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September 10, 2024

The Honorable Bruce Westerman
Chairman
House Committee on Natural Resources
United States House of Representatives
Washington, DC 20515

The Honorable Raúl Grijalva
Ranking Member
House Committee on Natural Resources
United States House of Representatives
Washington, DC 20515

Dear Chairman Westerman and Ranking Member Grijalva:

On behalf of the Associated General Contractors (AGC) of America the leading association in the construction industry representing more than 28,000 firms, including America's leading general contractors and specialty-contracting firms – I thank you for holding this legislative hearing on the National Environmental Policy Act (NEPA) review and approval process. AGC respectfully shares the following comments on the implications of overly broad NEPA reviews on the construction industry due to recent changes to the NEPA implementing rules.

In July of this year, the White House Council on Environmental Quality (CEQ) issued its final rule, “National Environmental Policy Act (NEPA) Implementing Regulations Revisions Phase 2.” This regulation goes beyond NEPA’s original intent and could complicate and prolong the efficiency of infrastructure projects – jeopardizing the potential benefits of recent legislative acts. The rule overlooks the aim of the Fiscal Responsibility Act (FRA) to reduce complexity and unpredictability in the federal environmental approval process, potentially causing critical construction projects, including both traditional and renewable energy projects, to be delayed. Efficiency is essential for timely community benefits, resilience, and economic strength.

CEQ’s rule creates duplicative layers of requirements for considerations like climate and environmental justice, potentially favoring certain projects and creating hurdles for others. This is contrary to NEPA, as interpreted by longstanding case law, which is designed to be a procedural statute for informed decision-making, rather than for forcing specific outcomes. It is also contrary to the intent of Congress, who made meaningful changes to the approval process in the bipartisan FRA. Members of Congress should send a clear signal of disapproval and use the Congressional Review Act (CRA) to block the NEPA Phase 2 rule and protect their previous streamlining efforts.

In addition to the CRA disapproval, Congress should consider efforts to streamline the NEPA review process. Too often, critical infrastructure projects are held up by NEPA reviews, and the agencies involved are often less than forthcoming about the major obstacles to federal environmental approvals. The Studying NEPA’s Impact on Projects Act will ensure transparency in this process by requiring CEQ to report on these environmental reviews and the lawsuits associated with them. Enhanced accountability will help inform future efforts to reform the environmental review and approval processes.

Congress must ensure that the NEPA process operates without any roadblocks or delays. AGC thanks the committee for holding this important hearing and looks forward to working with committee members on this issue.

Sincerely,

Alex Etchen
Vice President, Government Relations