



November 30, 2012

The Honorable Ray LaHood, Secretary
The United States Department of Transportation
1200 New Jersey Avenue, SE
Docket Operations, M-30, Room W12-140
Washington, DC 20590

Dear Mr. Secretary:

This correspondence is in reference to proposed changes to 23 CFR 771.117(c)(9) to include a new paragraph relating to repairs or reconstruction of facilities damaged by emergencies in certain circumstances as required by the Moving Ahead for Progress in the 21st Century Act (MAP-21).

The Transportation Transformation Group (T2) is a non-profit group built around a consensus that federal surface transportation policies demand a transformation that emphasizes congestion relief, increased safety, and the efficient movement of goods to America's transportation customers. Our members include departments of transportation of Texas, Florida, Indiana, Utah, New Hampshire, the North Texas Tollway Authority, Port of Houston, Pioneer Institute, Reason Foundation, Cintra US, Dannenbaum Engineering, HDR Engineering, Inc., Nossaman LLP, International Bridge, Tunnel and Turnpike Association, Bank of America-Merrill Lynch, Barclays Capital, Wells Fargo, Goldman, Sachs & Co., HNTB Corp., JP Morgan, Raymond James & Associates, Inc., Piper Jaffray, Morgan Stanley, Siebert Brandford & Shank and Citi.

Congress has enacted and President Barack Obama has signed the Moving Ahead for Progress in the 21st Century Act (MAP-21), focusing policy on solutions that free state ingenuity and reduce restrictions on innovation. T2 suggests that these concepts should remain at the forefront of the U.S. Department of Transportation's efforts to implement the new law.

One of the most significant improvements made by MAP-21 to transportation innovation is the expansion of emergency activities covered under the proposed new paragraph. T2 strongly supports expanded flexibility in this area. In implementing the categorical exclusion provisions of MAP-21, T2 supports a general approach that provides great flexibility to States and transit agencies.

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T2 supports the categorical exclusion of construction of engineering and design changes of a damaged facility. From our perspective, it is common sense that we make the best use of time and resources when performing emergency repairs. Not bringing a facility up to current design standards would be an inefficient waste of public resources. T2 supports exclusion for those instances listed in the proposed rule and would suggest the exclusion be extended no matter the cause.

With regard to periodic evaluations required under Section 1315(b), T2 suggests reviews for the purposes of identifying reasonable alternatives to roads, highways, or bridges that repeatedly require repair and reconstruction, as well as evaluations for asset management purposes that could be performed in conjunction with existing periodic evaluations. The frequency of these reviews should remain at the discretion of the State or transit agency.

The evaluations of risk of recurring damage, the protection of public safety and health, and the cost of future repairs should also be determined by the States and transit agencies, recognizing the wide variation of risk among states and factors. Clearly, local government agencies are in the best position to evaluate the most appropriate risk factors.

Thank you for considering our comments. We look forward to continuing to work with you on the implementation of MAP-21.

Sincerely,

Jeff Austin III
Chairman, Transportation Transformation Group