



DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA-2026-0958]

Proposed Memorandum of Understanding (MOU) Assigning Certain Federal Environmental Responsibilities to the State of Georgia, Including National Environmental Policy Act (NEPA) Authority for Certain Categorical Exclusions (CEs)

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice of proposed MOU and request for comments.

SUMMARY: This notice announces that FHWA and the State of Georgia, acting by and through its State Department of Transportation, propose a MOU providing participation of the State in the CE Assignment Program. This program allows FHWA to assign its authority and responsibility for determining whether certain designated activities within the geographic boundaries of the State, as specified in the proposed MOU, are categorically excluded from preparation of an environmental assessment or an environmental impact statement under NEPA.

DATES: Please submit comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

Federal eRulemaking Portal: Go to www.regulations.gov and follow the online instructions for submitting comments.

Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Ave., S.E., West Building Ground Floor Room W12-140, Washington, D.C. 20590.

Hand Delivery: West Building Ground Floor, Room W12-140, 1200 New Jersey Ave S.E., Washington, D.C. 20590 between 9:00 a.m. and 5:00 p.m. (E.T.), Monday through Friday, except Federal holidays.

Instructions: You must include the Agency name and docket number at the beginning of your comments. All comments received will be posted without change to www.regulations.gov, including any personal information provided.

FOR FURTHER INFORMATION CONTACT:

For FHWA: Sabrina David by email at Sabrina.David@dot.gov, by telephone at 404-562-3630. FHWA Georgia Division Office's normal business hours are 7:30 a.m. to 4:00 p.m. (E.T.), Monday-Friday, except for Federal holidays.

For GDOT: Amber Phillips by email at aphillips@dot.ga.gov or by telephone at 404-631-1100. State business hours are 8:00 a.m. to 5:00 p.m. (E.T.), Monday-Friday, except Federal and State holidays, although State holidays may not completely coincide with Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may submit or retrieve comments online through the Federal eRulemaking portal at: www.regulations.gov. The Website is available 24 hours each day, 365 days each year. Please follow the instructions. Electronic submission and retrieval help and guidelines are available under the help section of the Website.

An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: www.federalregister.gov and the U.S. Government Publishing Office's Webpage at: www.govinfo.gov.

Background

On October 24, 2025, FHWA received a request from the State of Georgia, acting by and through its State Department of Transportation, to participate in the CE

Assignment Program. The CE Assignment Program, pursuant to Section 326 of Title 23, United States Code (U.S.C.), is a program that allows the Secretary of the U.S. Department of Transportation (Secretary), to assign, and a State to assume, responsibility for determining whether certain highway projects are included within classes of action that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to NEPA, 42 U.S.C. 4321 *et seq.* In addition, this program allows the assignment of other environmental review requirements applicable to Federal highway projects. FHWA is authorized to act on behalf of the Secretary with respect to these matters.

FHWA would execute Georgia's participation in this program through an MOU. statewide decisionmaking responsibility would be assigned for all activities identified in the MOU within the categories listed in 23 Code of Federal Regulations (CFR) 771.117(c) and those listed as examples in 23 CFR 771.111(d), and any activities added through FHWA rulemaking to those listed in 23 CFR 771.117(c) or example activities listed in 23 CFR 771.117(d) after the date of the execution of this MOU. In addition to the NEPA CE determination responsibilities, the MOU would assign to the State the responsibility for conducting Federal environmental review, consultation, and other related activities for projects that are subject to the MOU with respect to the following laws and requirements:

Air Quality

- Clean Air Act, 42 U.S.C. 7401–7671q, *Including determinations for project-level conformity if required for the project, except as specified in Stipulation II.B.2 of the MOU*

Noise

- Noise Control Act of 1972, 42 U.S.C. 4901–4918
- FHWA noise regulations in 23 CFR Part 772

Fisheries and Wildlife

- Endangered Species Act of 1973, 16 U.S.C. 1531–1544
- Marine Mammal Protection Act, 16 U.S.C. 1361–1423h
- Anadromous Fish Conservation Act, 16 U.S.C. 757a–757f
- Fish and Wildlife Coordination Act, 16 U.S.C. 661–667d
- Migratory Bird Treaty Act, 16 U.S.C. 703–712
- Bald and Golden Eagle Protection Act, 16 U.S.C. 668–668d
- Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801–1891d, with Essential Fish Habitat requirements at 16 U.S.C. 1855(b)(2)

Historic and Cultural Resources

- National Historic Preservation Act of 1966, as amended, 54 U.S.C. 300101 et seq.
- Section 4(f) of the Department of Transportation Act of 1966 [Section 4(f)], 23 U.S.C. 138, 49 U.S.C. 303 and implementing regulations at 23 CFR Part 774
- Archeological Resources Protection Act of 1979, 16 U.S.C. 470(aa)–470(mm)
- Native American Grave Protection and Repatriation Act, 25 U.S.C. 3001–3013; 18 U.S.C. 1170
- Archeological and Historic Preservation Act, 54 U.S.C. 312501–312508

Social and Economic Impacts

- American Indian Religious Freedom Act, 42 U.S.C. 1996
- Farmland Protection Policy Act, 7 U.S.C. 4201–4209

Water Resources and Wetlands

- Clean Water Act, 33 U.S.C. 1251–1387
- Coastal Barrier Resources Act, 16 U.S.C. 3501–3510
- Coastal Zone Management Act, 16 U.S.C. 1451–1466

- Safe Drinking Water Act, 42 U.S.C. 300f–300j–26
- General Bridge Act of 1946, 33 U.S.C. 525–533
- Rivers and Harbors Act of 1899, 33 U.S.C. 401–406
- Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287
- Emergency Wetlands Resources Act, 16 U.S.C. 3901 and 3921
- Wetlands Mitigation, 23 U.S.C. 119(g), 133(b)(14)
- Flood Disaster Protection Act, 42 U.S.C. 4001–4130
- FHWA wetland and natural habitat mitigation regulations, 23 CFR Part 777

Parklands and Other Special Uses

- Section 4(f) of the Department of Transportation Act of 1966 [Section 4(f)], 23 U.S.C. 138, 49 U.S.C. 303 and implementing regulations at 23 CFR Part 774
- Land and Water Conservation Fund Act, 54 U.S.C. 200302–200310

FHWA-Specific

- Planning and Environmental Linkages, 23 U.S.C. 168, with the exception of those FHWA responsibilities associated with 23 U.S.C. 134 and 135
- Programmatic Mitigation Plans, 23 U.S.C. 169, with the exception of those FHWA responsibilities associated with 23 U.S.C. 134 and 135

The MOU allows the State to act in the place of FHWA in carrying out the functions described above, except with respect to government-to-government consultations with federally recognized Indian Tribes. FHWA will retain responsibility for conducting formal government-to-government consultation with federally recognized Indian Tribes, which is required under some of the above-listed laws. The State may also assist FHWA with formal consultations, with consent of a Tribe, but FHWA remains responsible for the consultation.

This assignment includes transfer to the State of Georgia the obligation to fulfill the assigned environmental responsibilities on any proposed projects meeting the criteria

in Stipulation 1(B) of the MOU that were determined to be CEs prior to the effective date of the proposed MOU but that have not been completed as of the effective date of the MOU.

The assignment under this part does not alter the scope and terms of the proposed Surface Transportation Project Delivery Program Assignment MOU under 23 U.S.C. 327 between GDOT and FHWA published in the Federal Register for public review and comment concurrently with this MOU. As applicable, GDOT will conduct all environmental reviews authorized under the terms of that MOU when fully executed.

A copy of the proposed MOU may be viewed on the docket at www.regulations.gov, as described above, or may be obtained by contacting FHWA or the State at the addresses provided above. A copy also may be viewed on GDOT's Website at www.dot.ga.gov/GDOT/Pages/NEPAAssignment.aspx.

FHWA will consider the comments submitted on the proposed MOU when making its decision on whether to execute this MOU. FHWA will make the final, executed MOU publicly available.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 326; 42 U.S.C. 4331, 4332; 23 CFR 771.117.

Sean McMaster,
Administrator,
Federal Highway Administration.