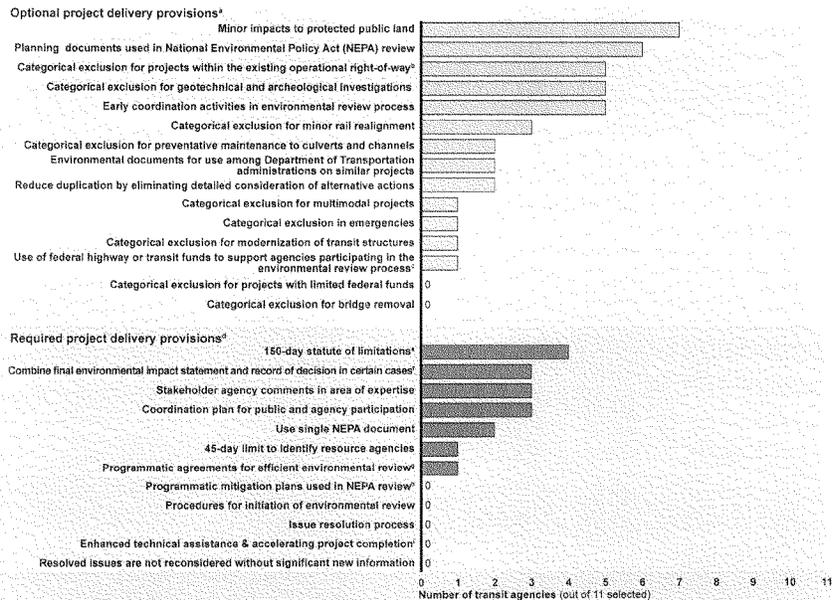
**Most Project Delivery Provisions Were Used by Selected Transit Agencies, but the Provisions' Effects on Project Delivery Were Generally Unclear**

More than two-thirds of the provisions designed to speed up transit project delivery were reportedly used by 11 selected transit agencies. We asked officials in selected transit agencies to report their use of 29 project delivery provisions applicable to transit agencies, 17 of which are optional and 12 of which are required.<sup>39</sup> Of the 29 provisions, 6 were used by 4 or more selected transit agencies (see fig. 4). The most used optional provision, by 7 transit agencies, was the *Minor Impacts to Protected Public Land* provision described earlier followed by the *Planning Documents Used in NEPA Review* provision, used by 6 transit agencies.

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<sup>39</sup>Selected transit agencies may report not using a required provision because the conditions stated in the provision are not present, as we mentioned earlier. For example, the *Issue Resolution Process* provision, a required provision, is only required when a dispute arises that cannot be resolved otherwise.

Figure 4: Number of 11 Selected Transit Agencies That Reported Using Transit Project Delivery Provisions



Source: GAO analysis of responses from 11 selected transit agencies. | GAO-18-222

<sup>a</sup>We define "optional" provisions to mean that the relevant entity (a federal agency or state or local transportation agency) can choose to use the provision if circumstances allow. This figure does not include the two optional NEPA Assignment category's provisions—NEPA Assignment Authority provision and Categorical Exclusion Determination Authority provision.

<sup>b</sup>"Categorical exclusion" means a category of actions that do not individually or cumulatively have a significant effect on the human environment, and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. The existing operational right-of-way refers to a strip of land that has been disturbed for an existing transportation facility or is maintained for transportation purposes, such as a highway, public footpath, or rail bed, landscaping, or rest areas with direct access to a controlled access highway.

<sup>c</sup>Funds may be provided: for transportation planning activities that precede the initiation of the environmental review process, for dedicated staffing, for training of agency personnel, for information gathering and mapping, and for development of programmatic agreements.

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<sup>4</sup>We define "required" provisions to mean that federal agencies or state or local transportation agencies that are subject to a provision must adhere to the requirements and obligations in the provision, if all the conditions for its use have been satisfied.

<sup>5</sup>The provision bars judicial review of claims unless they are timely filed.

<sup>6</sup>There may be instances in which a combined document is not the best option.

<sup>7</sup>"Programmatic agreements" are agreements between state departments of transportation and their Federal Highway Administration division office on processes and procedures to carry out environmental reviews and other required project reviews.

<sup>8</sup>Once states or metropolitan planning organizations decide to use such plans federal agencies must give substantial weight to the plans.

<sup>9</sup>Once a project sponsor or governor requests assistance, the Department of Transportation is required to provide it.

Some transit agencies told us that the provisions they used sped up project delivery. In addition, some provided estimated time savings.<sup>40</sup>

- Chicago Transit Authority (CTA) officials told us that the *Minor Impacts to Protected Public Land* provision was extremely helpful for recent CTA projects involving historic properties. For example, CTA has implemented projects that involve track work at a station that is adjacent to a historic boulevard. They estimated that the *Minor Impacts to Protected Public Land* provision has reduced the time to complete documentation by several months. Similarly, a Tri-County Metropolitan Transportation District of Oregon official stated the *Minor Impacts to Protected Public Land* provision has been instrumental since in the past, the agency would have to stop the project if it affected a park land.
- Southeastern Pennsylvania Transportation Authority (SEPTA) officials told us that they used the *Categorical Exclusion for Minor Rail Realignment* provision one or two times within the past 2 years. SEPTA estimated the provision saved the agency several months in time savings per project. Officials stated that the provision allowed the SEPTA to use a categorical exclusion in place of an environment assessment. SEPTA officials also said they saved staff time and approximately \$100,000 a year in consultant fees and agency staff resources by using the *Categorical Exclusion for Preventative Maintenance to Culverts and Channels* provision.
- Capital Metro officials in Austin, Texas, told us they used the *Categorical Exclusion for Projects within the Existing Operational Right-of-Way* provision for a rail right-of-way project. They estimated the provision helped save at least 4 to 6 months in project delivery

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<sup>40</sup>We did not verify transit agencies' cost savings estimates resulting from the provisions.

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because the agency was not required to do an environmental assessment.

While some selected transit agencies reported using some provisions and added that this provision's use helped speed up project delivery or lower costs, the effects of the provisions—whether they sped up project delivery or streamlined the NEPA review process—were not clear to a majority of the selected transit agencies. Because transit agencies in our review do not track NEPA reviews—including their start and end dates—they were not able to assess how project time frames or costs were affected by the provisions. Officials from several selected transit agencies told us that their understanding of the project delivery provisions' effects was also limited by their reliance on engineering and environmental-planning consultants to prepare their NEPA documents. Officials from 4 of the 11 transit agencies told us that they rely on these consultants' knowledge of the provisions to prepare their NEPA documents. Further, officials from 1 transit agency said they required the assistance of their consultants to respond to our requests for information.

Nine of the 29 provisions were not used by any of the agencies, and no provision was used by more than 7 agencies. Our discussions with selected transit agency and FTA officials provided some insight into transit agencies' use of the provisions, specifically:

- *Limited transit projects needing EISs:* Transit agencies that do not prepare EISs may have fewer opportunities to use some of the provisions. Following discussions with FTA officials, we examined the number of times transit agencies filed a notice of intent to prepare an EIS in the *Federal Register* from 2005 through 2016 as a proxy to identify those transit agencies that would likely use a number of the project delivery provisions.<sup>41</sup> We found that 48 transit agencies (out of several hundreds of transit agencies) filed notices of intent from fiscal year 2005 through 2016 but that of the 48 transit agencies, 34 had filed a notice of intent only once during that time. In general, the vast majority of transit agencies have little recent experience preparing EIS documentation and using the provisions that are triggered by an

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<sup>41</sup>FTA, as the lead federal agency, starts the EIS process by publishing a notice of intent in the *Federal Register* on behalf of the local transit agency. We used this approach because transit agencies that have prepared EIS documents would likely have experience and insight into environmental actions broadly speaking; however, we recognize that some transit agencies may have less experience with EIS provisions and more experience using other provisions related to categorical exclusions.

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EIS.<sup>42</sup> For example, only one transit agency (Tri-County Metropolitan Transportation District of Oregon) had filed a notice of intent to prepare an EIS after the FAST Act was enacted in 2015.

- *Duration of transit projects:* Some instances where transit project delivery provisions were not used could be due to the number of years it takes to complete transit projects. According to FTA officials, where sponsors for highway projects may have new projects initiating and requiring NEPA reviews on a rolling basis, transit agencies operate differently. A transit agency may have a project that goes through a NEPA review and then begins construction of the project that can last a number of years. The transit agency may not have another project that requires an EIS for several years. For example, New York Metropolitan Transportation Authority (MTA), the largest transit agency by ridership in the country, completed its last EIS review in 2004 and has since been working on construction of that project, according to FTA officials. While MTA has been receiving FTA funds for construction, no additional project has undergone an EIS.
- *Changing provisions and delayed guidance:* Some transit agency officials told us that the changing provisions across the three enacted surface transportation authorization acts pose challenges to using the project delivery provisions. Understanding the changes in the project delivery provisions—for example, changes in categorical exclusions— included in SAFETEA-LU, MAP-21, and the FAST Act was challenging according to some selected transit agencies. Further, some transit agency officials stated that the lag time in receiving guidance from FTA on the changing provisions also posed challenges to using some of the provisions.

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<sup>42</sup>Ten agencies filed a notice of intent two times between these years and four agencies filed a notice of intent three or more times between these years.

**DOT's FHWA Has Assigned Six States NEPA Authority, and Two States Reported Time Savings, but FHWA Has Not Provided Guidance on Measuring Effects**

DOT, specifically FHWA, has assigned its NEPA approval authority to six states, and other states are interested in this authority. Of the six states, California and Texas have completed some NEPA reviews and determined they have achieved time savings through state approval of NEPA documents rather than federal approval. However, we found the reported time savings to be questionable for several reasons, including challenges faced by California and Texas in establishing sound baselines for comparison. Despite this finding, the reported time-savings information is used by other states to seek out NEPA authority and in reporting to DOT and Congress. FHWA focuses its oversight of NEPA assignment states on ensuring these states have the processes in place to carry out FHWA's NEPA responsibilities, according to a written agreement between each state and FHWA, and does not focus on determining whether states are achieving time savings.

**FHWA Has Assigned Six States NEPA Authority, and Additional States Are Interested**

FHWA has assigned its NEPA authority to six states, enabling those state DOTs to assume FHWA's authority and approve state-prepared NEPA documentation for highway projects, in lieu of seeking federal approval.<sup>43</sup> California's NEPA authority began in 2007, as the first state in the then-pilot program, and continued when the program was made permanent in 2012. Once eligibility expanded to all states, Texas became the second state to be assigned NEPA authority, in 2014, followed more recently by Ohio in 2015, Florida in 2016, and Utah and Alaska in 2017.<sup>44</sup>

The 2005 Conference Report accompanying SAFETEA-LU indicates that the *NEPA Assignment Authority* provision was created to achieve more efficient and timely environmental reviews, which are a key benefit sought by participating states. The report states that the NEPA assignment program was initially created as a pilot program to provide information to Congress and the public as to whether delegation of DOT's environmental review responsibilities resulted in more efficient

<sup>43</sup>The *NEPA Assignment Authority* provision authorizes FHWA to do this. As discussed above, another provision—the *Categorical Exclusion Determination Authority* provision—authorized FHWA to assign a state to assume responsibility for determining if projects can be categorically excluded from NEPA review. Three states currently have assumed this authority—Alaska, California, and Utah. According to FTA officials, no state has assumed FTA's NEPA authority for document approval on transit projects.

<sup>44</sup>We did not include Alaska in our review because it did not assume NEPA authority until November 2017.

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environmental reviews.<sup>45</sup> In addition, in MAP-21, Congress declared that it is in the national interest to expedite the delivery of surface transportation projects by substantially reducing the average length of the environmental review process.<sup>46</sup> State DOT officials from the five NEPA assignment states we reviewed cited anticipated time savings or greater efficiency in environmental review as a reason for taking on this authority. For example, Texas DOT officials said they expected to save time by eliminating FHWA approval processes that they described as time consuming. With NEPA authority, the state puts in place its own approval processes to carry out the federal government's NEPA review responsibilities, and agrees to take on the risk of legal liability for decisions made in this capacity.

Additional states have expressed interest and have taken steps to apply for NEPA authority. Officials from three state DOTs told us they plan to apply for NEPA authority, and one of these, the Arizona DOT, has taken the first step in the process and obtained the requisite changes in state law.<sup>47</sup> In explaining the anticipated benefits of NEPA assignment to the state legislature, an Arizona DOT official cited time savings reported by California and Texas as a reason for taking on the application process. Time savings' results had been shared by California and Texas DOT officials during a peer exchange event held by an association of state highway officials in 2015 for states that are in the early stages or are considering applying for NEPA authority. Also, the Texas DOT had testified before a congressional committee in 2015 and described the time savings for environmental assessment reviews under its NEPA authority and its role communicating this information to other states pursuing NEPA authority.<sup>48</sup>

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<sup>45</sup>H.R. Rep. No. 109-203, at 1053 (2005).

<sup>46</sup>Pub. L. No 114-121, § 1301(c), 126 Stat. 405, 528, codified at 23 U.S.C. § 101(b)(4).

<sup>47</sup>The Nebraska and Puerto Rico DOTs are also considering applying, according to officials in those states. States must, among other things, authorize a limited waiver of their sovereign immunity under the 11<sup>th</sup> amendment of the U.S. Constitution and consent to accepting the jurisdiction of the federal courts as a condition of assuming NEPA authority.

<sup>48</sup>The Texas DOT testified before the House Oversight Committee on MAP-21 (Dec. 8, 2015).

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State DOTs Calculate  
Time Savings, but  
Reported Savings Are  
Questionable

The MOUs, signed with FHWA by each of the five states we reviewed, set out performance measures for comparing the time of completion for NEPA approvals before and after the assumption of NEPA responsibilities by the states. To calculate time savings, each state has established a baseline—of the time it took to complete NEPA review before it assumed NEPA authority—to compare to the time it takes to complete NEPA review after assuming NEPA authority. The baseline is to serve as a key reference point in determining the efficiency of state-led NEPA reviews. Thus far, the two states that have had NEPA authority long enough to report results are California and Texas, and only California has reported results for EISs. The California DOT reported that its EIS reviews now take about 6 years to approve, which it determined to be a 10-year improvement over the 16-year (15.9 years) baseline the state DOT established. For environmental assessment reviews, the California DOT reported completion times of about 3.5 years, which it determined to be a 1-year improvement over the established baseline. The Texas DOT has not started and completed an EIS review since assuming NEPA authority but reported that its environmental assessment reviews have taken about 1.5 years, compared to the baseline of almost 2.5 years.

However, we found California and Texas DOTs' reported time savings to be questionable due to the methods used to compare time frames and challenges associated with establishing baselines. First, there is an inherent weakness in comparing the NEPA review time frames before and after NEPA authority because the comparison does not isolate the effect of assuming NEPA authority on NEPA review time frames from other possible factors. As discussed earlier, we have previously found that such factors include the extent of public opposition to a project and changes in transportation priorities, among other factors.<sup>49</sup> Further, according to a report from the American Association of State Highway and Transportation Officials, such a comparison does not include information to control for non-environmental factors that are important to project delivery time frames, including delay in completion of design work necessary to advance the environmental review and changes in project funding that put a project on hold.<sup>50</sup> Moreover, neither California nor Texas DOTs' time frame comparisons isolate the effects of NEPA

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<sup>49</sup>GAO-12-593.

<sup>50</sup>American Association of State Highway and Transportation Officials, *Lessons Learned from State DOT NEPA Assignment* (May 2016).

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assignment from other streamlining initiatives that may have helped accelerate delivery of projects, such as potential benefits realized from other project delivery provisions.

Second, California and Texas have faced challenges creating appropriate baselines. States are responsible for determining how many and which projects to include in baseline calculations and adopting their own methodologies. While circumstances and conditions are different across states and states can be expected to have different experiences, California's current 16-year EIS baseline is over double that of Texas' EIS baseline.<sup>51</sup> In 2012, we found that for the 32 projects in which FHWA was the lead agency and signed the EIS in fiscal year 2009, the average time to complete the process was about 7 years.<sup>52</sup> According to information contained in California DOT reports to the state legislature from 2007 and 2009, California's original baseline for EISs was comprised of 1 project that resulted in an EIS baseline of 2.5 years.<sup>53</sup> In 2009 state DOT officials increased the number of EIS projects in order to achieve what they viewed as a more representative mix. This process increased California's EIS baseline six-fold, which has been consistently used since that time. Specifically, California used the median of five projects that had review times of around 2.5 years, 6.2 years, 15.9 years, 16.6 years, and 17.3 years. These projects were selected because they were among the final EIS projects that were reviewed prior to California's assuming NEPA authority.

However, the EIS baseline may not be meaningful. First, it includes outlier projects, which are projects that take much longer than usual to complete. According to California DOT officials, this factor is a limitation to determining time savings because the outliers increased the EIS baseline and therefore makes subsequent time savings look greater than they are. Next, despite the increase in EIS projects included in the baseline, a 2016 California DOT report to the state legislature stated that this new EIS baseline may still not be meaningful because of the relatively small sample size, and therefore the inferences that can be made from EIS

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<sup>51</sup>The other NEPA assignment states have not publicly reported EIS baselines.

<sup>52</sup>GAO-12-593.

<sup>53</sup>California Department of Transportation, *Report to the California Legislature Pursuant to Section 820.1 of the California Streets and Highways Code (November 2007)*; and California Department of Transportation, *Second Report to the California Legislature Pursuant to Section 820.1 of the California Streets and Highways Code (Jan. 1, 2009)*.

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analysis on time savings are limited.<sup>54</sup> The report cautions that *"the EIS analysis should not be used as a major indicator of the effectiveness of NEPA assignment,"* but still reports the EIS analysis results. However, California DOT uses the figure in determining and reporting time savings. For example, information available on the California DOT's web site as of November 2017 presents these data and states that they are evidence of saving *"significant time in reviewing and approving its NEPA documents since undertaking NEPA assignment."*<sup>55</sup>

Moreover, the California DOT's reported median time frame of 6 years for EIS reviews only accounts for those projects that have both started and completed their environmental review since the state assumed NEPA authority. As only 10 years have passed since California assumed NEPA authority in 2007, all EIS reviews started and completed since 2007 automatically have shorter time frames than the 16-year baseline. Thus, it will be 2023 before any EIS reviews in California could equal the baseline, let alone exceed it, making any EIS review started after assumption of NEPA authority and completed before 2023 appear to demonstrate time savings.

Texas DOT officials stated that they had challenges determining a baseline for environmental assessments because there is no nationally accepted standard definition of when an environmental assessment begins. Moreover, Texas DOT recently revised its environmental assessment baseline, reducing it from 3 years to 2.5 years and including projects over a 2-year period instead of a longer 3-year period due to uncertainties with quality of the older data, according to Texas DOT officials. Texas also included, then excluded three outliers from its revised baseline (reviews that took between 6 and 9 years to complete) because officials determined they were not representative of typical environmental assessment reviews. While improving project data to create more accurate baselines is beneficial, it also results in different time savings' estimates over time and illustrates the challenges of constructing sound baselines.

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<sup>54</sup>California Department of Transportation, *2016 Report to the Legislature, NEPA Assignment: July 2007-June 2014* (Jan. 1, 2016).

<sup>55</sup>California Department of Transportation, *Caltrans NEPA Assignment Fact Sheet* (October 2017).

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As previously discussed, states that are considering or have recently decided to assume NEPA assignment authority have relied, at least in part, on time savings reported by California and Texas. As additional NEPA assignment states begin calculating and reporting time savings as outlined in their MOUs with FHWA, the inherent weakness of a pre- and post-assignment baseline comparison, combined with challenges establishing sound baselines, creates the potential for questionable information about the program's effects to be reported and relied upon by other states considering applying for NEPA assignment. Questionable information also negatively affects DOT's and Congress' ability to determine whether NEPA assignment is having its intended effect and resulting in more efficient environmental reviews.

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**FHWA Has Focused on States' Compliance and Processes but Has Played a Limited Role in Time Savings Measures**

FHWA focuses its oversight of NEPA assignment states through audits and monitoring to ensure that states have the processes in place to carry out FHWA's role in the NEPA process and that they comply with the MOU agreed to between FHWA and each of the NEPA assignment states. According to the MOUs, FHWA's annual audits include evaluating the attainment of performance measures contained in each MOU. Each of the five MOUs contains four performance measures including: (1) documenting compliance with NEPA and other federal laws and regulations, (2) maintaining internal quality control and assurance measures for NEPA decisions including legal reviews, (3) fostering communication with other agencies and the general public, and (4) documenting efficiency and timeliness in the NEPA process by comparing the completion of NEPA documents and approvals before and after NEPA assignment.

According to FHWA officials, the agency interprets evaluating the attainment of performance measures contained in the MOU as ensuring that the state has a process in place to assess attainment. For the efficiency and timeliness measures, FHWA does not use its audits to measure whether the state is achieving performance goals. FHWA only ensures that the state has a process in place to track the completion of NEPA documents and approvals before and after NEPA assignment, and that states follow the process, according to FHWA officials. For example, FHWA officials from the California division office stated that they did not assess the baseline methodology or assess its validity or accuracy. FHWA's Texas division officials added that setting the baseline has not been an FHWA role. FHWA does not assess or collect information on states' calculations of their time savings from NEPA assignment.

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FHWA officials stated that their focused approach on compliance and processes is consistent with the authority they have been granted and that it is not required by statute to measure environmental review efficiency and timeliness performance of participating states. Moreover, according to these officials, this authority limits their ability to request state information on issues related to, and otherwise assess, states' performance measures, including time savings, specifically:

- According to an FHWA program document, FHWA is statutorily authorized to require the state to provide any information that FHWA reasonably considers necessary to ensure that the state is adequately carrying out the responsibilities assigned to the state.<sup>56</sup> Further, a request for information is reasonable if it pertains to FHWA's reviewing the performance of the state in assuming NEPA assignment responsibilities. However, FHWA officials told us they do not consider an assessment of efficiency and timeliness measures to be necessary to ensure that the state is adequately carrying out its responsibilities.
- Additionally, FHWA considers timeliness performance measures to be a state role. FHWA officials told us that the timeliness performance measures in the NEPA assignment MOUs were added by the states, not FHWA. For instance, California added a timeliness performance measure based on its state legislature's reporting requirements. Each of the subsequent four NEPA assignment states we reviewed also included timeliness performance measures in their respective MOUs. However, the DOT Office of Inspector General reported in 2017 that while FHWA is not statutorily required to measure performance regarding the environmental review process for NEPA assignment states, the lack of data collection and tracking inhibits FHWA's ability to measure the effectiveness of NEPA assignment in accelerating project delivery.<sup>57</sup> The DOT Office of Inspector General recommended that FHWA develop and implement an oversight mechanism to periodically evaluate the performance of NEPA assignment states, which has not yet been implemented.

While FHWA does not, according to officials, have the authority to assess states' measurement of timeliness performance, FHWA has a role and the authority to provide guidance or technical assistance to states to help find solutions to particular problems and to ensure complete and quality

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<sup>56</sup>23 U.S.C. § 327(c)(4).

<sup>57</sup>DOT Office of Inspector General, *Vulnerabilities Exist in Implementing Initiatives Under MAP-21 Subtitle C to Accelerate Project Delivery* (ST2017029) (Mar. 6, 2017).

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information is provided to Congress, state DOTs, and the public to help make informed policy choices. Federal standards for internal control state that agencies should use quality information to determine the extent to which they are achieving their intended program outcomes.<sup>58</sup>

Characteristics of quality information include complete, appropriate, and accurate information that helps management make informed decisions and evaluate the entity's performance in achieving strategic outcomes. FHWA's mission to advance the federal-aid highway program is articulated in its national leadership strategic goal, which states that FHWA "leads in developing and advocating solutions to national transportation needs." To carry out its mission, FHWA engages in a range of activities to assist state DOTs in guiding projects through construction to improve the highway system. Specifically, according to agency documents, FHWA provides technical assistance and training to state DOTs and works with states to identify issues and develop and advocate solutions. Its broad authority to offer guidance and technical assistance can include helping states develop sound program methodologies. Such assistance or guidance could also include sharing best practices and lessons learned on evaluation methodologies, including creation of baselines, and potentially result in better quality information to assess the results of NEPA assignment. Without quality information reported from NEPA assignment states on time savings, questionable information about the program effects may be relied upon by other states considering applying for NEPA authority, and may negatively impact DOT's and Congress' ability to determine whether NEPA assignment is having its intended effect and resulting in more efficient environmental reviews.

FHWA officials stated that they advise NEPA assignment states on process improvements and technical assistance, but that no state has requested assistance developing evaluation methodologies or baselines. However, offering guidance or technical assistance on evaluation methodologies to measure time savings can help ensure that states are basing decisions to participate on reliable information and that, in turn, those NEPA assignment states can provide reliable information to FHWA and Congress to help assess whether NEPA assignment results in more efficient environmental reviews.

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<sup>58</sup>GAO-14-704G.

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**Conclusions**

A number of factors can affect the time it takes to complete highway and transit projects, including the NEPA review process. Congress has stated that it is in the national interest to expedite the delivery of surface transportation projects by substantially reducing the average length of the environmental review process, and has taken a number of steps in this direction, including allowing DOT to assign NEPA authority to the states. We found that the time savings results publicly shared by current NEPA assignment states have spurred interest among other states seeking NEPA authority. However, states are making program decisions—taking on risk and assuming federal authority—based on questionable information and reports of success.

Given questions about participating states' reported time savings, FHWA can help provide some assurance that the performance measures states develop and use to report out are based on sound methodologies. FHWA has the authority to issue program guidance and offer and provide technical assistance to help state DOTs find solutions to particular problems, including the development of sound evaluation methodologies. Without such assistance, states may continue to face difficulties establishing sound baselines. And without a sound baseline, the time savings states calculate—which may continue to be subsequently publicly reported—may be of questionable accuracy and value. And Congress, in turn, would not have reliable information on whether the assignment of NEPA authority to states is having its intended effect.

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**Recommendation for Executive Action**

The FHWA Administrator should offer and provide guidance or technical assistance to NEPA assignment states on developing evaluation methodologies, including baseline time frames and timeliness measures. (Recommendation 1)

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**Agency Comments and Our Evaluation**

We provided a draft of this report to DOT for review and comment. DOT provided a written response (see app. VI), as well as technical comments, which we incorporated as appropriate. DOT partially concurred with our recommendation. Specifically, DOT stated that it would clarify environmental review start times and communicate this to all FHWA

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divisions and states. DOT also stated it would provide the NEPA assignment states with any new federal government-wide guidance developed on performance measures of environmental reviews. DOT also stated that it already provides technical assistance to NEPA assignment states in other areas and that FHWA is not required by statute to measure the environmental review efficiency and timeliness of NEPA assignment states. Further, DOT stated that focusing only on timeliness metrics for environmental reviews overlooks other significant benefits of NEPA assignment, such as state control over when and how to conduct environmental reviews, which according to DOT is one of the most significant factors that a state considers in deciding whether to request NEPA assignment authority.

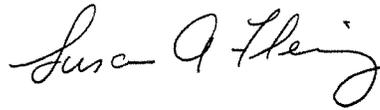
We are encouraged that DOT stated it would clarify environmental review start times. This step can improve the accuracy of environmental assessment review time frames, which is a part of developing sound baselines. In addition, while providing general guidance related to performance measures of environmental reviews would be helpful, we continue to believe that FHWA needs to provide further guidance or technical assistance to NEPA assignment states on developing sound evaluation methodologies. We recognize that FHWA has stated that it is not required by statute to measure environmental review efficiency; however, FHWA does have broad authority to offer guidance and technical assistance to help states develop sound program methodologies, including sharing practices and lessons learned on evaluation methodologies. As we reported, Congress indicated its interest in more efficient and timely environmental reviews when it created the NEPA assignment program. FHWA can help provide reasonable assurance that the performance measures states develop and use to report information are based on sound methodologies, which would in turn help provide Congress reliable information on whether the assignment of NEPA authority to states is having its intended effect. Further, while we acknowledge that other benefits of NEPA assignment may be important to states, all the NEPA assignment states we reviewed consistently identified time savings as a reason for taking on this authority. Offering guidance on evaluation methodologies to measure time savings can help FHWA ensure that additional states interested in NEPA authority for this reason are basing decisions to participate on reliable information.

We are sending copies of this report to interested congressional committees, the Secretary of the Department of Transportation, and other

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interested parties. In addition, this report will be available at no charge on GAO's website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-2834 or [flemings@gao.gov](mailto:flemings@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix VII.



Susan Fleming  
Director, Physical Infrastructure Issues

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## Appendix I: Available Information about the Number, Percentage, and Costs of NEPA Reviews for Highway and Transit Projects

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Based on 2009 data, we previously reported that 96 percent of environmental reviews are completed through categorical exclusions and a smaller number of highway projects undergo EISs and environmental assessments, 1 and 3 percent respectively.<sup>1</sup> We have previously reported that government-wide data on the cost of NEPA reviews are not readily available because agencies do not routinely track the cost of completing NEPA reviews and there is no government-wide mechanism to do so.<sup>2</sup> To comply with congressional reporting requirements, FHWA maintains the Project and Program Action Information (PAPAI) system, which is a monitoring database that tracks projects' NEPA review progress at major milestones. FHWA developed PAPAI in 2013 in response to statutory reporting requirements on NEPA time frames. PAPAI tracks EIS and environmental assessment start and end dates, among other information, allowing FHWA to track the processing time for these reviews. FTA does not have a similar monitoring system that tracks NEPA reviews, but has developed a new grant management system, the Transit Award Management System (TrAMS), which FTA also uses to track EIS and environmental assessment start and end dates. However, FTA officials told us that TrAMS is still in the early phases of deployment and may contain incomplete information on NEPA time frames on transit projects.

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### Highway Projects

While some information is available on the number of NEPA reviews (i.e., NEPA review time frames) for highway projects, little to no information is known about the percentage breakdown of the three types of NEPA reviews that have been conducted for these projects and their associated costs.

- *Number of NEPA Reviews:* Some information is available regarding the number of EIS and environmental assessments; however, less is known about the number of categorical exclusions. In an October 2017 report to Congress, FHWA stated that 29 EISs were initiated since 2012, of which 3 EISs were completed and 26 EISs remain active.<sup>3</sup> In its October 2013 report to Congress and consistent with

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<sup>1</sup>GAO, *Highway Projects: Some Federal and State Projects to Expedite Completion Show Progress*, GAO-12-593 (Washington, D.C.: June 6, 2012).

<sup>2</sup>GAO, *National Environmental Policy Act: Little Information Exists on NEPA Analyses*, GAO-14-369 (Washington, D.C.: April 15, 2014).

<sup>3</sup>FHWA, *Report to Congress: Review of Federal Project and Program Delivery Completion Time Assessments* (Washington, D.C.: October 2017).

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Appendix I: Available Information about the Number, Percentage, and Costs of NEPA Reviews for Highway and Transit Projects

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MAP-21 reporting requirements, FHWA reported the number of EISs that state DOTs "initiated" from 2002 through 2012. In this report, FHWA stated that the number of EISs that initiated decreased over time.<sup>4</sup> For example, FHWA reported that 38 EISs were initiated in fiscal year 2002 compared to 15 EISs that were initiated in 2012.<sup>5</sup>

Regarding the number of environmental assessments state DOTs conduct for highway projects, FHWA's October 2017 report to Congress stated 232 environmental assessments were initiated since 2012, of which 103 environmental assessments were completed and 129 environmental assessments remain active. FHWA's October 2013 report to Congress did not report on the number of environmental assessments. FHWA officials told us that prior to fiscal year 2013, FHWA division offices were not required to submit data on environmental assessments.

While some information on categorical exclusions exists, the total number of categorical exclusions is unknown. FHWA does not actively track categorical exclusions because state DOTs process most categorical exclusions without involvement from FHWA, as allowed by established programmatic agreements.<sup>6</sup>

- *Percentage of NEPA Reviews by Type:* The percentage breakdown of EIS, environmental assessments, and categorical exclusions conducted by state DOTs for federal-aid highway projects is largely unknown since FHWA has systematically collected numerical data only on EIS reviews and environmental assessments since fiscal year 2013. We previously reported that, FHWA estimated that approximately 96 percent of NEPA reviews were categorical exclusions, 3 percent were environmental assessments, and 1 percent were EISs.<sup>7</sup> While the current percentage breakdown of NEPA reviews is not known, FHWA officials told us that categorical exclusions still constitute the vast majority of NEPA reviews for highway projects. Furthermore, highway projects requiring an EIS

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<sup>4</sup>FHWA, *Report to Congress: MAP-21 Review of Federal Project and Program Delivery Completion Time Assessments* (Washington, D.C.: Oct. 1, 2013).

<sup>5</sup>MAP-21 required FHWA to report on the number of EIS reviews that were "initiated" each year.

<sup>6</sup>In an October 2017 report to Congress, FHWA collected states' data and sampled more than 8,000 categorical exclusions, of which approximately 5,700 were initiated since 2012.

<sup>7</sup>GAO-12-593.

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Appendix I: Available Information about the Number, Percentage, and Costs of NEPA Reviews for Highway and Transit Projects

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likely remain the smallest portion of all projects and are likely to be high-profile, complex, and expensive.

- *Costs of NEPA Reviews:* The costs of completing NEPA reviews are unknown according to officials we interviewed. Officials from FHWA and the National Association of Environmental Professionals believe that data on the cost of processing NEPA reviews do not exist and are not tracked. In our survey of state DOTs, we found that a majority (37 of the 52 state DOTs surveyed) do not collect cost data. For example, officials from Virginia DOT stated that they do not track NEPA costs and that compiling this information would be difficult and labor-intensive.

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Transit Projects

- *Number and Percentage of NEPA Reviews:* FTA has some data on the number of categorical exclusions that transit agencies process, but has just begun to collect data on the number of EIS reviews or environmental assessments. According to an August 2016 report, FTA reported that 24,426 categorical exclusions were processed for 6,804 projects between February 2013 and September 2015.<sup>8</sup> However, the same report cited a number of limitations and challenges with the underlying data, and as a result, the data may not be accurate. FTA officials told us that its new internal grant management system, TrAMS, also has the capability to track EIS reviews and environment assessments, but they are in the early stages of collecting this information. Given that data on the number of NEPA reviews are either not available (EIS and environmental assessments) or potentially unreliable (categorical exclusions), data on the percentage of NEPA reviews are also not available. However, FTA officials believe that similar to highway projects, the most common type of NEPA reviews that transit agencies process are categorical exclusions.
- *Costs of NEPA Reviews:* FTA and transit agencies do not track costs of processing NEPA reviews for transit projects. According to FTA and our previously issued work, separating out the costs for NEPA reviews (versus "planning" costs or "preliminary design" costs) within the project delivery process would be difficult to determine.<sup>9</sup>

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<sup>8</sup>Volpe National Transportation Systems Center, *Federal Transit Administration Categorical Exclusion Audit Synthesis Report*. (Cambridge, MA: August 2016).

<sup>9</sup>GAO-14-369.

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## Appendix II: Objectives, Scope, and Methodology

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Our work focused on federal-aid highway and transit projects and the provisions included in the past three surface transportation reauthorizations that are intended to accelerate the delivery of such projects (i.e., project delivery provisions). In particular, this report: (1) identifies the provisions aimed at accelerating the delivery of highway and transit projects that were included in the last three surface transportation reauthorizations; (2) examines the extent to which the provisions were used by state departments of transportation (state DOT) and transit agencies and the provisions' reported effects, if any, on accelerating the delivery of projects; and (3) evaluates the extent to which DOT has assigned National Environmental Policy Act of 1969 (NEPA) authority to states and the reported effects. In addition, in appendix I, we identify available information on the number and percentage of the different types of NEPA reviews, and costs of conducting NEPA reviews.

To identify all relevant project delivery provisions, we reviewed language in the three most recent surface transportation reauthorizations and included those provisions with the goal to accelerate the delivery of federal-aid highway or transit projects. The three reauthorizations we reviewed are as follows:

- the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)—the seven project delivery provisions we used were derived from provisions we had previously identified from SAFETEA-LU, Title VI, on Transportation Planning and Project Delivery;<sup>1</sup>
- the Moving Ahead for Progress in the 21st Century Act (MAP-21), Division A, Title 1, Subtitle C, entitled Acceleration of Project Delivery (Sections 1301 through 1323); and
- the Fixing America's Surface Transportation Act (FAST Act), Division A, Title 1, Subtitle C, entitled Acceleration of Project Delivery (Sections 1301 through 1318).

One provision (MAP-21 §1318(a)-(c)) included statutory language directing the Department of Transportation (DOT) to develop additional project delivery provisions through rulemaking. Accordingly, we reviewed the DOT regulations promulgated in response to that requirement (23 C.F.R. §§ 771.117(c)(24)-(30), 771.118(c)(14)-(16), 771.118(d)(7)-(8)) and identified 12 additional project delivery provisions. We combined

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<sup>1</sup>GAO-12-593.

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Appendix II: Objectives, Scope, and Methodology

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provisions that were modified in later statutory language and did not specify between different versions of the provisions, as this precision was not necessary for our purposes. For example, the *150-Day Statute of Limitations* provision was created in SAFETEA-LU (section 6002) as a 180-day statute of limitations and amended in MAP-21 (section 1308) to 150 days, which is the version we used. We also grouped the provisions into categories for ease of understanding; determined if provisions were applicable to highway projects or transit projects, or both; and specified if provisions were required or optional, based on professional judgement and legal review. We define "required" provisions to mean that federal agencies or state or local transportation agencies that are subject to a provision must adhere to the requirements and obligations in the provision, if all the conditions for its use have been satisfied. We define "optional" provisions to mean that the relevant entity (a federal agency or state or local transportation agency) can choose to use the provision if circumstances allow.

We met with officials from the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) to confirm that we had a complete list of project delivery provisions for highway and transit projects.

To determine states' awareness, use, and perceived effects of the project delivery provisions on highway projects over the previous 5 years, we surveyed state DOTs within all 50 states, the District of Columbia, and Puerto Rico. We directed the survey to officials in state DOTs that oversee environmental compliance for highway projects under NEPA. Because these officials do not have responsibilities with respect to three *Advance Planning* category's provisions that allow certain activities to occur prior to the completion of a NEPA review, we excluded these project delivery provisions from the survey.<sup>2</sup> We also excluded two provisions from the survey that are related to DOT assignment of federal NEPA authority, because their use requires a written agreement between FHWA and state DOTs, and we addressed those provisions separately through interviews with states that have such written agreements in place.<sup>3</sup> Our survey response rate was 100 percent. In order to ensure that

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<sup>2</sup>The three *Advance Planning* category's provisions are the *Design-Build Contracting* provision, *Advance Acquisition of Real Property* provision, and *2-phase Contracts* provision.

<sup>3</sup>The two *NEPA Assignment* category's provisions are the *NEPA Assignment Authority* provision and the *Categorical Exclusion Determination Authority* provision.

respondents would interpret our questions as intended, prior to administering the survey, we conducted pretests with state DOTs in four states: Georgia, Ohio, Texas, and Washington. In each pretest, we conducted a session with state DOT officials during which the officials completed the survey and then provided feedback on the clarity of the questions. Based on the feedback, we refined some questions and restructured parts of the survey. After the four pretests were completed, we provided a draft copy of the survey to FHWA and the American Association of State Highway and Transportation Officials (AASHTO) for their review and comment. Both provided technical comments that we incorporated, as appropriate. Based on early interviews with highway project stakeholders and our pretests, we determined that the survey should be sent to environmental officials at the state DOTs. Additional information about our survey methodology includes the following:

- To determine whom we should send the pretest and survey to (i.e., the survey respondent), we used a list of environmental officials at the state DOTs compiled by AASHTO. We took steps, such as sending early notification e-mails, to help ensure that the list of respondents we created was accurate.
- We launched our survey on March 7, 2017. We sent e-mail reminders and telephoned survey respondents who had not completed the survey after two weeks, urging them to do so as soon as possible. We reviewed survey responses for omissions and analyzed the information provided. The survey and aggregated responses—with the exception of open-ended responses and information that would identify individual state DOTs—are provided in appendix IV.
- For each of the provisions included on the survey, we included references to legal citations in order to minimize confusion among provisions or versions of provisions.
- We provided space in the survey for respondents to provide optional comments for each individual provision and for each category of provisions. We analyzed these comments primarily for additional context and as a source of illustrative examples.
- Because all state DOTs were included in our survey, our analyses are not subject to sampling errors. However the practical difficulties of conducting any survey may introduce non-sampling errors. For example, differences in how a particular question is interpreted or the sources of information available to respondents can introduce errors into the survey results. We included steps both in the data collection and data analysis stages, including pretesting, to minimize such non-

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Appendix II: Objectives, Scope, and Methodology

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sampling errors. We also sent a draft of the questionnaire to FHWA and AASHTO for review and comment.

- We examined the survey results, reviewed survey responses during follow-up interviews with selected states, and performed computer analyses to identify inconsistencies and other indications of error and addressed such issues, where necessary. A second, independent analyst checked the accuracy of all computer analyses to minimize the likelihood of errors in data processing.

Based on the survey results, we conducted follow-up interviews with officials from 10 state DOTs to discuss their views about the effects the project delivery provisions had on the duration of highway projects in their states in the past 5 years. We did not independently verify state DOT officials' estimates of time savings. We selected state DOTs that reported a range of use and effects of the provisions; we also selected geographically diverse states. The 10 states we selected were Arizona, California, Colorado, Illinois, Maine, Minnesota, Mississippi, Texas, Virginia, and Wyoming. We also asked these state DOTs about their use and experiences with the three *Advance Planning* category's provisions we excluded from the survey. These interviews are not generalizable to all states but provide additional context for responses.

To determine transit agencies' awareness, use, and views about the effects of the project delivery provisions applicable to transit, we selected a non-generalizable sample of 11 transit agencies, provided a "checklist" of the provisions to the officials regarding their awareness and use of the provisions, and interviewed officials at those agencies that oversee NEPA reviews for transit projects. We selected these agencies based primarily on the number of times they issued a notice of intent to prepare an EIS in the *Federal Register* from 2005 through 2016 to identify those transit agencies that may have experience preparing EISs or some another NEPA review and experience using transit project delivery provisions. While notices of intent to prepare an EIS do not always result in a transit agency's conducting an actual EIS review, they indicate instances in which a transit agency plans to conduct an EIS review. Other factors, such as ridership and geographic location, were also considered to select the 11 transit agencies. We identified contacts for the transit agencies by calling the transit agencies' Planning and Environmental Review departments and identifying individuals that had experience with environmental reviews and project delivery provisions. We interviewed officials at the following transit agencies:

- Capital Metro (Austin, Texas),

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**Appendix II: Objectives, Scope, and Methodology**

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- Chicago Transit Authority,
- Houston Metropolitan Transit Authority,
- Los Angeles County Metropolitan Transportation Authority,
- Metropolitan Atlanta Rapid Transit Authority,
- Sacramento Regional Transit District,
- San Francisco Bay Area Water Emergency Transportation Authority,
- San Francisco Municipal Transportation Agency,
- Sound Transit (Seattle, Washington),
- Southeastern Pennsylvania Transportation Authority, and
- Tri-County Metropolitan Transportation District of Oregon.

Similar to the survey we provided to state DOTs regarding highway projects, we provided the transit agencies with a "checklist" of the provisions in which the transit agency officials indicated whether they had heard of and used the provisions. To understand why the provisions may not be used by selected transit agencies, we also examined the frequency in which transit agencies filed a notice of intent to prepare an EIS in the *Federal Register*. After discussions with FTA, we used the number of times transit agencies filed a notice of intent to prepare an EIS as a proxy because agencies that have performed multiple EISs, which are typically complex in nature, are more likely to use the provisions and be able to offer insight. Transit agencies may also have experience using provisions related to categorical exclusions since transit agencies process their NEPA reviews more commonly using categorical exclusions. However, we did not examine the extent to which categorical exclusions are used by transit agencies as a proxy to identify agencies that have experience using the provisions in part because FTA's current database, TrAMS, does not have comprehensive data on categorical exclusions. We discussed transit agency officials' views about the effects of the provisions during our interviews. These interviews are not generalizable to all transit agencies but provide anecdotal information and context.

To evaluate the extent that DOT has assigned NEPA authority to states and the effects states have reported from assuming NEPA authority, we identified states that have assumed NEPA authority based on information from FHWA: Alaska, California, Florida, Ohio, Texas, and Utah. We did not include Alaska in our review because that state did not assume NEPA authority until November 2017. For the five states we reviewed, we interviewed state DOT officials and reviewed relevant documentation

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**Appendix II: Objectives, Scope, and Methodology**

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including memorandums of understanding and analyses the state DOTs conducted on NEPA assignment authority, such as methodologies for calculating NEPA assignment time savings. We also surveyed the state DOTs that have not yet sought NEPA authority to assess their interest in assuming NEPA authority. In addition, we interviewed FHWA officials about procedures to oversee the performance of NEPA assignment states and interviewed FHWA division officials from those states. We compared FHWA's procedures to oversee NEPA assignment states against standards for information and communication contained in *Standards for Internal Control in the Federal Government*.<sup>4</sup>

To determine available information on the number and percentage of the different NEPA reviews and costs of conducting NEPA reviews for highway and transit projects, we reviewed relevant publications, obtained documents and analyses from federal agencies, and interviewed federal officials and individuals from professional associations with expertise in conducting NEPA analyses. We also included a question on costs of conducting NEPA reviews in the survey we administered to state DOTs.

For all objectives, we interviewed agency officials and stakeholders involved in highway and transit projects from FHWA and FTA headquarters and transportation industry and environmental organizations that are familiar with project delivery and environmental review.

We conducted this performance audit from August 2016 to January 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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<sup>4</sup>GAO-14-704G.

## Appendix III: Project Delivery Provisions Included in the Three Most Recent Federal Transportation Reauthorization Acts That Apply to Highway and Transit Projects

**Table 2: Project Delivery Provisions Included in Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), the Moving Ahead for Progress in the 21st Century Act (MAP-21), and the Fixing America's Surface Transportation Act (FAST Act) That Apply to Highway and Transit Projects**

GAO category for provision	GAO term for provision	Applies to:		Provision is <sup>a</sup> :		
		Highway	Transit	Required	(Highway) Optional	(Transit) Optional
Accelerated National Environmental Policy Act (NEPA) Review	Categorical Exclusion for Multimodal Projects <sup>b</sup> Authorizes a Department of Transportation (DOT) operating administration to apply a categorical exclusion of another DOT operating administration to a multimodal project. MAP-21: § 1314, as amended by FAST Act: § 1310 (codified at 49 U.S.C. § 304)	X	X	-	X	X
	Categorical Exclusion in Emergencies Designates the repair reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility that was damaged by an emergency as a categorical exclusion. MAP-21: § 1315 (23 U.S.C. § 109 note) 23 C.F.R. § 771.117(c)(9) 23 C.F.R. § 771.118(c)(11)	X	X	-	X	X
	Categorical Exclusion for Projects within the Existing Operational Right-of-Way <sup>c</sup> Designates a project within an existing operational right-of-way as a categorical exclusion. MAP-21: § 1316 (23 U.S.C. § 109 note) 23 C.F.R. § 771.117(c)(18) 23 C.F.R. § 771.118(c)(12)	X	X	-	X	X
	Categorical Exclusion for Projects with Limited Federal Funds Authorizes the designation of a categorical exclusion for projects receiving less than \$5 million in federal funds, or less than 15 percent federal funds for a project under \$30 million, subject to an annual inflation adjustment. MAP-21: § 1317, as amended by FAST Act: § 1314 (23 U.S.C. § 109 note) 23 C.F.R. § 771.117(c)(23) 23 C.F.R. § 771.118(c)(13)	X	X	-	X	X
	Categorical Exclusion for Geotechnical and Archeological Investigations For highway projects, designates a categorical exclusion for geotechnical and archeological investigations to provide information for preliminary design. 23 C.F.R. § 771.117(c)(24)	X	-	-	X	-

Appendix III: Project Delivery Provisions  
Included in the Three Most Recent Federal  
Transportation Reauthorization Acts That  
Apply to Highway and Transit Projects

GAO category for provision	GAO term for provision	Applies to:		Provision is <sup>2</sup> :		
		Highway	Transit	Required	(Highway) Optional	(Transit) Optional
	Categorical Exclusion for Environmental Restoration For highway projects, designates environmental restoration and pollution abatement actions to minimize or mitigate the impact of any existing transportation facility. 23 C.F.R. § 771.117(c)(25)	X	-	-	X	-
	Eliminating the Documentation and Prior Approval Requirement for Categorical Exclusion for Highway Modernization For highway projects, designates resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes as a categorical exclusion that does not require documentation or prior FHWA approval. 23 C.F.R. § 771.117(c)(26)	X	-	-	X	-
	Eliminating the Documentation and Prior Approval Requirement for Categorical Exclusion for Highway Safety For highway projects, designates highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, as a categorical exclusion that does not require documentation or prior FHWA approval. 23 C.F.R. § 771.117(c)(27)	X	-	-	X	-
	Eliminating the Documentation and Prior Approval Requirement for Categorical Exclusion for Bridge Projects at Railway-Highway Crossings For highway projects, designates bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings, as a categorical exclusion that does not require documentation or prior FHWA approval. 23 C.F.R. § 771.117(c)(28)	X	-	-	X	-
	Categorical Exclusion for FHWA-funded Ferry Vessels For FHWA-funded ferry projects, designates the purchase, construction, replacement, or rehabilitation of ferry vessels that would not require a change in the function of the ferry terminals as a categorical exclusion. 23 C.F.R. § 771.117(c)(29)	X	-	-	X	-
	Categorical Exclusion for FHWA-funded Ferry Facility Rehabilitation or Reconstruction For FHWA-funded ferry terminal projects, designates the rehabilitation or reconstruction of existing ferry facilities that do not substantially enlarge the footprint or capacity as a categorical exclusion. 23 C.F.R. § 771.117(c)(30)	X	-	-	X	-

Appendix III: Project Delivery Provisions  
Included in the Three Most Recent Federal  
Transportation Reauthorization Acts That  
Apply to Highway and Transit Projects

GAO category for provision	GAO term for provision	Applies to:		Provision is <sup>a</sup> :		
		Highway	Transit	Required	(Highway) Optional	(Transit) Optional
	Categorical Exclusion for Bridge Removal Designates bridge removal and bridge removal related activities, such as in-channel work, disposal of materials and debris as a categorical exclusion. 23 C.F.R. § 771.118(c)(14)	-	X	-	-	X
	Categorical Exclusion for Preventative Maintenance to Culverts and Channels Designates preventative maintenance, including safety treatments, to culverts and channels within and adjacent to transportation right-of-way as a categorical exclusion. 23 C.F.R. § 771.118(c)(15)	-	X	-	-	X
	Categorical Exclusion for Geotechnical and Archeological Investigations For transit projects, designates geotechnical and archeological investigations to provide information for preliminary design, environmental analyses, and permitting purposes as a categorical exclusion. 23 C.F.R. § 771.118(c)(16)	-	X	-	-	X
	Categorical Exclusion for Minor Rail Realignment Designates minor transportation facility realignment for rail safety reasons, such as improving vertical and horizontal alignment of railroad crossings, as a categorical exclusion. 23 C.F.R. § 771.119(d)(7)	-	X	-	-	X
	Categorical Exclusion for Modernization of Transit Structures Designates modernization or minor expansions of transit structures and facilities outside existing right-of-way, such as ridges, stations, or rail yards, as a categorical exclusion. 23 C.F.R. § 711.118(d)(8)	-	X	-	-	X
	Minor Impacts to Protected Public Land Authorizes a historic site, park land, or refuge to be used for a transportation program or project if it is determined that "de minimis" impact would result. SAFETEA-LU: § 6009, as amended by FAST Act: §§ 1301-1303 (codified at 23 U.S.C. § 138(b))	X	X	-	X	X

Appendix III: Project Delivery Provisions  
Included in the Three Most Recent Federal  
Transportation Reauthorization Acts That  
Apply to Highway and Transit Projects

GAO category for provision	GAO term for provision	Applies to:		Provision is <sup>a</sup> :		
		Highway	Transit	Required	(Highway) Optional	(Transit) Optional
Administrative and Coordination Changes	150-Day Statute of Limitations <sup>d</sup> Bars claims seeking judicial review of a permit, license, or approval issued by a federal agency for highway projects unless they are filed within 150 days after publication of a notice in the <i>Federal Register</i> announcing the final agency action, or unless a shorter time is specified in the federal law under which the judicial review is allowed. SAFETEA-LU: § 6002, as amended by MAP-21: § 1308 (codified at 23 U.S.C. § 139(i))	X	X	X	-	-
	Planning Documents Used in NEPA Review Authorizes the lead agency for a project to use planning products, such as planning decisions, analysis, or studies, in the environmental review process of the project. MAP-21: § 1310, as amended by FAST Act: § 1305 (codified at 23 U.S.C. § 168(b)) 23 C.F.R. Part 450	X	X	-	X	X
	Programmatic Mitigation Plans Used in NEPA Review Requires that any federal agency responsible for environmental review give substantial weight to the recommendations in a state or metropolitan programmatic mitigation plan, if one had been developed as part of the transportation planning process, when carrying out responsibilities under NEPA or other environmental law. MAP-21: § 1311, as amended by FAST Act: § 1306 (codified at 23 U.S.C. § 169(f))	X	X	X <sup>b</sup>	-	-
	Combine Final Environmental Impact Statement (EIS) and Record of Decision in Certain Cases To the maximum extent practicable, the lead agency shall combine the final EIS and record of decision in certain cases. FAST Act: §§ 1311 & 1304 (codified at 49 U.S.C. § 304a(a)-(b))	X	X	X	-	-
	Environmental Documents for Use Among DOT Administrations on Similar Projects Authorizes the operating administrations of DOT to adopt a draft EIS, environmental assessment, or final EIS of another operating administration without recirculating the document for public review if the proposed action is substantially the same as the project considered in the document to be adopted. FAST Act: § 1311 (codified at 49 U.S.C. § 304a(c))	X	X	-	X	X

Appendix III: Project Delivery Provisions  
Included in the Three Most Recent Federal  
Transportation Reauthorization Acts That  
Apply to Highway and Transit Projects

GAO category for provision	GAO term for provision	Applies to:		Provision is <sup>a</sup> :		
		Highway	Transit	Required	(Highway) Optional	(Transit) Optional
	<p>45-Day Limit to Identify Resource Agencies</p> <p>Establishes a 45-day limit after the notice of intent date for a lead agency to identify other agencies to participate in the environmental review process on EIS projects.</p> <p>FAST Act: § 1304(d)(1) (codified at 23 U.S.C. § 139(d)(2))</p>	X	X	X	-	-
	<p>Use Single NEPA Document</p> <p>Requires to the maximum extent practicable and consistent with federal law, for the EIS project lead agency to develop a single NEPA document to satisfy the requirements for federal approval or other federal action, including permits.</p> <p>FAST Act: § 1304(d)(2) (codified at 23 U.S.C. § 139(d)(8))</p>	X	X	X	-	-
	<p>Procedures for Initiation of Environmental Review</p> <p>Creates several requirements at the start of an EIS project's environmental review process, such as 1) establishing a 45-day deadline for DOT to provide a written response to the project sponsor on initiation of the environmental review process; 2) establishing a 45-day deadline for DOT to respond to a request for designation of a lead agency; and 3) requiring the development of a checklist by the lead agency, as appropriate, to help identify natural, cultural, and historic resources, to identify cooperating and participating agencies and improve interagency collaboration.</p> <p>FAST Act: § 1304(e) (codified at 23 U.S.C. § 139(e))</p>	X	X	X	-	-
	<p>Reduce Duplication by Eliminating Detailed Consideration of Alternative Actions</p> <p>Authorizes the lead agency to reduce duplication, by eliminating from detailed consideration an alternative proposed in an EIS if the alternative was already proposed in a planning process or state environmental review process.</p> <p>FAST Act: § 1304(f)(2)(C) (codified at 23 U.S.C. § 139(f)(4)(E)(ii))</p>	X	X	-	X	X

Appendix III: Project Delivery Provisions  
Included in the Three Most Recent Federal  
Transportation Reauthorization Acts That  
Apply to Highway and Transit Projects

GAO category for provision	GAO term for provision	Applies to:		Provision is <sup>a</sup> :		
		Highway	Transit	Required	(Highway) Optional	(Transit) Optional
	Use of Federal Highway or Transit Funds to Support Agencies Participating in the Environmental Review Process <sup>b</sup> Allows a public entity to use its federal highway or transit funds to support a federal or state agency or Indian tribe participating in the environmental review process on activities that directly contribute to expediting and improving project planning and delivery. SAFETEA-LU: § 6002(j), as amended by MAP-21: § 1307 and FAST Act: § 1304(i) (codified at 23 U.S.C. § 139(i))	X	X	-	X	X
	Issue Resolution Process Establishes procedures to resolve issues between state DOTs and relevant resource agencies. SAFETEA-LU: § 6002(a), as amended by MAP-21: § 1306 and FAST Act: § 1304(h) (codified at 23 U.S.C. § 139(h))	X	X	X	-	-
	Enhanced Technical Assistance & Accelerating Project Completion At the request of a project sponsor or a governor of the state in which the project is located, requires DOT to provide additional technical assistance for a project where EIS review has taken 2 years, and establish a schedule for review completion within 4 years. MAP-21: § 1309 (codified at 23 U.S.C. § 139(m))	X	X	X <sup>h</sup>	-	-
	Programmatic Agreements for Efficient Environmental Review <sup>i</sup> Requires DOT to seek opportunities with states to enter into programmatic agreements to carry out environmental and other project reviews. MAP-21: §§ 1305(a) and 1318(d) (23 U.S.C. § 139 note) FAST Act: § 1304(b)	X	X	X	-	-
	Early Coordination Activities in Environmental Review Process Encourages early cooperation between DOT and other agencies, including states or local planning agencies, in the environmental review process to avoid delay and duplication, and suggests early coordination activities. Early coordination includes establishment of MOUs with states or local planning agencies. MAP-21: § 1320 (23 U.S.C. § 139 note)	X	X	-	X	X

Appendix III: Project Delivery Provisions  
Included in the Three Most Recent Federal  
Transportation Reauthorization Acts That  
Apply to Highway and Transit Projects

GAO category for provision	GAO term for provision	Applies to:		Provision is <sup>a</sup> :		
		Highway	Transit	Required	(Highway) Optional	(Transit) Optional
	Stakeholder Agency Comments in Area of Expertise Limits the comments of participating agencies to subject matter areas within the special expertise or jurisdiction of the agency. FAST Act: § 1304(f)(2)(A) (codified at 23 U.S.C. § 139(f)(4)(A)(ii))	X	X	X	-	-
	Coordination Plan for Public and Agency Participation Requires a coordination plan for public and agency participation in the environmental review process within 90 days of notice of intent or the initiation of an Environmental Assessment, including a schedule for completion of the environmental review process for the project. SAFETEA-LU: § 6002 as amended by MAP-21: § 1305, and FAST Act: § 1304(g)(1) (codified at 23 U.S.C. § 139(g)(1)(A) and (B))	X	X	X	-	-
	Resolved Issues are Not Reconsidered Without Significant New Information Issues that are resolved by the lead agency with concurrence from stakeholder cannot be reconsidered unless there is significant new information or circumstances arise. FAST Act: § 1304(h)(1) (codified at 23 U.S.C. § 139(h)(4))	X	X	X	-	-
Advance Planning	Advance Design-Build Contracting Permits states or local transportation agencies to release requests for proposals and award design-build contracts prior to the completion of the NEPA process; however, it precludes a contractor from proceeding with final design or construction before completion of the NEPA process. SAFETEA-LU: § 1503(2) (codified at 23 U.S.C. § 112(b)(3))	X	-	-	X	-
	Advance Acquisition of Real Property Authorizes states to acquire real property interests for a project before completion of the NEPA process. MAP-21: § 1302 (codified at 23 U.S.C. § 108(c))	X	-	-	X	-
	2-phase Contracts Authorizes the awarding of 2-phase contracts (construction manager/ general contractor) with preconstruction services and preliminary design of a project using a competitive selection process before the completion of the NEPA process. MAP-21: § 1303(a) (codified at 23 U.S.C. § 112(b)(4))	X	-	-	X	-

**Appendix III: Project Delivery Provisions Included in the Three Most Recent Federal Transportation Reauthorization Acts That Apply to Highway and Transit Projects**

GAO category for provision	GAO term for provision	Applies to:		Provision is <sup>1</sup> :		
		Highway	Transit	Required	(Highway) Optional	(Transit) Optional
NEPA Assignment	Categorical Exclusion Determination Authority Authorizes DOT to assign and a state to assume responsibility for determining if projects can be categorically excluded from NEPA review. SAFETEA-LU, § 6004(a), as amended by MAP-21: § 1312, and FAST Act: § 1307 (codified at 23 U.S.C. § 326)	X	X	-	X	X
	NEPA Assignment Authority Authorizes DOT to assign and a state to assume many federal environmental review responsibilities for highway, public transportation, and railroad projects, to be administered in accordance with a written agreement between DOT and the participating state. SAFETEA-LU: § 6005(a), as amended by MAP-21: § 1313, and FAST Act: § 1308 (codified at 23 U.S.C. § 327)	X	X	-	X	X
<b>Total provisions :</b>		<b>34</b>	<b>29</b>	<b>12</b>	<b>22</b>	<b>17</b>

Source: GAO analysis of Safe, Accountable, Flexible, Efficient Transportation Equity Act, A Legacy for Users, the Moving Ahead for Progress in the 21st Century Act, and the Fixing America's Surface Transportation Act. | GAO-18-222

<sup>1</sup>We define "required" provisions to mean that federal agencies, or state or local transportation agencies that are subject to a provision must adhere to the requirements and obligations in the provision, if all the conditions for its use have been satisfied. We define "optional" provisions to mean that the relevant entity (a federal agency or state or local transportation agency) can choose to use the provision if circumstances allow.

<sup>2</sup>"Categorical exclusion" means a category of actions that do not individually or cumulatively have a significant effect on the human environment, and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.

<sup>3</sup>The existing operational right-of-way refers to a strip of land that has been disturbed for an existing transportation facility or is maintained for transportation purposes, such as a highway, public footpath, rail bed, landscaping, or rest areas with direct access to a controlled access highway.

<sup>4</sup>The provision bars judicial review of claims unless they are timely filed.

<sup>5</sup>Once states or metropolitan planning organizations decide to use such plans federal agencies must give substantial weight to the plans.

<sup>6</sup>There may be instances in which a combined document is not the best option.

<sup>7</sup>Funds may be provided for transportation-planning activities that precede the initiation of the environmental review process, for dedicated staffing, for training of agency personnel, for information gathering and mapping, and for development of programmatic agreements.

<sup>8</sup>Once a project sponsor or governor requests assistance, DOT is required to provide it.

<sup>9</sup>"Programmatic agreements" are agreements between state departments of transportation and their Federal Highway Administration division office on processes and procedures to carry out environmental reviews and other required project reviews.

## Appendix IV: Highway Questionnaire and Summarized Responses

This appendix provides a copy of the survey sent to state departments of transportation in all 50 states, the District of Columbia, and Puerto Rico concerning their use of the project delivery provisions for highway projects. The appendix also includes the responses received for each of the provisions; it does not include information on non-responses, which resulted either from the survey's skip patterns or from state officials voluntarily declining to respond.

GAO also developed names for the provisions in the survey; we subsequently modified the names of several of the provisions for the text of our report to make them more intuitive for readers. The following list matches the provisions that have different names in our report than in the survey.

Report Name	Survey Name
• Categorical Exclusion for Projects within the Existing Operational Right-of-Way	• Categorical Exclusion for Projects Within the Right-of-Way
• Eliminating the Documentation and Prior Approval Requirement for Categorical Exclusion for Highway Modernization	• Categorical Exclusion for Highway Modernization
• Eliminating the Documentation and Prior Approval Requirement for Categorical Exclusion for Highway Safety	• Categorical Exclusion for Highway Safety and Operational Improvement
• Eliminating the Documentation and Prior Approval Requirement for Categorical Exclusion for Bridge Projects at Railway-Highway Crossings	• Categorical Exclusion for Bridge Projects at Railway-Highway Crossings
• Categorical Exclusion for FHWA-funded Ferry Vessels	• Categorical Exclusion for Ferry Vessels
• Categorical Exclusion for FHWA-funded Ferry Facility Rehabilitation or Reconstruction	• Categorical Exclusion for Ferry Facilities
• Planning Documents Used in National Environmental Protection Act (NEPA) Review	• Planning Products for Use in NEPA Review
• Reduce Duplication by Eliminating Detailed Consideration of Alternative Actions	• Reduce Duplicate Consideration of Alternatives
• Use of Federal Highway or Transit Funds to Support Agencies Participating in the Environmental Review Process	• Offering Financial Assistance to Stakeholder Agencies

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Appendix IV: Highway Questionnaire and Summarized Responses

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Report Name	Survey Name
<ul style="list-style-type: none"><li>• Use Single NEPA Document</li><li>• Procedures for Initiation of Environmental Review</li></ul>	<ul style="list-style-type: none"><li>• Single NEPA Document</li><li>• Initiation of Environmental Review Process</li></ul>



United States Government Accountability Office

## Highway Project Delivery Questionnaire

March 7, 2017

### Introduction

The U.S. Government Accountability Office (GAO) is an independent, nonpartisan agency that assists Congress in evaluating federal programs. This questionnaire is part of a legislatively mandated GAO study regarding provisions that aim to accelerate project delivery and streamline the environmental review process required under the National Environmental Policy Act of 1969 (NEPA). These project delivery provisions were enacted in the past three surface transportation reauthorization acts—Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, 2005), Moving Ahead for Progress in the 21st Century Act (MAP-21, 2012), and Fixing America's Surface Transportation Act (FAST Act, 2015).

The results of this questionnaire will help inform a written report to Congress. In our report, we will generally use only the aggregated results of this questionnaire. GAO will not attribute specific responses of this questionnaire to any individual respondents or otherwise disclose them to the public. However, GAO will include a list of state highway agencies in an appendix of the report as having responded to the questionnaire.

Please answer this questionnaire from your perspective as environmental director (or designee) of your agency. If you are not able to answer all the questions in this questionnaire yourself, you may need to coordinate your responses with the appropriate people within your agency. Please complete and return this questionnaire by e-mail to [LevyE@gao.gov](mailto:LevyE@gao.gov) within 2 weeks of receiving it. Each agency should only submit one questionnaire. In testing this survey, we found that it took approximately 30 minutes to complete. We may contact you to clarify responses as needed.

Thank you in advance for your time and consideration.

### GAO Contacts

Ethan Levy at (202) 512-4807 ([LevyE@gao.gov](mailto:LevyE@gao.gov))  
Brian Chung at (206) 287-4795 ([ChungC@gao.gov](mailto:ChungC@gao.gov))

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**Instructions**

This questionnaire can be filled out using Microsoft Word. Please save this document to your computer before entering any information. Please use your mouse to navigate, clicking on the field or check box  you wish to answer. To select a check box or a button, click on the center of the box. To change or deselect a check box response, click on the check box and the 'X' will disappear. For questions that require a written response, click the answer field with your mouse and enter text. The field will expand to accommodate your answer. When you have completed the questionnaire, please save it to your computer and email it as an attachment to LevyE@gao.gov.

**Contact Information**

Please provide contact information for the person primarily responsible for completing this question set so that we may contact you should any clarifications be needed. If multiple individuals are involved in answering these questions, please identify a single point of contact.

<b>Your Name</b>	
<b>Title</b>	
<b>State Highway Agency</b>	
<b>Phone</b>	
<b>Email</b>	

**Part I.**

In Part I of the questionnaire, please select "Yes", "No", or "Not Applicable" for each question.

	Yes	No	Not Applicable
1. Does your state track the number of highway projects processed as categorical exclusions?	48	4	0
2. Does your state track the number of highway projects processed as environmental assessments?	46	6	0
3. Does your state track the number of highway projects processed as environmental impact statements?	44	7	1
4. Does your state track the timeframe for NEPA review of highway projects?	40	11	1
5. Does your state collect data on the costs associated with NEPA review for highway projects?	14	37	1
Do you have any comments or anything further to add on the tracking of NEPA review timeframes or costs? (add pages if needed)			

GAO questionnaire on project delivery provisions 3

**Part IIA.**

In Part IIA of the questionnaire, for each provision listed, GAO has paraphrased a provision title and description, and included citations for the statute(s) that created/amended it (in some cases, citations for regulations are included). We included Internet hyperlinks to U.S. Government Publishing Office websites, for reference to citations if needed. (You must be connected to the Internet to use this feature.) We then created our own categories to group the provisions. For each provision:

- Question 'A' asks for a 'Yes' or 'No' response. If your response is 'Yes', continue to question 'B'.
- Question 'B' asks for the response that best fits your agency's experience. If your response indicates any use (i.e., Frequently, Sometimes, Rarely), continue to question 'C'.
- Question 'C' asks for the response that best fits your agency's experience.
- At the end of each category of provisions, you will have an opportunity to expand upon any of your responses and provide any additional comments.

			A. Is your agency aware of this provision? <small>(Mark only one box)</small>	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? <small>(Mark only one box)</small>	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? <small>(Mark only one box)</small>
<b>Categorical Exclusions</b>					
<b>1. Categorical Exclusion for Multimodal Projects</b> Authorizes the lead agency of a multimodal project to apply a categorical exclusion designation to the project.  MAP-21, Sec. 1314 [PDF p.547] FAST Act, Sec. 1310(3) [PDF p.1397]	Yes: <b>48</b> →	Frequently <b>3</b> Sometimes <b>4</b> } → Rarely <b>12</b>	Sped up greatly: <b>2</b> Sped up somewhat: <b>4</b> No effect: <b>11</b> Slowed down somewhat: <b>0</b> Slowed down greatly: <b>0</b> Too soon to judge: <b>4</b>		
	No: <b>4</b> ↓ (Go to next provision)	Not at all, but plan to use: <b>12</b> Not at all, and no plans to use: <b>16</b> ↓ (Go to next provision)			
(Optional) Comments on your answers					

	A. Is your agency aware of this provision? <small>(Mark only one box)</small>	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? <small>(Mark only one box)</small>	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? <small>(Mark only one box)</small>
<p><b>2. Categorical Exclusion in Emergencies</b> Designates the repair or reconstruction of any road, highway, or bridge that was damaged by an emergency as a categorical exclusion.</p> <p><i>MAP-21, Sec. 1315 [PDF p.549] 23 CFR 771.117(c)(9) [PDF p.1]</i></p> <p>(Optional) Comments on your answers:</p>	<p>Yes <b>52</b> →</p> <p>No <b>0</b> ↓ <i>(Go to next provision)</i></p>	<p>Frequently <b>8</b> Sometimes <b>17</b> → Rarely <b>19</b></p> <p>Not at all, but plan to use <b>2</b> Not at all, and no plans to use <b>6</b> ↓ <i>(Go to next provision)</i></p>	<p>Sped up greatly <b>14</b> Sped up somewhat <b>17</b> No effect <b>13</b> Slowed down somewhat <b>0</b> Slowed down greatly <b>0</b> Too soon to judge <b>0</b></p>
<p><b>3. Categorical Exclusion for Projects Within the Right-of-Way</b> Designates a project within an operational right-of-way as a categorical exclusion.</p> <p><i>MAP-21, Sec. 1316 [PDF p.549] 23 CFR 771.117(c)(18) [PDF p.2]</i></p> <p>(Optional) Comments on your answers:</p>	<p>Yes <b>52</b> →</p> <p>No <b>0</b> ↓ <i>(Go to next provision)</i></p>	<p>Frequently <b>18</b> Sometimes <b>16</b> → Rarely <b>8</b></p> <p>Not at all, but plan to use <b>4</b> Not at all, and no plans to use <b>6</b> ↓ <i>(Go to next provision)</i></p>	<p>Sped up greatly <b>9</b> Sped up somewhat <b>21</b> No effect <b>12</b> Slowed down somewhat <b>0</b> Slowed down greatly <b>0</b> Too soon to judge <b>0</b></p>

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	A. Is your agency aware of this provision? <small>(Mark only one box)</small>	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? <small>(Mark only one box)</small>	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? <small>(Mark only one box)</small>
<p><b>4. Categorical Exclusion for Projects with Limited Federal Funds</b>                      Authorizes the designation of a categorical exclusion for projects receiving less than \$5 million in federal funds, or less than 15 percent federal funds for a project under \$30 million, subject to an annual inflation adjustment.</p> <p><i>MAP-21: Sec. 1317 [PDF p. 550]</i>  <i>FAST Act: Sec. 1314 [PDF p. 1402]</i></p>	<p>Yes <b>50</b> →</p> <p>No <b>2</b> ↓ <i>(Go to next provision)</i></p>	<p>Frequently <b>9</b> ↓ Sometimes <b>7</b> → ↓ Rarely <b>14</b></p> <p>Not at all, but plan to use <b>6</b> ↓ Not at all, and no plans to use <b>12</b> ↓ <i>(Go to next provision)</i></p>	<p>Sped up greatly <b>2</b> ↓ Sped up somewhat <b>19</b> ↓ No effect <b>8</b> ↓ Slowed down somewhat <b>0</b> ↓ Slowed down greatly <b>0</b> ↓ Too soon to judge <b>3</b></p>
<p><small>(Optional) Comments on your answers.</small></p>			
<p><b>Do you have any comments or anything further to add on the statutory Categorical Exclusion provisions?</b> <small>See instructions on page 10 for more information.</small></p> <p><small>(add pages if needed)</small></p>			
<p><small>GAO questionnaire on project delivery provisions</small> <span style="float: right;"><small>6</small></span></p>			

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	A. Is your agency aware of this provision? <small>(Mark only one box)</small>	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? <small>(Mark only one box)</small>	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? <small>(Mark only one box)</small>
<p>The following Categorical Exclusions were created by regulation, as a result of requirements from MAP-21, Sec. 1318.</p>			
<p><b>5. Categorical Exclusion for Geotechnical and Archeological Investigations</b>                      For highway projects, designates a categorical exclusion for geotechnical and archeological investigations to provide information for preliminary design.   <i>MAP-21, Sec. 1318(a)-(c) [PDF p.550]</i>  <i>23 CFR Part 771.117(c)(24) [PDF p.2]</i></p>	Yes <b>46</b> ➡  No <b>6</b> ↓ <i>(Go to next provision)</i>	Frequently <b>3</b> Sometimes <b>5</b> ➡ Rarely <b>11</b>  Not at all, but plan to use <b>7</b> Not at all, and no plans to use <b>19</b> ↓ <i>(Go to next provision)</i>	Sped up greatly <b>2</b> Sped up somewhat <b>4</b> No effect <b>10</b> Slowed down somewhat <b>2</b> Slowed down greatly <b>0</b> Too soon to judge <b>2</b>
(Optional) Comments on your answers:			
<p><b>6. Categorical Exclusion for Environmental Restoration</b>                      For highway projects, designates environmental restoration and pollution abatement actions to minimize or mitigate the impact of any existing transportation facility.   <i>MAP-21, Sec. 1318(a)-(c) [PDF p.550]</i>  <i>23 CFR Part 771.117(c)(25) [PDF p.3]</i></p>	Yes <b>46</b> ➡  No <b>6</b> ↓ <i>(Go to next provision) (Go to next provision)</i>	Frequently <b>2</b> Sometimes <b>3</b> ➡ Rarely <b>14</b>  Not at all, but plan to use <b>9</b> Not at all, and no plans to use <b>18</b> ↓ <i>(Go to next provision)</i>	Sped up greatly <b>3</b> Sped up somewhat <b>3</b> No effect <b>11</b> Slowed down somewhat <b>0</b> Slowed down greatly <b>0</b> Too soon to judge <b>4</b>
(Optional) Comments on your answers:			
GAO questionnaire on project delivery provisions <span style="float: right;">7</span>			

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Appendix IV: Highway Questionnaire and Summarized Responses

	A. Is your agency aware of this provision? <small>(Mark only one box)</small>	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? <small>(Mark only one box)</small>	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? <small>(Mark only one box)</small>
<p><b>7. Categorical Exclusion for Highway Modernization</b> For highway projects, designates resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes as a categorical exclusion.</p> <p><i>MAP-21 Sec. 1318(e)(1) [PDF p.550] 23 CFR Part 771.117(e)(26) [PDF p.3]</i></p> <p>(Optional) Comments on your answers:</p>	<p>Yes <b>52</b> →</p> <p>No <b>0</b> ↓ <i>(Go to next provision)</i></p>	<p>Frequently <b>31</b> Sometimes <b>13</b> → Rarely <b>2</b></p> <p>Not at all, but plan to use <b>1</b> Not at all, and no plans to use <b>4</b> ↓ <i>(Go to next provision)</i></p>	<p>Sped up greatly <b>13</b> Sped up somewhat <b>17</b> No effect <b>15</b> Slowed down somewhat <b>2</b> Slowed down greatly <b>0</b> Too soon to judge <b>0</b></p>
<p><b>8. Categorical Exclusion for Highway Safety and Operational Improvement</b> For highway projects, designates highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, as a categorical exclusion.</p> <p><i>MAP-21 Sec. 1318(e)(2) [PDF p.551] 23 CFR Part 771.117(e)(27) [PDF p.3]</i></p> <p>(Optional) Comments on your answers:</p>	<p>Yes <b>52</b> →</p> <p>No <b>0</b> ↓ <i>(Go to next provision)</i></p>	<p>Frequently <b>22</b> Sometimes <b>18</b> → Rarely <b>7</b></p> <p>Not at all, but plan to use <b>1</b> Not at all, and no plans to use <b>4</b> ↓ <i>(Go to next provision)</i></p>	<p>Sped up greatly <b>11</b> Sped up somewhat <b>15</b> No effect <b>20</b> Slowed down somewhat <b>1</b> Slowed down greatly <b>0</b> Too soon to judge <b>0</b></p>

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Appendix IV: Highway Questionnaire and Summarized Responses

	A. Is your agency aware of this provision? <small>(Mark only one box)</small>	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? <small>(Mark only one box)</small>	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? <small>(Mark only one box)</small>
<p><b>9. Categorical Exclusion for Bridge Projects at Railway-Highway Crossings</b> For highway projects, designates bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings, as a categorical exclusion.</p> <p><i>MAP-21 Sec. 1318(c)(3) [PDF p.55] 23 CFR Part 771.117(c)(29) [PDF p.3]</i></p> <p>(Optional) Comments on your answers.</p>	<p>Yes <b>50</b> →</p> <p>No <b>2</b> ↓ <i>(Go to next provision)</i></p>	<p>Frequently <b>14</b> Sometimes <b>19</b> → Rarely <b>7</b></p> <p>Not at all, but plan to use <b>4</b> Not at all, and no plans to use <b>5</b> ↓ <i>(Go to next provision)</i></p>	<p>Sped up greatly <b>8</b> Sped up somewhat <b>11</b> No effect <b>18</b> Slowed down somewhat <b>2</b> Slowed down greatly <b>0</b> Too soon to judge <b>1</b></p>
<p><b>10. Categorical Exclusion for Ferry Vessels</b> For FHWA-funded ferry projects, designates the purchase, construction, replacement, or rehabilitation of ferry vessels that would not require a change in the function of the ferry terminals as a categorical exclusion.</p> <p><i>MAP-21 Sec. 1318(a)-(c) [PDF p.55] 23 CFR Part 771.117(c)(29) [PDF p.3]</i></p> <p>(Optional) Comments on your answers.</p>	<p>Yes <b>42</b> →</p> <p>No <b>7</b> ↓ <i>(Go to next provision)</i></p>	<p>Frequently <b>2</b> Sometimes <b>2</b> → Rarely <b>11</b></p> <p>Not at all, but plan to use <b>8</b> Not at all, and no plans to use <b>19</b> ↓ <i>(Go to next provision)</i></p>	<p>Sped up greatly <b>3</b> Sped up somewhat <b>2</b> No effect <b>8</b> Slowed down somewhat <b>0</b> Slowed down greatly <b>0</b> Too soon to judge <b>2</b></p>

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	A. Is your agency aware of this provision? <small>(Mark only one box)</small>	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? <small>(Mark only one box)</small>	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? <small>(Mark only one box)</small>
<p><b>11. Categorical Exclusion for Ferry Facilities</b>                      For FHWA-funded ferry terminal projects, designates the rehabilitation or reconstruction of existing ferry facilities as a categorical exclusion.</p> <p>MAP-21 Sec. 1318(a)-(c) [PDF p.550]                      23 CFR Part 771.117(c)(30) [PDF p.9]</p>	<p>Yes <b>45</b> ➡</p> <p>No <b>6</b>                      ↓  <i>(Go to next provision)</i></p>	<p>Frequently <b>2</b></p> <p>Sometimes <b>3</b> ➡</p> <p>Rarely <b>13</b></p> <p>Not at all, but plan to use <b>7</b></p> <p>Not at all, and no plans to use <b>20</b>                      ↓  <i>(Go to next provision)</i></p>	<p>Sped up greatly <b>3</b></p> <p>Sped up somewhat <b>4</b></p> <p>No effect <b>9</b></p> <p>Slowed down somewhat <b>0</b></p> <p>Slowed down greatly <b>0</b></p> <p>Too soon to judge <b>3</b></p>
(Optional) Comments on your answers:			
<p><b>Do you have any comments or anything further to add on the Categorical Exclusion provisions created by regulation?</b>                      (add pages if needed)</p>			
<p style="font-size: small;">GAO questionnaire on project delivery provisions <span style="float: right;">10</span></p>			

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Appendix IV: Highway Questionnaire and Summarized Responses

	A. Is your agency aware of this provision? <small>(Mark only one box)</small>	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? <small>(Mark only one box)</small>	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? <small>(Mark only one box)</small>
<b>4(f) "de minimis impact"</b>			
<b>12. Minor Impacts to Protected Public Land</b> Authorizes a historic site, park land, or refuge to be used for a transportation program or project if it is determined that "de minimis impact" would result.  <i>SAFETEA-LU: Sec. 6009 [PDF p. 732]</i>  (Optional) Comments on your answers	Yes <b>62</b> →  No <b>0</b> ↓ <i>(Go to next provision)</i>	Frequently <b>31</b> Sometimes <b>16</b> → Rarely <b>3</b>  Not at all, but plan to use <b>2</b> Not at all, and no plans to use <b>0</b> ↓ <i>(Go to next provision)</i>	Sped up greatly <b>33</b> Sped up somewhat <b>13</b> No effect <b>2</b> Slowed down somewhat <b>1</b> Slowed down greatly <b>0</b> Too soon to judge <b>0</b>
<b>Administrative Changes</b>			
<b>13. Planning Products for Use in NEPA Review</b> Authorizes the lead agency for a project to use planning products, such as planning decisions, analysis, or studies, in the environmental review process of the project.  <i>MAP-21: Sec. 1310 [PDF p. 540]</i> <i>FAST Act: Sec. 1305 [PDF p. 1386]</i>  (Optional) Comments on your answers	Yes <b>60</b> →  No <b>2</b> ↓ <i>(Go to next provision)</i>	Frequently <b>4</b> Sometimes <b>21</b> → Rarely <b>14</b>  Not at all, but plan to use <b>8</b> Not at all, and no plans to use <b>2</b> ↓ <i>(Go to next provision)</i>	Sped up greatly <b>6</b> Sped up somewhat <b>18</b> No effect <b>7</b> Slowed down somewhat <b>1</b> Slowed down greatly <b>1</b> Too soon to judge <b>6</b>

GAO questionnaire on project delivery provisions

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	A. Is your agency aware of this provision? <small>(Mark only one box)</small>	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? <small>(Mark only one box)</small>	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? <small>(Mark only one box)</small>
<p><b>14. Combine Final Environmental Impact Statement and Record of Decision in Certain Cases</b> Allows the lead agency of a project, in order to expedite decisions, to use an errata sheet attached to a final EIS, instead of rewriting it, if the comments are minor. Also, to the maximum extent practicable, combines the final EIS and record of decision in certain cases.  <i>FAST Act: Sec. 1311 &amp; 1304(j) (PDF p. 1398 &amp; 1365)</i></p> <p>(Optional) Comments on your answers:</p>	<p>Yes <b>50</b> ➔</p> <p>No <b>2</b> ↓ <i>(Go to next provision)</i></p>	<p>Frequently <b>4</b> Sometimes <b>5</b> ➔ Rarely <b>12</b> }</p> <p>Not at all, but plan to use <b>22</b> Not at all, and no plans to use <b>7</b> ↓ <i>(Go to next provision)</i></p>	<p>Sped up greatly <b>4</b> Sped up somewhat <b>12</b> No effect <b>0</b> Slowed down somewhat <b>0</b> Slowed down greatly <b>0</b> Too soon to judge <b>8</b></p>
<p><b>15. Environmental Documents for Use Among DOT Administrations on Similar Projects</b> Authorizes the operating administrations of DOT to adopt a draft EIS, EA, or final EIS of another operating administration without recirculating the document for public review if the proposed action is substantially the same as the project considered in the document to be adopted.  <i>FAST Act: Sec. 1311 (PDF p. 1398)</i></p> <p>(Optional) Comments on your answers:</p>	<p>Yes <b>43</b> ➔</p> <p>No <b>9</b> ↓ <i>(Go to next provision)</i></p>	<p>Frequently <b>0</b> Sometimes <b>3</b> ➔ Rarely <b>11</b> }</p> <p>Not at all, but plan to use <b>15</b> Not at all, and no plans to use <b>14</b> ↓ <i>(Go to next provision)</i></p>	<p>Sped up greatly <b>3</b> Sped up somewhat <b>6</b> No effect <b>5</b> Slowed down somewhat <b>0</b> Slowed down greatly <b>0</b> Too soon to judge <b>1</b></p>

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	A. Is your agency aware of this provision? <small>(Mark only one box)</small>	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? <small>(Mark only one box)</small>	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? <small>(Mark only one box)</small>
<p><b>16. Reduce Duplicate Consideration of Alternatives</b>                      Authorizes the lead agency to reduce duplication, by eliminating from detailed consideration an alternative proposed in an EIS if the alternative was already proposed in a planning process or state environmental review process.   <i>FAST Act, Sec. 1304(f)(2)(C) [PDF p.1362]</i></p>	Yes <b>46</b> →  No <b>5</b> ↓ <i>(Go to next provision)</i>	Frequently <b>0</b> Sometimes <b>6</b> → Rarely <b>15</b>  Not at all, but plan to use <b>17</b> Not at all, and no plans to use <b>8</b> ↓ <i>(Go to next provision)</i>	Sped up greatly <b>1</b> Sped up somewhat <b>11</b> No effect <b>2</b> Slowed down somewhat <b>0</b> Slowed down greatly <b>0</b> Too soon to judge <b>8</b>
(Optional) Comments on your answers			
<p><b>Do you have any comments or anything further to add on the administrative changes provisions?</b>                      (add pages if needed)</p>			
<p style="text-align: left;"><small>GAO questionnaire on project delivery provisions</small></p> <p style="text-align: right;"><small>13</small></p>			

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	A. Is your agency aware of this provision? <small>(Mark only one box)</small>	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all Highway projects? <small>(Mark only one box)</small>	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? <small>(Mark only one box)</small>
<b>Coordination/Collaboration</b>			
<b>17. Offering Financial Assistance to Stakeholder Agencies</b> Allows a state to use its federal highway funds to support a federal or state agency or Indian tribe participating in the environmental review process on activities that directly contribute to expediting and improving project planning and delivery.  <i>SAFETEA-LU, Sec. 6002(a) [PDF p 715]</i> <i>MAP-21, Sec. 1307 [PDF p 539]</i> <i>FAST Act, Sec. 1304(i) &amp; 1312 [PDF p 1384 &amp; 1399]</i>	Yes <b>48</b> →  No <b>4</b> ↓ <i>(Go to next provision)</i>	Frequently <b>16</b> Sometimes <b>7</b> → Rarely <b>9</b>  Not at all, but plan to use <b>6</b> Not at all, and no plans to use <b>9</b> ↓ <i>(Go to next provision)</i>	Sped up greatly <b>13</b> Sped up somewhat <b>10</b> No effect <b>5</b> Slowed down somewhat <b>0</b> Slowed down greatly <b>1</b> Too soon to judge <b>4</b>
(Optional) Comments on your answers:			
<b>18. Early Coordination Activities in Environmental Review Process</b> Encourages early cooperation between DOT and other agencies, including States or local planning agencies, in the environmental review process to avoid delay and duplication, and suggests early coordination activities. Early coordination includes establishment of MOUs with States or local planning agencies.  <i>MAP-21, Sec. 1320 [PDF p 551]</i>	Yes <b>52</b> →  No <b>0</b> ↓ <i>(Go to next provision)</i>	Frequently <b>20</b> Sometimes <b>16</b> → Rarely <b>7</b>  Not at all, but plan to use <b>6</b> Not at all, and no plans to use <b>2</b> ↓ <i>(Go to next provision)</i>	Sped up greatly <b>10</b> Sped up somewhat <b>17</b> No effect <b>12</b> Slowed down somewhat <b>0</b> Slowed down greatly <b>0</b> Too soon to judge <b>3</b>
(Optional) Comments on your answers:			
<small>GAO questionnaire on project delivery provisions</small>			
<small>14</small>			

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Appendix IV: Highway Questionnaire and Summarized Responses

<p><b>A. Is your agency aware of this provision?</b> <small>(Mark only one box)</small></p>	<p><b>B. If yes to 'A,' how often in the past five years has your agency used this provision across all highway projects?</b> <small>(Mark only one box)</small></p>	<p><b>C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency?</b> <small>(Mark only one box)</small></p>
<p><b>Do you have any comments or anything further to add on the coordination/collaboration provisions?</b> <small>(add pages if needed)</small></p>		
<p>GAO questionnaire on project delivery provisions</p>		

**Part IIB.**

In Part IIB of the questionnaire, for each provision listed, GAO has paraphrased a provision title and description, and included citations for the statute(s) that created/amended it. We included internet hyperlinks to U.S. Government Publishing Office websites, for reference to citations if needed. (You must be connected to the Internet to use this feature.)

- For each provision, please respond to questions 'A' and 'C,' which are the same questions from Part IIA. We excluded question 'B' from this section.

		A. Is your agency aware of this provision? (Mark only one box)	C. In what way has this provision affected the speed of project delivery at your agency? (Mark only one box)
<b>Required Provisions</b> (Note: Please provide a response for questions 'A' and 'C.' Question 'B' is not included as the required provisions apply to all projects since their enactment.)			
<b>19. 150-Day Statute of Limitations</b> Bars claims seeking judicial review of a permit, license, or approval issued by a federal agency for highway projects unless they are filed within 150 days after publication of a notice in the <i>Federal Register</i> announcing the final agency action, or unless a shorter time is specified in the federal law under which the judicial review is allowed.  <i>SAFETEA-LU, Sec. 6002 [PDF p 723]</i> <i>MAP-21, Sec. 1308 [PDF p 539]</i>	Yes <b>46</b> ➔  No <b>6</b> ↓ (Go to next provision)		Sped up greatly <b>2</b> Sped up somewhat <b>16</b> No effect <b>14</b> Slowed down somewhat <b>0</b> Slowed down greatly <b>0</b> Too soon to judge <b>13</b>
(Optional) Comments on your answers:			

Appendix IV: Highway Questionnaire and Summarized Responses

	A. Is your agency aware of this provision? <small>(Mark only one box)</small>	C. In what way has this provision affected the speed of project delivery at your agency? <small>(Mark only one box)</small>
<p><b>20. Programmatic Mitigation Plans for Use in NEPA Review</b> Requires that any federal agency responsible for environmental review to give substantial weight to a state or metropolitan programmatic mitigation plan, if one had been developed as part of the transportation planning process, when carrying out responsibilities under NEPA or other environmental law.</p> <p><i>MAP-21, Sec. 1311 [PDF p 543]</i> <i>FAST Act, Sec. 1306 [PDF p 1306]</i></p> <p>(Optional) Comments on your answers</p>	<p>Yes <b>41</b> ➡</p> <p>No <b>11</b> ↓ <i>(Go to next provision)</i></p>	<p>Sped up greatly <b>3</b></p> <p>Sped up somewhat <b>3</b></p> <p>No effect <b>17</b></p> <p>Slowed down somewhat <b>0</b></p> <p>Slowed down greatly <b>0</b></p> <p>Too soon to judge <b>15</b></p>
<p><b>21. 45-Day Limit to Identify Resource Agencies</b> Establishes a 45-day limit after the notice of intent date for a lead agency to identify other agencies to participate in the environmental review process on EIS projects.</p> <p><i>FAST Act, Sec. 1304(d)(1) [PDF p 1379]</i></p> <p>(Optional) Comments on your answers</p>	<p>Yes <b>45</b> ➡</p> <p>No <b>7</b> ↓ <i>(Go to next provision)</i></p>	<p>Sped up greatly <b>1</b></p> <p>Sped up somewhat <b>3</b></p> <p>No effect <b>20</b></p> <p>Slowed down somewhat <b>1</b></p> <p>Slowed down greatly <b>0</b></p> <p>Too soon to judge <b>19</b></p>

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	A. Is your agency aware of this provision? <small>(Mark only one box)</small>	C. In what way has this provision affected the speed of project delivery at your agency? <small>(Mark only one box)</small>
<p><b>22. Single NEPA Document</b> Requires to the maximum extent practicable and consistent with federal law, for the EIS project lead agency to develop a single NEPA document to satisfy the requirements for federal approval or other federal action, including permits</p> <p><i>FAST Act: Sec. 1304(d)(2) [PDF p.1390]</i></p> <p>(Optional) Comments on your answers:</p>	<p>Yes <b>47</b> ➔</p> <p>No <b>4</b> ↓ <i>(Go to next provision)</i></p>	<p>Sped up greatly <b>4</b></p> <p>Sped up somewhat <b>7</b></p> <p>No effect <b>12</b></p> <p>Slowed down somewhat <b>3</b></p> <p>Slowed down greatly <b>0</b></p> <p>Too soon to judge <b>19</b></p>
<p><b>23. Initiation of Environmental Review Process</b> Creates several requirements at the start of an EIS project's environmental review process, such as 1) establishing a 45 day deadline for DOT to provide a written response to the project sponsor on initiation of the environmental review process; 2) establishing a 45 day deadline for DOT to respond to a request for designation of a lead agency; and 3) requiring the development of a checklist by the lead agency, as appropriate, to help identify natural, cultural, and historic resources, to identify cooperating and participating agencies and improve interagency collaboration.</p> <p><i>FAST Act: Sec. 1304(e) [PDF p.1390]</i></p> <p>(Optional) Comments on your answers:</p>	<p>Yes <b>48</b> ➔</p> <p>No <b>4</b> ↓ <i>(Go to next provision)</i></p>	<p>Sped up greatly <b>2</b></p> <p>Sped up somewhat <b>4</b></p> <p>No effect <b>18</b></p> <p>Slowed down somewhat <b>3</b></p> <p>Slowed down greatly <b>0</b></p> <p>Too soon to judge <b>20</b></p>

Appendix IV: Highway Questionnaire and Summarized Responses

	A. Is your agency aware of this provision? <small>(Mark only one box)</small>	C. In what way has this provision affected the speed of project delivery at your agency? <small>(Mark only one box)</small>
<p><b>24. Issue Resolution Process</b> Establishes procedures to resolve issues between state DOTs and relevant resource agencies.   <i>SAFETEA-LU: Sec. 6002(a) [PDF p.715]</i>  <i>MAP-21: Sec. 1306 [PDF p.535]</i></p> <p>(Optional) Comments on your answers.</p>	<p>Yes <b>47</b> ➡</p> <p>No <b>4</b> ↓ <i>(Go to next provision)</i></p>	<p>Sped up greatly <b>1</b></p> <p>Sped up somewhat <b>3</b></p> <p>No effect <b>26</b></p> <p>Slowed down somewhat <b>0</b></p> <p>Slowed down greatly <b>0</b></p> <p>Too soon to judge <b>14</b></p>
<p><b>25. Accelerating Environmental Review of Complex Projects</b> At the request of a project sponsor or a Governor of the State in which the project is located, requires DOT to provide additional technical assistance for a project where EIS review has taken 2 years, and establish a schedule for review completion within 4 years.   <i>MAP-21: Sec. 1309 [PDF p.539]</i></p> <p>(Optional) Comments on your answers.</p>	<p>Yes <b>47</b> ➡</p> <p>No <b>5</b> ↓ <i>(Go to next provision)</i></p>	<p>Sped up greatly <b>1</b></p> <p>Sped up somewhat <b>4</b></p> <p>No effect <b>19</b></p> <p>Slowed down somewhat <b>0</b></p> <p>Slowed down greatly <b>0</b></p> <p>Too soon to judge <b>20</b></p>

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Appendix IV: Highway Questionnaire and Summarized Responses

	A. Is your agency aware of this provision? <small>(Mark only one box)</small>	C. In what way has this provision affected the speed of project delivery at your agency? <small>(Mark only one box)</small>
<p><b>26. Programmatic Agreements for Efficient Environmental Review</b> Requires DOT to seek opportunities with states to enter into programmatic agreements to carry out environmental and other project reviews.  <i>MAP-21, Sec. 1318(d) [PDF p 551]</i></p> <p>(Optional) Comments on your answers.</p>	<p>Yes <b>52</b> ➡</p> <p>No <b>0</b> ↓ <i>(Go to next provision)</i></p>	<p>Sped up greatly <b>24</b></p> <p>Sped up somewhat <b>16</b></p> <p>No effect <b>11</b></p> <p>Slowed down somewhat <b>0</b></p> <p>Slowed down greatly <b>0</b></p> <p>Too soon to judge <b>1</b></p>
<p><b>27. Stakeholder Agency Comments in Area of Expertise</b> Limits the comments of participating agencies to subject matter areas within the special expertise or jurisdiction of the agency.  <i>FAST Act, Sec. 1304(f)(2)(A) [PDF p.1381]</i></p> <p>(Optional) Comments on your answers.</p>	<p>Yes <b>45</b> ➡</p> <p>No <b>7</b> ↓ <i>(Go to next provision)</i></p>	<p>Sped up greatly <b>1</b></p> <p>Sped up somewhat <b>9</b></p> <p>No effect <b>17</b></p> <p>Slowed down somewhat <b>0</b></p> <p>Slowed down greatly <b>0</b></p> <p>Too soon to judge <b>14</b></p>

	A. Is your agency aware of this provision? <small>(Mark only one box)</small>	C. In what way has this provision affected the speed of project delivery at your agency? <small>(Mark only one box)</small>
<p><b>28. Coordination Plan for Public and Agency Participation</b> Requires a coordination plan for public and agency participation in the environmental review process within 90 days of notice of intent or the initiation of an Environmental Assessment, including a schedule for completion of the environmental review process for the project.</p> <p><i>FAST Act, Sec. 1304(g)(1) [PDF p. 1383]</i></p> <p>(Optional) Comments on your answers.</p>	<p>Yes <b>45</b> ➡</p> <p>No <b>7</b> ↓ <i>(Go to next provision)</i></p>	<p>Sped up greatly <b>1</b></p> <p>Sped up somewhat <b>6</b></p> <p>No effect <b>16</b></p> <p>Slowed down somewhat <b>7</b></p> <p>Slowed down greatly <b>1</b></p> <p>Too soon to judge <b>13</b></p>
<p><b>29. Resolved Issues are Not Reconsidered Without Significant New Information</b> Issues that are resolved by the lead agency with concurrence from stakeholder cannot be reconsidered unless there is significant new information or circumstances arise.</p> <p><i>FAST Act, Sec. 1304(h)(1) [PDF p. 1383]</i></p> <p>(Optional) Comments on your answers.</p>	<p>Yes <b>46</b> ➡</p> <p>No <b>6</b> ↓ <i>(Go to next provision)</i></p>	<p>Sped up greatly <b>2</b></p> <p>Sped up somewhat <b>8</b></p> <p>No effect <b>12</b></p> <p>Slowed down somewhat <b>1</b></p> <p>Slowed down greatly <b>0</b></p> <p>Too soon to judge <b>21</b></p>
<p><b>Do you have any comments or anything further to add on the required provisions?</b> <small>(add pages if needed)</small></p>		

Thank you. You have completed the Highway Project Delivery Questionnaire.

**Internet Hyperlinks**

We provided the following Internet hyperlinks for reference to citations, if needed. You must be connected to the Internet to use this feature. If the hyperlink does not work, please copy and paste the following URLs into your Internet browser.

U.S. Government Publishing Office websites

SAFETEA-LU <https://www.gpo.gov/fdsys/pkg/PLAW-109pub59/pdf/PLAW-109pub59.pdf>

MAP-21 <https://www.gpo.gov/fdsys/pkg/PLAW-112pub141/pdf/PLAW-112pub141.pdf>

FAST Act <https://www.gpo.gov/fdsys/pkg/PLAW-114pub194/pdf/PLAW-114pub194.pdf>

23 CFR 771.117 FHWA Categorical Exclusions <https://www.gpo.gov/fdsys/pkg/CFR-2016-title23-vol1/pdf/CFR-2016-title23-vol1-sec771-117.pdf>

## Appendix V: Transit Agency Provisions Checklist and Responses Regarding Awareness and Use

Category	Provision number	Description	Are you aware of this project delivery provision? (Y or N)	Have you used this project delivery provision? (Y or N)
CE	1	Authorizes the lead agency of a multimodal project to apply categorical exclusions from the NEPA implementing regulations or procedures of a cooperating DOT operating administration.	9	1
CE	2	Designates the repair or reconstruction of any road, highway, or bridge that was damaged by an emergency as a categorical exclusion, subject to certain conditions.	9	1
CE	3	Designates a project within an operational right-of-way as a categorical exclusion, subject to certain conditions.	11	5
CE	4	Authorizes the designation of a categorical exclusion for projects receiving less than \$5 million in federal funds, or less than 15 percent federal funds for a project under \$30 million, subject to an annual inflation adjustment.	8	0
CE	5	For transit projects, designates bridge removal and bridge removal related activities, such as in-channel work, disposal of materials and debris as a categorical exclusion.	9	0
CE	6	For transit projects, designates preventative maintenance, including safety treatments, to culverts and channels within and adjacent to transportation right-of-way as a categorical exclusion.	8	2
CE	7	For transit projects, designates geotechnical and archeological investigations to provide information for preliminary design, environmental analyses, and permitting purposes as a categorical exclusion.	9	5
CE	8	For transit projects, designates minor transportation facility realignment for rail safety reasons, such as improving vertical and horizontal alignment of railroad crossings, as a categorical exclusion.	11	3
CE	9	For transit projects, designates modernization or minor expansions of transit structures and facilities outside existing right-of-way, such as bridges, stations, or rail yards, as a categorical exclusion.	10	1
Parkland exclusion	10	Authorizes a historic site, park land, or refuge to be used for a transportation program or project if it is determined that "de minimis impact" would result.	9	7
Admin changes	11	Bars claims seeking judicial review of a permit, license, or approval issued by a federal agency for projects unless they are filed within 150 days after publication of a notice in the <i>Federal Register</i> announcing the final agency action, unless a shorter time is specified in the federal law under which the judicial review is allowed.	9	4

Appendix V: Transit Agency Provisions  
Checklist and Responses Regarding  
Awareness and Use

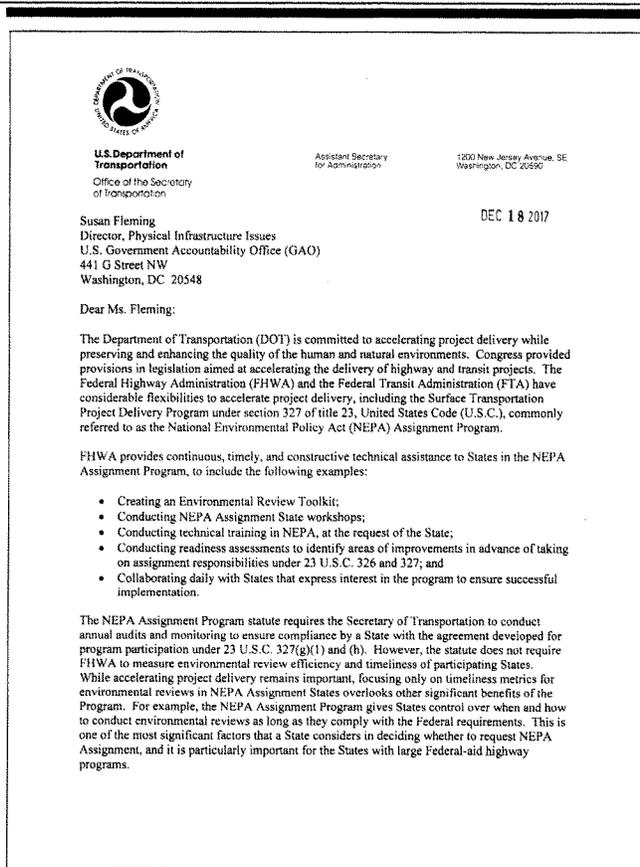
Category	Provision number	Description	Are you aware of this project delivery provision? (Y or N)	Have you used this project delivery provision? (Y or N)
Admin changes	12	Authorizes the lead agency for a project to use planning products, such as planning decisions, analysis, or studies, in the environmental review process of the project.	10	6
Admin changes	13	Requires that any federal agency responsible for environmental review to give substantial weight to a state or metropolitan programmatic mitigation plan, if one had been developed as part of the transportation planning process, when carrying out responsibilities under NEPA or other environmental law.	8	0
Admin changes	14	Allows the lead agency of a project, in order to expedite decisions, to use an errata sheet attached to a final EIS, instead of rewriting it, if the comments are minor. Also, to the maximum extent practicable, combines the final EIS and record of decision in certain cases.	10	3
Admin changes	15	Authorizes the operating administrations of DOT to adopt a draft EIS, EA, or final EIS of another operating administration without recirculating the document for public review if the proposed action is substantially the same as the project considered in the document to be adopted.	7	2
Admin changes	16	Establishes a 45-day limit after the notice of intent date for a lead agency to identify other agencies to participate in the environmental review process on EIS projects.	9	1
Admin changes	17	To the maximum extent practicable and consistent with federal law, requires lead agencies to develop a single NEPA document to satisfy the requirements for federal approval or other federal action, including permits.	10	2
Admin changes	18	Creates several requirements at the start of a project's Section 139 environmental review process, such as 1) establishing a 45-day deadline for DOT to provide a written response to the project sponsor on initiation of the environmental review process; 2) establishing a 45-day deadline for DOT to respond to a request for designation of a lead agency, and 3) requiring the development of a checklist by the lead agency to help identify natural, cultural, and historic resources, to identify agencies and improve interagency collaboration.	8	0
Admin changes	19	Authorizes the lead agency to reduce duplication, by eliminating from detailed consideration an alternative proposed in an EIS if the alternative was already proposed in a planning process or state environmental review process, subject to certain conditions.	9	2
Coordination	20	Allows a state to use its federal funds to support a federal or state agency or Indian tribe participating in the environmental review process on activities that directly contribute to expediting and improving project planning and delivery.	8	1

**Appendix V: Transit Agency Provisions  
Checklist and Responses Regarding  
Awareness and Use**

Category	Provision number	Description	Are you aware of this project delivery provision? (Y or N)	Have you used this project delivery provision? (Y or N)
Coordination	21	Establishes procedures to resolve issues between project sponsors and relevant resource agencies.	8	0
Coordination	22	At the request of a project sponsor or a governor of the state in which the project is located, requires DOT to provide additional technical assistance for a project where EIS review has taken 2 years, and establish a schedule for review completion within 4 years.	5	0
Coordination	23	Requires DOT to seek opportunities with states to enter into programmatic agreements to carry out environmental and other project reviews.	7	1
Coordination	24	Encourages early cooperation between DOT and other agencies, including states or local planning agencies, in the environmental review process to avoid delay and duplication, and suggests early coordination activities. Early coordination includes establishment of MOUs with states or local planning agencies.	9	5
Coordination	25	Limits the comments of participating agencies to subject matter areas within the special expertise or jurisdiction of the agency.	8	3
Coordination	26	Requires a coordination plan for public and agency participation in the Section 139 environmental review process within 90 days of a Notice of Intent or the initiation of an Environmental Assessment, including a schedule.	9	3
Coordination	27	Issues that are resolved by the lead agency with concurrence from stakeholders cannot be reconsidered unless there is significant new information or circumstances arise.	4	0
Project Delivery	28	Permits states or local transportation agencies to release requests for proposals and award design-build contracts prior to the completion of the NEPA process; however, it precludes a contractor from proceeding with final design or construction before completion of the NEPA process.	10	6
Project Delivery	29	Authorizes states to acquire real property interests for a project before completion of the NEPA process.	10	2
Project Delivery	30	Authorizes the awarding of contracts for the preconstruction services and preliminary design of a project using a competitive selection process before the completion of the NEPA process.	7	0

Source: GAO analysis | GAO-18-222

## Appendix VI: Comments from the Department of Transportation



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**Appendix VI: Comments from the Department  
of Transportation**

Given these circumstances, we can only partially concur with GAO's recommendation to offer and provide guidance or technical assistance to NEPA assignment States on developing evaluation methodologies, including baseline time frames and timeliness measures.

Building upon existing guidance, we will clarify environmental review start times and communicate this to all FHWA Divisions and States. NEPA Assignment States may choose to use this guidance at their discretion. Additionally, we will provide the NEPA Assignment States with any Federal Government-wide guidance developed on this area as a result of Executive Order 13807 and other initiatives involving performance measures of environmental reviews. It is our practice to affirmatively notify NEPA Assignment States of any new guidance related to the environmental review of projects. We will provide a detailed response to the recommendation within 60 days of the final report's issuance.

We appreciate the opportunity to respond to the GAO draft report. Please contact Madeline M. Chulunovich, Director, Audit Relations and Program Improvement, at (202) 366-6512 with any questions.

Sincerely,



Keith Nelson  
Assistant Secretary for Administration

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## Appendix VII: GAO Contact and Staff Acknowledgments

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### GAO Contact

Susan Fleming, (202) 512-2834 or [flemings@gao.gov](mailto:flemings@gao.gov)

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### Staff Acknowledgments

In addition to the contact named above, Steve Cohen (Assistant Director); Brian Chung (Analyst-in-Charge); Rich Johnson; Delwen Jones; Hannah Laufe; Ethan Levy; Ned Malone; Josh Ormond; Tina Paek; Cheryl Peterson; and Joe Thompson made significant contributions to this report.

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<b>To Report Fraud, Waste, and Abuse in Federal Programs</b>	Contact: Website: <a href="http://www.gao.gov/fraudnet/fraudnet.htm">http://www.gao.gov/fraudnet/fraudnet.htm</a> E-mail: <a href="mailto:fraudnet@gao.gov">fraudnet@gao.gov</a> Automated answering system: (800) 424-5454 or (202) 512-7470
<b>Congressional Relations</b>	Orice Williams Brown, Managing Director, <a href="mailto:WilliamsO@gao.gov">WilliamsO@gao.gov</a> , (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548
<b>Public Affairs</b>	Chuck Young, Managing Director, <a href="mailto:youngc1@gao.gov">youngc1@gao.gov</a> , (202) 512-4800, U.S. Government Accountability Office, 441 G Street NW, Room 7149, Washington, DC 20548
<b>Strategic Planning and External Liaison</b>	James-Christian Blockwood, Managing Director, <a href="mailto:spel@gao.gov">spel@gao.gov</a> , (202) 512-4707, U.S. Government Accountability Office, 441 G Street NW, Room 7814, Washington, DC 20548



Please Print on Recycled Paper.

Senator CARPER. Thank you, sir.

A couple of short questions, and I would invite a short answer OK?

Ms. NASON. Yes.

Senator CARPER. Do you believe that a Federal-State partnership is a critical cornerstone of the Federal Aid Highway Program, and can you commit to continuing and even strengthening that cooperation between FHWA and its State, local and tribal partners?

Ms. NASON. I agree it is a critical partnership.

Senator CARPER. Thank you. Here is another hard one. In 2017, the most recent year for which data are available, nearly 7,000 non-motorized users were killed. What will you do as FHWA to begin dramatically lowering these unacceptable numbers?

Ms. NASON. Yes, Senator. I think I may not be as quick, but I do think there are plenty of places where FHWA—

Senator CARPER. It was a couple of weeks.

Ms. NASON. From when we talked about pedestrian and cyclist safety. But most important in my testimony, having served at the department, I know how important it is for modal administrators to work together and to share information and data. I think FHWA, when focusing on safety, needs to work hand in glove with NHTSA, with Federal Motor Carriers, with even rail partners, to make sure that we are addressing the problems and we are providing good information for solutions for our State and local and tribal government partners.

Senator CARPER. A related question. A highway network is a crucial means of travel, as we know. However, it is also just one component of a much larger, more complex transportation system. What are your plans, what would be your plans to modernize our highway system in a way that seamlessly integrates into modes such as transit, such as rail, aviation, water and active transportation?

Ms. NASON. I think having that multi-modal conversation is going to be essential. I trust that this is something this committee will be talking about as we move forward on legislation.

One thing we have found at the State Department that is quite effective is traveling together. So rather than having a visit from diplomatic security and then a visit from the Administration and then a visit from Budget, we go together and we talk about problems together. We break off into different rooms, maybe, but then we come back together to have a more comprehensive conversation with all of our partners. That may be something that we could explore, I think, at DOT.

Senator CARPER. There is an African proverb that goes something like this, if you want to go fast, go alone. If you want to go far, travel together.

Will you support new technologies that can help to improve multi-modal connectivity?

Ms. NASON. Yes.

Senator CARPER. And here is not an easy question. This is a hard one. It is a hard one for all of us.

The 800-pound gorilla in the room on Surface Transportation has been and remains how we are going to pay for this stuff. And I am not going to put you on the spot and say, how would you pay for

it. But I would like to ask you to, just to give us a couple of ideas of things that you are aware of, I will just give you an example, vehicle miles traveled. We have a number of States that are involved in a pilot program that stretches from ocean to ocean. And we hope to learn a lot from that and to maybe be able to move in that direction later in the next decade.

But give us a couple of ideas that you think we should consider as we try to figure out how to address this large and growing shortfall in funding surface transportation.

Ms. NASON. I think most importantly, Senator, as Secretary Chao has said, all options are on the table right now for the Administration. I know some States are participating in the VMT pilot program and that might turn out to be very effective and provide very good data. Other States are looking at P3s, some States have raised the gas tax. We have registration fees.

I think there are a variety of options, and one thing we have been, I know the Secretary has been—

Senator CARPER. Let me just ask you a question. Why do you think it is so hard for us to deal with this issue? Why do you think it is so hard? States have, you just mentioned, States have, Wyoming is among them, a number of States, 30 or so States have addressed these issues, about user fees. They have found remarkably, the legislators that vote for them, the Governors that support them, get re-elected. It is kind of amazing.

But we can't find some, we can't summon the wherewithal to do that.

Ms. NASON. I think part of the challenge is because the needs are so diverse. I spend my weekends in Vermont. It is an entirely different community than my days in D.C. And the drive from D.C. to Connecticut to Vermont changes dramatically as we go. In one place I have EZ Pass and there is no problem, and in another place, I am on a very narrow two-lane road, and I am hoping it has been plowed, because they have different weather challenges than we have in D.C.

So I think because the needs are so different, that is why the solutions need to be different.

Senator CARPER. All right. Thanks. Thanks for that.

I just want to say to Brady and Abby and Alex, I want to thank you for showing up today. I know it is hard to miss school, but you are good to have done it. I have been watching their faces, how they just seem to be reveling in the moment.

[Laughter.]

Senator CARPER. But I just want to say that your husband has kept them in tow. I don't know if my wife and I, when our boys were your age, if they would have done this.

But we are glad you did, and we are glad you didn't make any faces or roll your eyes at inappropriate times when your mom was talking. Thank you for joining us today.

Ms. NASON. Thank you.

Senator BARRASSO. Thank you, Senator Carper.

We have a number of letters of support for your nomination. The committee has received numerous letters, including letters from former Federal Transportation officials, representatives of State transportation departments, infrastructure industry stakeholders. I

am asking unanimous consent to enter this large packet of letters into the record.

And without objection, we will do so.

There are no more questions from the panel, but members may be able to submit written and follow-up questions. I think Senator Gillibrand said she had a couple that she was going to submit. They can do that by 5 p.m. today. We would ask that you try to respond by noon on Friday, February 1st, so we can move ahead with your nomination.

I want to thank you for your time, your testimony. Thanks to Secretary Mineta, you stuck through the whole thing. Don't you think she did a marvelous job?

Mr. MINETA. Absolutely.

Senator BARRASSO. And on that, this hearing is adjourned. Thank you.

[Whereupon, at 11:35 a.m., the committee was adjourned.]

[Additional material submitted for the record follows.]

STEPHEN E. SANDHERR, Chief Executive Officer



January 18, 2019

The Honorable John Barrasso  
 United States Senate  
 Washington, D.C. 20510

The Honorable Thomas Carper  
 United States Senate  
 Washington, D.C. 20510

**RE: AGC Support for Nomination of Ms. Nicole Nason to FHWA Administrator**

Dear Mr. Chairman/and Ranking Member:

The Associated General Contractors of America (AGC) strongly supports the nomination of Ms. Nicole Nason to serve as Administrator of the Federal Highway Administration. AGC is a national association representing more than 27,000 construction industry businesses with chapters and members in every state, District of Columbia and Puerto Rico. Many of our member companies are involved in the construction and reconstruction of the nation's infrastructure, including our National Highway System. All of our members believe that a strong partnership between the Federal Highway Administration (FHWA), state departments of transportation and the construction industry is the key to providing the nation with needed transportation infrastructure improvements in a safe, innovative, efficient and cost-effective fashion.

Ms. Nason has an exemplary background in transportation, having served as the Administrator of the National Highway Traffic Safety Administration (NHTSA) from 2006-2008 in the George W. Bush Administration. Prior to that, she worked as Assistant Secretary for Government Affairs at the U.S. Department of Transportation, where she worked closely with Congress on enacting SAFETEA-LU transportation authorization legislation. AGC has had the pleasure of working with Ms. Nason in her current position at the Department of State on issues related to the construction of U.S. Embassies, where she again has shown herself to be a highly capable and effective leader.

As the 116<sup>th</sup> Congress prepares to work with the Trump Administration on legislation to return the nation's infrastructure to world class status, it is important to have a strong leader at the helm of the Federal Highway Administration. Ms. Nason is a superb choice to fulfill FHWA's leadership role in improving mobility on our nation's highways. As such, AGC urges the Senate to quickly confirm her nomination.

Sincerely,

Stephen E. Sandherr  
 Chief Executive Officer  
 The Associated General Contractors of America

January 24, 2019

The Honorable John Barrasso, Chairman  
Committee on Environment and Public Works  
United States Senate  
307 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Tom Carper, Ranking Member  
Committee on Environment and Public Works  
United States Senate  
513 Hart Senate Office Building  
Washington, DC 20510



Dear Chairman Barrasso and Ranking Member Carper:

The American Highway Users Alliance (The Highway Users) strongly supports the nomination of former NHTSA Administrator Nicole R. Nason to be the next Federal Highway Administrator.

As the organization that represents the interests of millions of motorists, truckers, and others road users that fund our federal-aid highway program, the Highway Users stresses that only an exceptionally-qualified individual be confirmed as Federal Highway Administrator. Put simply, Ms. Nason fits the bill.

Ms. Nason is a proven safety leader, whose past success at NHTSA and MADD in driving down road deaths gives us great confidence that she will make safety her top priority. With an average of more than 100 Americans dying each day on our roads, Ms. Nason will undoubtedly lead the Federal Highway Administration (FHWA) to expand its focus and investments on proven safety crash countermeasures.

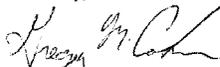
In addition, the future of highway and vehicle safety is converging, as connected and autonomous vehicles regulated by NHTSA will need to "read" the roads, where FHWA's regulations establish minimum safety standards. Given this convergence, it is particularly smart to have a FHWA Administrator who is also a past leader at NHTSA and an expert in vehicle safety standards, as well as someone who is cognizant of the safety needs of a variety of road users and will keep them top of mind as technologies advance.

Ms. Nason's more recent leadership at the Department of State, particularly in Overseas Building Operations, gives us further confidence in her qualifications to serve as Federal Highway Administrator. This experience has included support for expedited building projects of critical diplomatic importance to our country. Speedy, safe construction is also critical for improving our roads and bridges. As our roads age, they have become congested, less safe, and less comfortable for road users. We need to move quickly to fix and improve our highways and Ms. Nason's experience will help FHWA implement your future infrastructure and highway legislation with the necessary urgency.

Finally, Ms. Nason has exhibited leadership as a role model for women's empowerment throughout her career. This benefits not only the Federal Highway Administration, but the transportation engineering profession as a whole, where women are often underrepresented in leading roles.

On behalf of our alliance of non-profit associations, companies, and motoring clubs that represent millions of road users, we urge a speedy confirmation of Nicole Nason to be the next Federal Highway Administrator.

Sincerely,



Gregory M. Cohen  
President & CEO



**AMERICAN TRUCKING ASSOCIATIONS**  
950 N. Glebe Road • Suite 210 • Arlington, VA • 22203-4181  
www.trucking.org

★  
**Chris Spear**  
President & Chief Executive Officer

January 24, 2019

The Honorable John Barrasso  
Chairman  
Committee on Environment &  
Public Works  
United States Senate  
Washington, DC 20510

The Honorable Thomas R. Carper  
Ranking Member  
Committee on Environment &  
Public Works  
United States Senate  
Washington, DC 20510

Dear Chairman Barrasso and Ranking Member Carper:

The American Trucking Associations<sup>1</sup> is pleased to support the nomination of Nicole Nason to be the Administrator of the Federal Highway Administration. Highways are the trucking industry's workplace, and FHWA plays a significant role in determining the safety and efficiency of this network.

Ms. Nason's extensive experience in government, including with the Department of Transportation, will be a significant asset as manager of such a large and complex organization. Furthermore, her experience as a Capitol Hill staffer, and as Assistant Secretary of Government Affairs at the U.S. Department of Transportation, will be invaluable as Congress prepares to reauthorize the federal-aid highway program. Given that highway improvements play an outsized role in reducing crashes and mitigating crash impacts, Ms. Nason demonstrated a commitment to safety and had a record of success as Administrator of the National Highway Traffic Safety Administration, and we are confident that she will continue to promote policies that improve highway safety as FHWA Administrator.

ATA believes that Ms. Nason will make an excellent Federal Highway Administrator, and urges the Committee to swiftly report the nomination favorably to the full Senate for consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Chris Spear".

Chris Spear

<sup>1</sup> *American Trucking Associations* is the largest national trade association for the trucking industry. Through a federation of 50 affiliated state trucking associations and industry-related conferences and councils, ATA is the voice of the industry America depends on most to move our nation's freight. Follow ATA on [Twitter](#) or on [Facebook](#). [Trucking Moves America Forward](#).



January 24, 2019

The Honorable John Barrasso  
Chairman  
Committee on Environment and Public Works  
410 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Tom Carper  
Ranking Member  
Committee on Environment and Public Works  
456 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Barrasso and Ranking Member Carper,

The Governors Highway Safety Association (GHSAA), a national nonprofit association representing the highway safety offices of states and territories, supports the nomination of Ms. Nicole Nason to be Administrator of the Federal Highway Administration (FHWA).

Throughout her career, Ms. Nason has demonstrated a clear commitment to public service and, during her tenure as Administrator of the National Highway Traffic Safety Administration (NHTSA), a dedication to advancing highway safety. The state highway safety offices had direct experience with Ms. Nason's leadership during this time, when she pursued a collegial approach to working with the states on the shared mission of saving lives and preventing injuries on our roads.

As NHTSA Administrator, Ms. Nason also showed a clear understanding of the role that state agencies play in jointly deploying transportation programs, as well as the importance of proactively engaging key partners. GHSAA expects that Ms. Nason will continue this approach as FHWA Administrator.

The safety of the built environment is a key part of working towards zero traffic fatalities. FHWA's safety programs, including the Highway Safety Improvement Program, play an indispensable role in reducing roadway risks, especially considering the ongoing threat of speeding and increased fatalities among our most vulnerable roads users. GHSAA looks forward to working with NHTSA and FHWA to ensure closer strategic collaboration to get more resources where they are needed the most. Ms. Nason's experience makes her well suited to reinforce this bridge between the two agencies.

GHSAA urges the Committee to act swiftly on Ms. Nason's nomination to fill this critical role at the FHWA.

Sincerely,

Darrin Grondel  
Chair, Governors Highway Safety Association  
Director, Washington Traffic Safety Commission

CC: Senator James Inhofe  
Senator Benjamin Cardin

Senator Shelley Moore Capito  
Senator Bernard Sanders  
Senator Kevin Cramer  
Senator Sheldon Whitehouse  
Senator Mike Braun  
Senator Jeff Merkley  
Senator Mike Rounds  
Senator Kirsten Gillibrand  
Senator Dan Sullivan  
Senator Cory Booker  
Senator John Boozman  
Senator Edward Markey  
Senator Roger Wicker  
Senator Tammy Duckworth  
Senator Richard Shelby  
Senator Chris Van Hollen  
Senator Joni Ernst



Mothers Against Drunk Driving  
National Office  
madd.org

1200 18<sup>th</sup> Street, NW  
Suite 700  
Washington, DC 20036

877.ASK.MADD  
877.MADD.HELP victim support

January 23, 2019

The Honorable John Barrasso  
Chairman  
Senate Environment & Public Works Committee  
410 Dirksen Senate Office Building  
Washington, DC 20510-6175

The Honorable Tom Carper  
Ranking Member  
Senate Environment & Public Works Committee  
410 Dirksen Senate Office Building  
Washington DC 20510-6175

Dear Chairman Barrasso and Ranking Member Carper,

I write today on behalf of Mothers Against Drunk Driving in support of the Honorable Nicole Nason for the position of Administrator of the Federal Highway Administration.

Nicole has a long history of public service. As the Administrator of the National Highway Traffic Safety Administration, Nicole was a true leader of the highway safety community. MADD's Campaign to Eliminate Drunk Driving is our national and state priority for eliminating drunk driving in America. Nicole served as the first honorary chairman of our Campaign and was responsible for helping launch our initiatives to support law enforcement, ignition interlocks and new highway safety technologies.

In addition to her leadership on drunk driving issues, Nicole oversaw new seatbelt rules for school buses, rulemakings for electronic stability control systems and new car seat safety regulations.

Following her tenure at NHTSA, Nicole served as a member of our national board of directors where she helped shape state and national policy positions for MADD. During this time, MADD achieved record gains for passing ignition interlock legislation across the country as well as working to codify our Campaign to Eliminate Drunk Driving as part of federal law.

Currently, Nicole is once again serving our country as Assistant Secretary of the Bureau of Administration at the U.S. Department of State.

Nicole is a true champion of highway safety and will be an asset to the Department of Transportation as the Federal Highway Administration Administrator. On behalf of MADD, I wholeheartedly endorse her for this position. If you have any questions, please do not hesitate to contact J.T. Griffin, MADD's Chief Government Affairs Officer, at 202-688-1193.

Thank you and best wishes.

Sincerely,

Helen Witty  
National President, MADD

**Mary E. Peters**

**US Transportation Secretary 2006-2009**

January 24, 2019

The Honorable John Barrasso  
The Honorable Thomas Carper  
United States Senate United States Senate  
Washington, D.C. 20510 Washington, D.C. 20510

Dear Chairman Barrasso/Ranking Member Carper:

As the former Secretary of Transportation serving former President George W. Bush, and before that his Administrator of the Federal Highway Administration, I write this letter to offer my full support for the nomination of Nicole R. Nason to be the next Federal Highway Administrator.

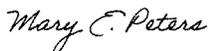
I have worked closely with Nicole both in and out of government service, and am fully confident in her ability to faithfully and dutifully serve the best interests of the people of the United States in this role as head of the nation's highway infrastructure program.

She understands the importance of a strong working relationship with the United States Congress, is committed to the mission of protecting the public trust, and will be an honest broker when administering the programs and funds states rely upon to keep important infrastructure projects on schedule and on budget.

Nicole's time at the U.S. Department of Transportation prepared her well for the challenges we face as we tackle the growing list of infrastructure priorities. She understands how the programs work, appreciates the Congress' interest in those programs, and most importantly, their impact on the continued success of the American economy.

I can think of no finer choice for the position of FHWA Administrator than Nicole R. Nason. I urge the Senate to confirm her nomination as soon as possible, so that she may begin to work closely with you and others in this body, as well as in the U.S. House, on a new infrastructure package so vital to the health and well-being of our great nation.

Sincerely,



Mary E. Peters

Mary E. Peters Consulting Group, LLC 8323 W. Via Montoya Drive, Peoria, AZ 85383-2019

Office 623.825.4492 Mobile 623.680.5650 Fax 623.825.4492

## North American Concrete Alliance

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January 24, 2019

The Honorable Mitch McConnell  
Majority Leader  
S-230, The Capitol  
Washington, D.C. 20510

The Honorable Charles Schumer  
Minority Leader  
S-22, The Capitol  
Washington, D.C. 20510

The Honorable John Barrasso  
Chairman  
Environment and Public Works Committee  
410 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Thomas Carper  
Ranking Member  
Environment and Public Works Committee  
456 Dirksen Senate Office Building  
Washington, D.C. 20510

Majority Leader McConnell, Minority Leader Schumer and Senators Barrasso and Carper:

Members of the North American Concrete Alliance (NACA) strongly support the nomination of Nicole Nason to serve as Administrator of the Federal Highway Administration.

Formed in 2004, NACA is a coalition of twelve concrete and cement-related Associations dedicated to addressing industry-wide priorities in the areas of research, safety, education, economic recovery and government affairs. Cement and concrete product manufacturing directly and indirectly employs approximately half a million people; our collective industries contribute approximately \$100 billion to the economy. Our member Associations represent businesses and talented workers in all fifty states. NACA places an emphasis on advocating for increased and efficient federal investment in surface transportation.

Nicole Nason has an extensive list of leadership skills and professional qualifications making her an ideal candidate for this post. If confirmed, she would bring years of experience and knowledge to the role. Given her extensive background in transportation, Nason will be an asset to the broader transportation community as she works to advance reauthorization of the FAST Act and a larger infrastructure bill. Both these pieces of legislation are important to strengthening our federal highway system while creating American jobs and spurring economic growth.

Additionally, Ms. Nason's experience working with Congress and the White House during the reauthorization debate that culminated in the passage of SAFETEA-LU in 2005 will equip her with knowledge to help inform the debate surrounding reauthorization of the FAST Act. Her years of transportation experience uniquely qualifies her to become the next Administrator of the Federal Highway Administration. NACA respectfully asks you to support the nomination of Nicole Nason to serve as Administrator of the Federal Highway Administration.

Sincerely,

American Concrete Pavement Association  
American Concrete Pipe Association  
American Concrete Pressure Pipe Association  
American Concrete Pumping Association  
Concrete Reinforcing Steel Institute  
Concrete Foundations Association

National Concrete Masonry Association  
National Precast Concrete Association  
National Ready Mixed Concrete Association  
Portland Cement Association  
Precast/Prestressed Concrete Institute  
Tilt-Up Concrete Association



Portland Cement Association  
1150 Connecticut Avenue NW, Suite 500  
Washington, DC 20036-4104  
202.408.9494 Fax 202.408.0877  
www.cement.org

January 24, 2019

The Honorable Mitch McConnell  
Majority Leader  
S-230, The Capitol  
Washington, D.C. 20510

The Honorable Chuck Schumer  
Minority Leader  
S-221, The Capitol  
Washington, D.C. 20510

The Honorable John Barrasso  
Chairman  
Environment and Public Works Committee  
410 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Tom Carper  
Ranking Member  
Environment and Public Works Committee  
456 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Majority Leader McConnell, Minority Leader Schumer, Chairman Barrasso, and Ranking Member Carper:

The Portland Cement Association (PCA) supports President Trump's nomination of Nicole Nason to be the Administrator of the Federal Highway Administration (FHWA). PCA believes it is important for the FHWA to have an Administrator with a vision to meet the demands being placed on the nation's roads, bridges, and tunnels.

Founded in 1916, PCA is the premier policy, research, education, and market intelligence organization serving America's cement manufacturers. PCA's members represent 93 percent of the United States' cement production capacity and have facilities in all 50 states. Cement and concrete product manufacturing, directly and indirectly, employs approximately 600,000 people in our country, and our collective industries contribute over \$100 billion to the U.S. economy. Portland cement is the fundamental ingredient in concrete. PCA promotes safety, sustainability, and innovation in all aspects of construction, fosters continued improvement in cement manufacturing and distribution, and encourages economic growth and sound infrastructure investment.

Nason's extensive transportation policy experience and leadership skills make her an ideal candidate to be the Administrator of the FHWA. If confirmed, she would bring her experience working with Congress and the White House during the reauthorization debate that culminated in the passage of SAFETEA-LU in 2005. This experience will be especially valuable as Congress begins to work on reauthorization of the FAST Act. Along with reauthorization, it will be important to help identify a long-term funding solution for the Highway Trust Fund so states can address the nation's maintenance backlog and build a transportation system that meets the demands of the 21<sup>st</sup> century.

PCA believes it is critical to move on the nomination of Nicole Nason to be Administrator of the Federal Highway Administration.

Sincerely,

Rachel Derby  
Vice-President, Government Affairs  
Portland Cement Association



CARLOS BRACERAS, P.E., PRESIDENT  
EXECUTIVE DIRECTOR, UTAH DEPARTMENT OF TRANSPORTATION

JIM TYMON, EXECUTIVE DIRECTOR

444 NORTH CAPITOL STREET NW, SUITE 249, WASHINGTON, DC 20001  
(202) 624-5800 • FAX: (202) 624-5806 • WWW.TRANSPORTATION.ORG

January 25, 2019

The Honorable Sen. John Barrasso  
Chairman  
Committee on Environment and Public Works  
United States Senate  
410 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Sen. Tom Carper  
Ranking Member  
Committee on Environment and Public Works  
United States Senate  
456 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Barrasso and Ranking Member Carper:

On behalf of the American Association of State Highway and Transportation Officials (AASHTO), I'm writing to express the Association's utmost support for Nicole R. Nason to be approved by the Senate Committee on Environment and Public Works and confirmed by the full Senate to become the next Administrator of the Federal Highway Administration.

AASHTO is a nonprofit, nonpartisan association representing the state transportation departments (state DOTs) in the 50 states, the District of Columbia, and Puerto Rico. We represent our member departments with respect to all five transportation modes: air, highways, public transportation, rail, and water. Our primary goal is to foster the development, operation, and maintenance of an integrated national transportation system.

As Congress prepares to reauthorize the federal surface transportation programs and consider an infrastructure investment package, we need an experienced federal administrator with a deep understanding of transportation policy to lead the Federal Highway Administration. Ms. Nason's experience as Assistant Secretary for Government Affairs at the U.S. Department of Transportation makes her well suited to work with Congress to help achieve these goals.

State Departments of Transportation are committed to working toward a goal of zero traffic fatalities. During Ms. Nason's tenure as NHTSA Administrator, highway fatalities reached an all-time low and seat belt use rates reached a higher level than they had been in the past. Ms. Nason is a proven safety leader, and I am confident she will work closely with State Departments of Transportation as Federal Highway Administrator to achieve this important goal of zero traffic fatalities on our nation's roads.

Thank you for the opportunity to support Ms. Nason's nomination, and we look forward to continue working with you.

Sincerely,  
  
Jim Tymon  
Executive Director



January 25, 2019

The Honorable John Barrasso  
Chairman  
United States Senate Committee on Environment and Public Works

The Honorable Thomas R. Carper  
Ranking Member  
United States Senate Committee on Environment and Public Works

Dear Chairman Barrasso and Ranking Member Carper,

The American International Automobile Dealers Association would like to express its support for the nomination of Nicole R. Nason for Administrator of the Federal Highway Administration. We respectfully request the Committee move swiftly to consider Ms. Nason and urge her confirmation.

Ms. Nason has extensive leadership and management experience in both the legislative branch and the executive branch. Specifically she has already served with distinction at the Department of Transportation in a prior administration. During that time she was the Administrator of the National Highway Traffic Safety Administration (NHTSA), and was twice awarded their gold medal, the department's highest honor. Ms. Nason's record during her tenure as Administrator of NHTSA speaks for itself, from safety improvements to regulatory harmonization.

Ms. Nason has proven herself a capable manager and leader in her previous roles. Her experience would serve her and the American traveling public well as Administrator of the Federal Highway Administration.

Sincerely,

A handwritten signature in black ink that reads 'Cody Lusk'.

Cody Lusk  
President and CEO  
AIADA



250 E Street, S.W.  
Suite 900  
Washington D.C. 20024

P 202.289.4434  
F 202.289.4435  
W artba.org



January 25, 2019

The Honorable John Barrasso  
United States Senate  
307 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Senator Barrasso:

The American Road & Transportation Builders Association (ARTBA) is very pleased to endorse the nomination of Nicole Nason as administrator of the Federal Highway Administration (FHWA) within the U.S. Department of Transportation. We urge the Environment & Public Works Committee to expeditiously consider and favorably report her nomination.

ARTBA and its members interact with FHWA on all levels of the agency – in Washington and across the country – on many issues. The administrator sets the tone for these collaborations with the transportation construction industry, as well as with state agencies. ARTBA believes the next administrator should champion safety, efficiency and innovation in the design and construction of highway improvements. This individual should also maintain an ongoing dialogue with industry through the rulemaking process, policy work groups and personal interaction. We are confident Nicole will meet these criteria.

She is an experienced federal government executive who has served in several high-profile, Senate-confirmed positions during her career, including assistant secretary of transportation for government affairs, administrator of the National Highway Traffic Safety Administration, and, most recently, assistant secretary of state for administration. In our view, Nicole Nason is well prepared to lead FHWA and its team of career and non-career professionals, while taking on the challenge of delivering the federal-aid highway program in partnership with the states and industry.

Thank you for considering ARTBA's views on Nicole Nason's nomination for this critical position.

Sincerely,

David C. Bauer  
President & CEO



Association of Global Automakers • 1050 K Street, NW, Suite 650 • Washington, DC 20001  
 Hyundai • Nissan • Kia • Ford • GM • Mercedes-Benz • Volvo  
 Subaru • Jeep • Ram • Honda • Acura • Mazda • Mitsubishi • Toyota

January 25, 2019

Chairman John Barrasso  
 U.S. Senate Committee on Environment & Public Works  
 410 Dirksen Senate Office Building  
 Washington, DC 20510

Ranking Member Thomas Carper  
 U.S. Senate Committee on Environment & Public Works  
 456 Dirksen Senate Office Building  
 Washington, DC 20510

Dear Chairman Barrasso and Ranking Member Carper:

The Association of Global Automakers (Global Automakers) is pleased to support the nomination of Nicole Nason as Administrator of the Federal Highway Administration.

During her tenure as Administrator of the National Highway Traffic Safety Administration, Ms. Nason consistently demonstrated strong leadership skills. Working with a variety of stakeholders, Ms. Nason advanced motor vehicle safety through a variety of vehicle and traffic safety programs that continue to save lives on America's roads today.

Transformational technologies, specifically those that enable vehicles to become increasingly automated and connected, will revolutionize transportation in America. Global Automakers is confident that Ms. Nason's experience and vision will greatly advance the safety, environmental and mobility benefits of these technologies through our national infrastructure programs and deliver these benefits for the American people.

Global Automakers encourages the Committee to confirm Ms. Nason and to move her nomination of forward in an expeditious manner.

Sincerely,

John Bozzella  
 President & CEO, Global Automakers



January 25, 2019

The Honorable John Barrasso  
Chairman  
U.S. Senate Committee on Environment and  
Public Works  
410 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Thomas R. Carper  
Ranking Member  
U.S. Senate Committee on Environment and  
Public Works  
456 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Barrasso and Ranking Member Carper,

On behalf of the National Automobile Dealers Association (NADA), representing more than 16,000 franchised new car and truck dealerships that employ 1.1 million people, I am writing in strong support of the nomination of Ms. Nicole R. Nason to be Administrator of the Federal Highway Administration (FHWA).

Ms. Nason has a strong record of service to our country. Most notably, Ms. Nason was confirmed by the Senate in 2003 as an Assistant Secretary of Congressional Affairs at the U.S. Department of Transportation, where she was the lead Administration negotiator for the historic SAFETEA-LU bill [P.L. 109-59]. Ms. Nason was then confirmed by the Senate in 2006 to serve as Administrator of the National Highway Traffic Safety Administration, where she successfully administered the programs Congress enacted as part of SAFETEA-LU. This landmark legislation, coupled with Ms. Nason's leadership, resulted in a reduction of highway deaths for six consecutive years (2006-11).

Ms. Nason has a demonstrated record of working cooperatively with Congress on a bipartisan basis, and we are confident that she will serve the nation well, particularly if Congress considers a comprehensive infrastructure bill. Additionally, Ms. Nason's considerable experience leading a federal agency at the Department of Transportation and managing a dedicated federal workforce makes her a superb choice to lead FHWA.

On behalf of America's franchised auto dealers, NADA urges the Committee to swiftly consider and confirm Ms. Nason to be Administrator of FHWA. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter K. Welch".

Peter K. Welch  
President & CEO  
National Automobile Dealers Association



**AUTO ALLIANCE**  
DRIVING INNOVATION®

803 7th Street N.W., Suite 300 | Washington, DC 20001

202.326.5500 | [www.autoalliance.org](http://www.autoalliance.org)

**MITCH BAINWOL** *President & CEO*

January 28, 2019

U.S. Senator John Barrasso  
Chairman  
Senate Environment and Public Works Committee  
410 Dirksen Senate Office Building  
Washington, D.C. 20510

U.S. Senator Tom Carper  
Ranking Member  
Senate Environment and Public Works Committee  
456 Dirksen Senate Office Building  
Washington, D.C. 20510

Chairman Barrasso and Ranking Member Carper:

On behalf of the Alliance of Automobile Manufacturers, and our 12 member companies representing over 70 percent of light-duty vehicles sold in the United States, I want to express our strong support for the president's nomination of Nicole Nason to be the next Administrator of the Federal Highway Administration (FHWA).

As both of you know well, FHWA is a key modal agency within the U.S. Department of Transportation responsible for overseeing and coordinating infrastructure investment and safety improvements across the country. The Auto Alliance and our members worked closely with Ms. Nason when she served as Administrator of the National Highway Traffic Safety Administration (NHTSA) and we believe she is strongly equipped to lead FHWA, particularly now when new mobility innovations will require greater public policy and regulatory integration between vehicles and infrastructure.

Without question, today is an exciting time in the transportation sector due to the tremendous innovations in mobility. For the auto sector, our members continue to make significant investments in vehicle safety and efficiency improvements. These technological advancements will provide tremendous benefits to vehicle owners, the driving public, the environment, and our nation's broader economy.

Although overall fatalities on our nation's roadways remain far too high, new driver assist safety technologies are helping to prevent vehicle crashes or reduce the severity of roadway accidents. The development and deployment of self-driving

vehicles also will generate significant progress in the reduction of vehicle crashes and fatalities. As such, the Department of Transportation has a unique opportunity to help shape the future of transportation safety and Ms. Nason is uniquely qualified to provide key insights and leadership ensuring that our nation's transportation infrastructure, and regulatory policies are updated to help further improve highway safety.

As the EPW Committee prepares for Ms. Nason's nomination hearing tomorrow, I want to reiterate that Ms. Nason brings a strong background in transportation policy – as was witnessed by the Commerce, Science, and Transportation Committee's handling of her nomination to be NHTSA Administrator and the full Senate's confirmation by voice vote in 2003. Ms. Nason's strong leadership abilities and commitment to public service would be key assets to Secretary Chao and the entire staff at the U.S. Department of Transportation.

Sincerely,

A handwritten signature in black ink, appearing to read "Mitch Bainwol", written in a cursive style.

Mitch Bainwol  
President and CEO  
Alliance of Automobile Manufacturers, Inc.

TORINE CREPPY  
1255 23<sup>rd</sup> Street, NW  
Suite 400  
Washington, DC 20037  
202.662.0638

The Honorable John Barrasso  
United States Senate  
Committee on Environment and  
Public Works  
Washington, D.C. 20510

The Honorable Thomas Carper  
United States Senate  
Committee on Environment and  
Public Works  
Washington, D.C. 20510

Dear Chairman Barrasso and Ranking Member Carper:

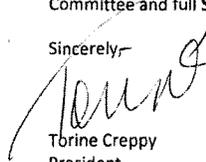
I am President of Safe Kids Worldwide (SKW) and personally endorse the nomination of Nicole R. Nason to be the next Administrator for the Federal Highway Administration. Safe Kids Worldwide is a nonprofit organization working to help families and communities keep kids safe from preventable injuries, the number one cause of death of children in the United States. Throughout the world, almost one million children die of an injury each year, and almost every one of these tragedies is preventable. Safe Kids works with an extensive network of more than 400 coalitions in the United States and with partners in more than 30 countries to reduce traffic injuries, drownings, falls, burns, poisonings and more.

The foundation of our work over 31 years has been protecting children in motor vehicles, especially in car seats. Working with the National Highway Traffic Safety Administration (NHTSA), Safe Kids is the entity that certifies child passenger safety technicians. Today, there are more than 42,000 of these technicians working to keep kids safe as passengers in motor vehicles. I served as the Director of the Buckle Up campaign when Ms. Nason assumed her position as NHTSA Administrator. As soon as she started her job as NHTSA Administrator in 2006, Ms. Nason called Safe Kids, offering to work with us.

Ms. Nason was a strong ally and supporter of our mission during her time at NHTSA. Ms. Nason demonstrated her commitment to child passenger safety by becoming a certified child passenger safety technician in one of our classes. Nicole sat through the entire course which spans over five intense days. She participated in numerous child safety seat installation events.

Transportation safety is second nature to Ms. Nason, and she has demonstrated that throughout her career. In addition to her commitment to Safe Kids, she has also served two terms on the national board of Mothers Against Drunk Driving. Today, Safe Kids works with FHWA on transportation issues and I have every confidence that she will again apply her commitment to safety there. We urge the Committee and full Senate to confirm her nomination.

Sincerely,



Torine Creppy  
President  
Safe Kids Worldwide

**Mary E. Peters**

**US Transportation Secretary 2006-2009**

January 24, 2019

The Honorable John Barrasso  
The Honorable Thomas Carper  
United States Senate United States Senate  
Washington, D.C. 20510 Washington, D.C. 20510

Dear Chairman Barrasso/Ranking Member Carper:

As the former Secretary of Transportation serving former President George W. Bush, and before that his Administrator of the Federal Highway Administration, I write this letter to offer my full support for the nomination of Nicole R. Nason to be the next Federal Highway Administrator.

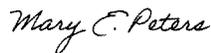
I have worked closely with Nicole both in and out of government service, and am fully confident in her ability to faithfully and dutifully serve the best interests of the people of the United States in this role as head of the nation's highway infrastructure program.

She understands the importance of a strong working relationship with the United States Congress, is committed to the mission of protecting the public trust, and will be an honest broker when administering the programs and funds states rely upon to keep important infrastructure projects on schedule and on budget.

Nicole's time at the U.S. Department of Transportation prepared her well for the challenges we face as we tackle the growing list of infrastructure priorities. She understands how the programs work, appreciates the Congress' interest in those programs, and most importantly, their impact on the continued success of the American economy.

I can think of no finer choice for the position of FHWA Administrator than Nicole R. Nason. I urge the Senate to confirm her nomination as soon as possible, so that she may begin to work closely with you and others in this body, as well as in the U.S. House, on a new infrastructure package so vital to the health and well-being of our great nation.

Sincerely,



Mary E. Peters

Mary E. Peters Consulting Group, LLC 8323 W. Via Montoya Drive, Peoria, AZ 85383-2019

Office 623.825.4492 Mobile 623.680.5650 Fax 623.825.4492

January 24, 2019

The Honorable John Barrasso, Chairman  
Committee on Environment and Public Works  
United States Senate  
307 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Tom Carper, Ranking Member  
Committee on Environment and Public Works  
United States Senate  
513 Hart Senate Office Building  
Washington, DC 20510



Dear Chairman Barrasso and Ranking Member Carper:

The American Highway Users Alliance (The Highway Users) strongly supports the nomination of former NHTSA Administrator Nicole R. Nason to be the next Federal Highway Administrator.

As the organization that represents the interests of millions of motorists, truckers, and others road users that fund our federal-aid highway program, the Highway Users stresses that only an exceptionally-qualified individual be confirmed as Federal Highway Administrator. Put simply, Ms. Nason fits the bill.

Ms. Nason is a proven safety leader, whose past success at NHTSA and MADD in driving down road deaths gives us great confidence that she will make safety her top priority. With an average of more than 100 Americans dying each day on our roads, Ms. Nason will undoubtedly lead the Federal Highway Administration (FHWA) to expand its focus and investments on proven safety crash countermeasures.

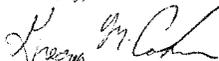
In addition, the future of highway and vehicle safety is converging, as connected and autonomous vehicles regulated by NHTSA will need to "read" the roads, where FHWA's regulations establish minimum safety standards. Given this convergence, it is particularly smart to have a FHWA Administrator who is also a past leader at NHTSA and an expert in vehicle safety standards, as well as someone who is cognizant of the safety needs of a variety of road users and will keep them top of mind as technologies advance.

Ms. Nason's more recent leadership at the Department of State, particularly in Overseas Building Operations, gives us further confidence in her qualifications to serve as Federal Highway Administrator. This experience has included support for expedited building projects of critical diplomatic importance to our country. Speedy, safe construction is also critical for improving our roads and bridges. As our roads age, they have become congested, less safe, and less comfortable for road users. We need to move quickly to fix and improve our highways and Ms. Nason's experience will help FHWA implement your future infrastructure and highway legislation with the necessary urgency.

Finally, Ms. Nason has exhibited leadership as a role model for women's empowerment throughout her career. This benefits not only the Federal Highway Administration, but the transportation engineering profession as a whole, where women are often underrepresented in leading roles.

On behalf of our alliance of non-profit associations, companies, and motoring clubs that represent millions of road users, we urge a speedy confirmation of Nicole Nason to be the next Federal Highway Administrator.

Sincerely,



Gregory M. Cohen  
President & CEO



Mothers Against Drunk Driving  
National Office  
madd.org

1200 18<sup>th</sup> Street, NW  
Suite 700  
Washington, DC 20036

877.ASK.MADD  
877.MADD.HELP victim support

January 23, 2019

The Honorable John Barrasso  
Chairman  
Senate Environment & Public Works Committee  
410 Dirksen Senate Office Building  
Washington, DC 20510-6175

The Honorable Tom Carper  
Ranking Member  
Senate Environment & Public Works Committee  
410 Dirksen Senate Office Building  
Washington DC 20510-6175

Dear Chairman Barrasso and Ranking Member Carper,

I write today on behalf of Mothers Against Drunk Driving in support of the Honorable Nicole Nason for the position of Administrator of the Federal Highway Administration.

Nicole has a long history of public service. As the Administrator of the National Highway Traffic Safety Administration, Nicole was a true leader of the highway safety community. MADD's Campaign to Eliminate Drunk Driving is our national and state priority for eliminating drunk driving in America. Nicole served as the first honorary chairman of our Campaign and was responsible for helping launch our initiatives to support law enforcement, ignition interlocks and new highway safety technologies.

In addition to her leadership on drunk driving issues, Nicole oversaw new seatbelt rules for school buses, rulemakings for electronic stability control systems and new car seat safety regulations.

Following her tenure at NHTSA, Nicole served as a member of our national board of directors where she helped shape state and national policy positions for MADD. During this time, MADD achieved record gains for passing ignition interlock legislation across the country as well as working to codify our Campaign to Eliminate Drunk Driving as part of federal law.

Currently, Nicole is once again serving our country as Assistant Secretary of the Bureau of Administration at the U.S. Department of State.

Nicole is a true champion of highway safety and will be an asset to the Department of Transportation as the Federal Highway Administration Administrator. On behalf of MADD, I wholeheartedly endorse her for this position. If you have any questions, please do not hesitate to contact J.T. Griffin, MADD's Chief Government Affairs Officer, at 202-688-1193.

Thank you and best wishes.

Sincerely,

Helen Witty  
National President, MADD

## North American Concrete Alliance

---

January 24, 2019

The Honorable Mitch McConnell  
Majority Leader  
S-230, The Capitol  
Washington, D.C. 20510

The Honorable Charles Schumer  
Minority Leader  
S-22, The Capitol  
Washington, D.C. 20510

The Honorable John Barrasso  
Chairman  
Environment and Public Works Committee  
410 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Thomas Carper  
Ranking Member  
Environment and Public Works Committee  
456 Dirksen Senate Office Building  
Washington, D.C. 20510

Majority Leader McConnell, Minority Leader Schumer and Senators Barrasso and Carper:

Members of the North American Concrete Alliance (NACA) strongly support the nomination of Nicole Nason to serve as Administrator of the Federal Highway Administration.

Formed in 2004, NACA is a coalition of twelve concrete and cement-related Associations dedicated to addressing industry-wide priorities in the areas of research, safety, education, economic recovery and government affairs. Cement and concrete product manufacturing directly and indirectly employs approximately half a million people; our collective industries contribute approximately \$100 billion to the economy. Our member Associations represent businesses and talented workers in all fifty states. NACA places an emphasis on advocating for increased and efficient federal investment in surface transportation.

Nicole Nason has an extensive list of leadership skills and professional qualifications making her an ideal candidate for this post. If confirmed, she would bring years of experience and knowledge to the role. Given her extensive background in transportation, Nason will be an asset to the broader transportation community as she works to advance reauthorization of the FAST Act and a larger infrastructure bill. Both these pieces of legislation are important to strengthening our federal highway system while creating American jobs and spurring economic growth.

Additionally, Ms. Nason's experience working with Congress and the White House during the reauthorization debate that culminated in the passage of SAFETEA-LU in 2005 will equip her with knowledge to help inform the debate surrounding reauthorization of the FAST Act. Her years of transportation experience uniquely qualifies her to become the next Administrator of the Federal Highway Administration. NACA respectfully asks you to support the nomination of Nicole Nason to serve as Administrator of the Federal Highway Administration.

Sincerely,

American Concrete Pavement Association  
American Concrete Pipe Association  
American Concrete Pressure Pipe Association  
American Concrete Pumping Association  
Concrete Reinforcing Steel Institute  
Concrete Foundations Association

National Concrete Masonry Association  
National Precast Concrete Association  
National Ready Mixed Concrete Association  
Portland Cement Association  
Precast/Prestressed Concrete Institute  
Tilt-Up Concrete Association



Portland Cement Association  
 1150 Connecticut Avenue NW, Suite 500  
 Washington, DC 20036-4104  
 202.408.9494 Fax 202.408.0877  
 www.cement.org

January 24, 2019

The Honorable Mitch McConnell  
 Majority Leader  
 S-230, The Capitol  
 Washington, D.C. 20510

The Honorable Chuck Schumer  
 Minority Leader  
 S-221, The Capitol  
 Washington, D.C. 20510

The Honorable John Barrasso  
 Chairman  
 Environment and Public Works Committee  
 410 Dirksen Senate Office Building  
 Washington, D.C. 20510

The Honorable Tom Carper  
 Ranking Member  
 Environment and Public Works Committee  
 456 Dirksen Senate Office Building  
 Washington, D.C. 20510

Dear Majority Leader McConnell, Minority Leader Schumer, Chairman Barrasso, and Ranking Member Carper:

The Portland Cement Association (PCA) supports President Trump's nomination of Nicole Nason to be the Administrator of the Federal Highway Administration (FHWA). PCA believes it is important for the FHWA to have an Administrator with a vision to meet the demands being placed on the nation's roads, bridges, and tunnels.

Founded in 1916, PCA is the premier policy, research, education, and market intelligence organization serving America's cement manufacturers. PCA's members represent 93 percent of the United States' cement production capacity and have facilities in all 50 states. Cement and concrete product manufacturing, directly and indirectly, employs approximately 600,000 people in our country, and our collective industries contribute over \$100 billion to the U.S. economy. Portland cement is the fundamental ingredient in concrete. PCA promotes safety, sustainability, and innovation in all aspects of construction, fosters continued improvement in cement manufacturing and distribution, and encourages economic growth and sound infrastructure investment.

Nason's extensive transportation policy experience and leadership skills make her an ideal candidate to be the Administrator of the FHWA. If confirmed, she would bring her experience working with Congress and the White House during the reauthorization debate that culminated in the passage of SAFETEA-LU in 2005. This experience will be especially valuable as Congress begins to work on reauthorization of the FAST Act. Along with reauthorization, it will be important to help identify a long-term funding solution for the Highway Trust Fund so states can address the nation's maintenance backlog and build a transportation system that meets the demands of the 21<sup>st</sup> century.

PCA believes it is critical to move on the nomination of Nicole Nason to be Administrator of the Federal Highway Administration.

Sincerely,

Rachel Derby  
 Vice-President, Government Affairs  
 Portland Cement Association



American Road  
& Transportation  
Builders Association

250 E Street, S.W.  
Suite 900  
Washington D.C. 20024

P 202.289.4434  
F 202.289.4435  
W artba.org



January 25, 2019

The Honorable John Barrasso  
United States Senate  
307 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Senator Barrasso:

The American Road & Transportation Builders Association (ARTBA) is very pleased to endorse the nomination of Nicole Nason as administrator of the Federal Highway Administration (FHWA) within the U.S. Department of Transportation. We urge the Environment & Public Works Committee to expeditiously consider and favorably report her nomination.

ARTBA and its members interact with FHWA on all levels of the agency – in Washington and across the country – on many issues. The administrator sets the tone for these collaborations with the transportation construction industry, as well as with state agencies. ARTBA believes the next administrator should champion safety, efficiency and innovation in the design and construction of highway improvements. This individual should also maintain an ongoing dialogue with industry through the rulemaking process, policy work groups and personal interaction. We are confident Nicole will meet these criteria.

She is an experienced federal government executive who has served in several high-profile, Senate-confirmed positions during her career, including assistant secretary of transportation for government affairs, administrator of the National Highway Traffic Safety Administration, and, most recently, assistant secretary of state for administration. In our view, Nicole Nason is well prepared to lead FHWA and its team of career and non-career professionals, while taking on the challenge of delivering the federal-aid highway program in partnership with the states and industry.

Thank you for considering ARTBA's views on Nicole Nason's nomination for this critical position.

Sincerely,

David C. Bauer  
President & CEO

STEPHEN E. SANDHERR, Chief Executive Officer



January 18, 2019

The Honorable John Barrasso  
 United States Senate  
 Washington, D.C. 20510

The Honorable Thomas Carper  
 United States Senate  
 Washington, D.C. 20510

**RE: AGC Support for Nomination of Ms. Nicole Nason to FHWA Administrator**

Dear Mr. Chairman/and Ranking Member:

The Associated General Contractors of America (AGC) strongly supports the nomination of Ms. Nicole Nason to serve as Administrator of the Federal Highway Administration. AGC is a national association representing more than 27,000 construction industry businesses with chapters and members in every state, District of Columbia and Puerto Rico. Many of our member companies are involved in the construction and reconstruction of the nation's infrastructure, including our National Highway System. All of our members believe that a strong partnership between the Federal Highway Administration (FHWA), state departments of transportation and the construction industry is the key to providing the nation with needed transportation infrastructure improvements in a safe, innovative, efficient and cost-effective fashion.

Ms. Nason has an exemplary background in transportation, having served as the Administrator of the National Highway Traffic Safety Administration (NTSHA) from 2006-2008 in the George W. Bush Administration. Prior to that, she worked as Assistant Secretary for Government Affairs at the U.S. Department of Transportation, where she worked closely with Congress on enacting SAFETEA-LU transportation authorization legislation. AGC has had the pleasure of working with Ms. Nason in her current position at the Department of State on issues related to the construction of U.S. Embassies, where she again has shown herself to be a highly capable and effective leader.

As the 116<sup>th</sup> Congress prepares to work with the Trump Administration on legislation to return the nation's infrastructure to world class status, it is important to have a strong leader at the helm of the Federal Highway Administration. Ms. Nason is a superb choice to fulfill FHWA's leadership role in improving mobility on our nation's highways. As such, AGC urges the Senate to quickly confirm her nomination.

Sincerely,

Stephen E. Sandherr  
 Chief Executive Officer  
 The Associated General Contractors of America



**AMERICAN TRUCKING ASSOCIATIONS**  
950 N. Glebe Road • Suite 210 • Arlington, VA • 22203-4181  
www.trucking.org

★  
Chris Spear  
President & Chief Executive Officer

January 24, 2019

The Honorable John Barrasso  
Chairman  
Committee on Environment &  
Public Works  
United States Senate  
Washington, DC 20510

The Honorable Thomas R. Carper  
Ranking Member  
Committee on Environment &  
Public Works  
United States Senate  
Washington, DC 20510

Dear Chairman Barrasso and Ranking Member Carper:

The American Trucking Associations<sup>1</sup> is pleased to support the nomination of Nicole Nason to be the Administrator of the Federal Highway Administration. Highways are the trucking industry's workplace, and FHWA plays a significant role in determining the safety and efficiency of this network.

Ms. Nason's extensive experience in government, including with the Department of Transportation, will be a significant asset as manager of such a large and complex organization. Furthermore, her experience as a Capitol Hill staffer, and as Assistant Secretary of Government Affairs at the U.S. Department of Transportation, will be invaluable as Congress prepares to reauthorize the federal-aid highway program. Given that highway improvements play an outsized role in reducing crashes and mitigating crash impacts, Ms. Nason demonstrated a commitment to safety and had a record of success as Administrator of the National Highway Traffic Safety Administration, and we are confident that she will continue to promote policies that improve highway safety as FHWA Administrator.

ATA believes that Ms. Nason will make an excellent Federal Highway Administrator, and urges the Committee to swiftly report the nomination favorably to the full Senate for consideration.

Sincerely,

Chris Spear

<sup>1</sup> *American Trucking Associations is the largest national trade association for the trucking industry. Through a federation of 50 affiliated state trucking associations and industry-related conferences and councils, ATA is the voice of the industry America depends on most to move our nation's freight. Follow ATA on [Twitter](#) or on [Facebook](#). [Trucking Moves America Forward](#).*



January 24, 2019

The Honorable John Barrasso  
Chairman  
Committee on Environment and Public Works  
410 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Tom Carper  
Ranking Member  
Committee on Environment and Public Works  
456 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Barrasso and Ranking Member Carper,

The Governors Highway Safety Association (GHSAA), a national nonprofit association representing the highway safety offices of states and territories, supports the nomination of Ms. Nicole Nason to be Administrator of the Federal Highway Administration (FHWA).

Throughout her career, Ms. Nason has demonstrated a clear commitment to public service and, during her tenure as Administrator of the National Highway Traffic Safety Administration (NHTSA), a dedication to advancing highway safety. The state highway safety offices had direct experience with Ms. Nason's leadership during this time, when she pursued a collegial approach to working with the states on the shared mission of saving lives and preventing injuries on our roads.

As NHTSA Administrator, Ms. Nason also showed a clear understanding of the role that state agencies play in jointly deploying transportation programs, as well as the importance of proactively engaging key partners. GHSAA expects that Ms. Nason will continue this approach as FHWA Administrator.

The safety of the built environment is a key part of working towards zero traffic fatalities. FHWA's safety programs, including the Highway Safety Improvement Program, play an indispensable role in reducing roadway risks, especially considering the ongoing threat of speeding and increased fatalities among our most vulnerable roads users. GHSAA looks forward to working with NHTSA and FHWA to ensure closer strategic collaboration to get more resources where they are needed the most. Ms. Nason's experience makes her well suited to reinforce this bridge between the two agencies.

GHSAA urges the Committee to act swiftly on Ms. Nason's nomination to fill this critical role at the FHWA.

Sincerely,

Darrin Grondel  
Chair, Governors Highway Safety Association  
Director, Washington Traffic Safety Commission

CC: Senator James Inhofe  
Senator Benjamin Cardin

Senator Shelley Moore Capito  
Senator Bernard Sanders  
Senator Kevin Cramer  
Senator Sheldon Whitehouse  
Senator Mike Braun  
Senator Jeff Merkley  
Senator Mike Rounds  
Senator Kirsten Gillibrand  
Senator Dan Sullivan  
Senator Cory Booker  
Senator John Boozman  
Senator Edward Markey  
Senator Roger Wicker  
Senator Tammy Duckworth  
Senator Richard Shelby  
Senator Chris Van Hollen  
Senator Joni Ernst

U.S. TRAVEL  
ASSOCIATION

The Honorable John Barrasso  
United States Senate  
Washington, D.C. 20510

The Honorable Thomas Carper  
United States Senate  
Washington, D.C. 20510

Dear Chairman Barrasso and Ranking Member Carper:

The U.S. Travel Association strongly supports the nomination of Nicole R. Nason to be the Administrator for the Federal Highway Administration. The U.S. Travel Association is the national, non-profit organization that represents the broad spectrum of America's travel and tourism industry.

Nicole has extensive government experience and is a transportation leader. In the George W. Bush Administration, she served as the Administrator of the National Highway Traffic Safety Administration. While at NHTSA, Nicole was able to immediately make a difference by becoming the first ever Administrator to become a certified child passenger safety technician. More importantly, highway fatalities reached an all-time low under her leadership.

Nicole was also able to make important strides to improve safety by thoughtful rulemakings on electronic stability control and the first ever rule guiding seat belts on school buses. In addition, she led bilateral negotiations with the Chinese government on motor vehicle regulations.

Recently, Nicole has been putting her skills to work at the Department of State. After initially serving as a Senior Advisor, Secretary Tillerson appointed her as the Assistant Secretary of State, Bureau of Administration. There, she is responsible for all matters relating to our nations embassies.

I am confident that Nicole will once again excel at FHWA and provide the agency with much needed leadership and hope the Senate will quickly confirm her nomination.

Sincerely,



programmatic agreements with their FHWA division office.<sup>28</sup> Further, five state DOTs reported that the *Early Coordination Activities in Environmental Review Process* provision had no effect because they already had a similar coordination process in place. Some states used such a process at their own initiative and others in conjunction with their FHWA division office.<sup>29</sup>

Among Required Provisions, about Three-Quarters of State DOTs Reported That “Programmatic Agreements” Helped Speed Up Highway Projects, While the Effects Are Mixed for Other Provisions

Of the 12 required provisions—which fall into the *Administrative and Coordination Change* category—only the *Programmatic Agreements for Efficient Environmental Review* provision was reported by a majority of state DOTs (39) to have sped up project delivery (see fig. 3). For example, officials at the Mississippi DOT reported that a programmatic agreement with the FHWA division office can allow it to save 6 to 8 months when processing categorical exclusions for projects with minimal right-of-way acquisition. They explained that they no longer had to wait for the FHWA division office to process the categorical exclusion. As previously discussed, prior to 2012, FHWA actively encouraged, but did not require, programmatic agreements between state DOTs and FHWA division offices. In interviews and optional comments from the survey, officials reported that programmatic agreements, both those entered into before and after the enactment of the provision, had sped up project delivery. We did not determine the number of state DOTs that attributed the speed up in project delivery to the 2012 provision, as opposed to those who attributed it to the earlier programmatic agreements with their FHWA division offices. All of the required provisions reportedly sped up project delivery for at least 4 state DOTs.

<sup>28</sup>The *Eliminating the Documentation and Prior Approval Requirement for Categorical Exclusion for Bridge Projects at Railway-Highway Crossings* provision designates bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings, as a categorical exclusion. The *Eliminating the Documentation and Prior Approval Requirement for Categorical Exclusion for Highway Modernization* provision designates resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes as a categorical exclusion. The *Eliminating the Documentation and Prior Approval Requirement for Categorical Exclusion for Highway Safety* provision designates highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, as a categorical exclusion.

<sup>29</sup>The *Early Coordination Activities in Environmental Review Process* provision encourages early cooperation between DOT and other agencies, including states or local-planning agencies, in the environmental review process to avoid delay and duplication, and suggests early coordination activities. Early coordination includes establishment of MOUs with states or local-planning agencies.

