



Construction Industry Round Table

March 10, 2020

Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503.

RE: **Docket Number: CEQ-2019-0003** CEQ Proposal Implementing Provisions of the National Environmental Policy Act (NEPA)

Dear Mr. Edward A. Boling:

On behalf of the Construction Industry Round Table (CIRT) and its 125-CEOs of leading design and construction companies, we wish to express our **strong support** for the Administration's decision to direct the Council on Environmental Quality (CEQ) to propose updates to the regulations implementing procedural provisions of the National Environmental Policy Act (NEPA) that will have a significant impact on infrastructure projects.

Regulatory delays, redundancies, inefficiencies, and red tape collectively have a direct impact on costs and therefore the vitality and ability of U.S. economy to remain profitable and hire more people.

“Sound governance” is a bipartisan goal that can be achieved with smart, specific, and thoughtful regulatory reforms and streamlining that allows for the general intent of the rules to be gained without the wasteful “red tape,” overlapping jurisdictions, cost, and cumulative drag on the economy and creation of jobs.

DISCUSSION

NEPA Procedural Reforms

CIRT has consistently and actively supported the notion of streamlining regulatory requirements (particularly those associated with EIS rules) as a means to improve efficiencies both as to costs and time it takes to advance projects. Under NEPA, federal agencies are required to evaluate the potential environmental impacts of major projects such as roads and bridges, rail and water infrastructure, energy projects, etc. CIRT agrees these regulatory requirements have become “unnecessarily complex and time consuming,” resulting in the delay of some infrastructure projects.

We believe, the proposed changes will reduce the average time it takes to complete an Environmental Impact Statement (EIS) through increased interagency coordination. Currently, project sponsors must acquire approval from various agencies on permitting decisions to advance their project, which are usually done sequentially – NOT concurrently. As a result, the average environmental impact statement (EIS) process takes 4.5 years, or even longer for highway projects, according to CEQ data.

Moreover, the NEPA changes would codify aspects of Trump's One Federal Decision policy, which improves coordination and communication between Federal agencies. The policy sets a two-year average goal for completion of environmental reviews for major infrastructure projects. The federal environmental reviews will still be done, administration officials said, but with greater efficiency. These reforms should help spur more private sector investment, as well as better use of tax dollar for infrastructure projects.

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Bipartisan Agreement on Streamlining Regulatory Requirements

In 2015, the Obama White House, Senate, and House of Representatives came together in a bipartisan manner to pass the long-delayed highway transportation bill.

One of the most important **and possibly most significant elements** in the 2015 law is the section on regulatory streamlining. While the provisions are focused on transportation infrastructure related projects and activities, *the law's provisions were as a blueprint for further regulatory improvements across the government* (as seen in the CEQ proposed reforms).

Key Provisions:

Title 41 of *FAST* continued significant reforms in the environmental review and planning process designed to reduce project delivery time and costs, (USDOT is the key agency to implement). For example:

- Expands the number and types of projects that can be excluded from the federal environmental review process.
 - Encourages early coordination between relevant agencies to avoid delays later in the review process and directs DOT to develop specific review deadlines.
 - Designates U.S. DOT as the lead agency for the review and approval of transportation projects. DOT to encourage deadlines for actions by other federal agencies.
 - Allows for programmatic decisions instead of project by project decisions.
 - Limits federal National Environmental Policy Act review requirements for projects that are less than \$5 million or where federal funds are less than 15 percent of the project costing more than \$30 million.
 - Expands the category of projects that are automatically excluded from the federal environmental review process, including emergency projects, many maintenance projects and reconstruction projects.
 - Provides expedited procedures for approval of projects with minimal environmental impact.
 - Allows for the purchase of right-of-way and for design to begin prior to final environmental clearance;
- AND
- For states with PM 2.5 non-attainment areas, requires that 25 percent of state's Construction Mitigation & Air Quality Improvement funds be used for projects in those areas that reduce PM. Projects can include diesel retrofit programs for on- and off-road diesel equipment operating on a highway construction project in the non-attainment area.

In sum, the CEQ proposal continues the process in Title 41 of the FAST Act of implementing regulations with a goal of streamlining, clarifying the responsible public agency (DOT), clear deadlines, and improved application of the rules to projects that may warrant such requirements.

The Cost of Red Tape Can be Substantial.

About ten years ago, CIRT's Quarterly Sentiment Index (1st Quarter 2011 Report) found a stunning level of increased costs and time delays caused by "red tape"¹ (defined as: "redundancies, inefficiencies, and/or overlapping jurisdictions).

Analyzing the data as a weighted average or aggregated, **the overall regulatory "red tape" increases time/costs by 10%**. (Virtually identical findings to the FIATECH study done in 2007).

More recently, recently CIRT reconfirmed the time and cost savings it had identified earlier, albeit lower

as shown in the CIRT Sentiment Index Report (4th Qtr./2018). With respect to Streamlining: (36%) have seen some benefits, while (43%) have not, with **cost savings of approximately (5.10%)** composite weighted average **and time savings at almost the same (5.35%)**.

Unfortunately, the costs due to regulatory inefficiencies are not isolated to only *public* sector projects – but, have spread into even *private* sector work that has been burdened with similar “red tape” in order to meet the requirements of government.

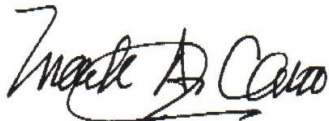
CONCLUSION

Regulatory reforms are not about regulatory abandonment -- but rather, about wisely spending both government and private sector dollars.

Executive Orders can effectively address many of the needed reforms, short of outright repeal and/or elimination of excessive regulations and rules.

The Construction Industry Round Table (CIRT) has consistently and strongly supported efforts to improve the efficiency and effectiveness of regulations, such as proposed by CEQ in relationship to NEPA, so as to positively impacts both the time and cost of these requirements; thereby ultimately benefiting the end user – i.e., taxpayers.

Sincerely,

A handwritten signature in black ink that reads "Mark A. Casso". The signature is written in a cursive style with a large initial 'M' and a long horizontal stroke at the end.

Mark A. Casso, Esq., NAC
President, CIRT

NOTE:

The Construction Industry Round Table (CIRT) strives to create one voice to meet the interest and needs of the design and construction community. CIRT supports its members by actively representing the industry on public policy issues, by improving the image and presence of its leading members, and by providing a forum for enhancing and/or developing strong management approaches in an ever-changing environment through networking and peer interaction.

The Round Table is composed of approximately 125 CEOs from the leading architectural, engineering, and construction firms in the United States. Together these firms deliver on billions of dollars of public and private sector infrastructure projects that enhance the quality of life of all Americans while directly employing nearly half-million Americans.