



**AGC**  
THE CONSTRUCTION  
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May 30, 2023

The Honorable Kevin McCarthy  
Speaker  
United States House of Representatives  
Washington, D.C. 20515

The Honorable Hakeem Jeffries  
Minority Leader  
United States House of Representatives  
Washington, D.C. 20515

**AGC KEY VOTE: VOTE “YES” ON THE FISCAL RESPONSIBILITY ACT OF 2023**

Dear Speaker McCarthy and Minority Leader Jeffries,

On behalf of the Associated General Contractors of America (AGC) – the leading construction association representing America’s top general contractors and specialty-contracting firms in every state – I write in support of the *Fiscal Responsibility Act of 2023* (FRA). The bill includes the most impactful federal environmental review and permitting reforms in over 40 years, helps address the industry’s workforce shortages, and averts a catastrophic national credit default.

Although AGC is concerned about and will fight to ensure Congress fully funds promised infrastructure investments during the appropriations process, this bill represents a significant victory for the construction industry and the nation. As such, **AGC urges all representatives to vote “YES” on the FRA and will KEY VOTE final passage for the education of its 27,000 member companies.**

Our nation faces many challenges that require the delivery of timely infrastructure projects to help address them. But waiting years just for a federal environmental review or permitting decision, let alone the beginning of construction, needlessly delays these projects. To this point, environmental review documents required under the *National Environmental Policy Act* (NEPA) can take agencies years and hundreds—if not thousands—of pages to complete. Even then, these documents often face judicial scrutiny, as NEPA is, according to the U.S. Department of Justice, the most frequently litigated federal environmental statute. Lawsuits stemming from NEPA can delay projects for years, and in some cases, the environmental documentation expires before construction can begin.

The FRA includes a host of long-sought, AGC-backed reforms to the federal environmental review and permitting process, without jeopardizing environmental protections, by amending NEPA to, among other things:

- ***Claw Back the Overexpansive Reach of Federal Environmental Review to its Intended Purpose.*** NEPA is triggered when a project or activity involves a “major Federal action” that “significantly affect[s]” the quality of the human environment. Over time, this term has been expanded to include projects or actions that are neither major federal actions nor significant in effect—like the inclusion of only one federal dollar for an otherwise wholly non-federally financed project, a minor or incidental incursion onto federal lands, or the mere need for only one federal permit or license required under one of the dozens of other federal environmental permitting statutes that demand their own environmental reviews. The FRA explicitly identifies and excludes what are not “major Federal actions” to address the over-triggering of NEPA that has unnecessarily delayed the benefits of construction projects to millions of Americans.
- ***Extend One Federal Decision Policies to All Construction Projects.*** The *Infrastructure Investment and Jobs Act* (IIJA) codified many policies (such as establishing a lead federal agency, limiting reviews to no more than two years, and setting page limits for reviews) of President Trump’s One Federal Decision Executive Order 13807. However, these IIJA reforms only apply to surface transportation projects. The FRA would not only extend these policies to all types of construction projects but would also allow project sponsors to hold agencies accountable, in court, for missing deadlines.

- ***Curtail Frivolous Lawsuits to Delay or Cancel Projects.*** NEPA requirements for environmental assessment and environmental impact statement analyses are ambiguous, uncertain, and, as a result, have proven to be prone to endless litigation. The FRA narrows and clarifies these requirements by tying them—and, in turn, federal agency analyses—to documenting and defending in court only “reasonably foreseeable” environmental effects of a proposed project, thereby abandoning the agencies’ current practice of trying to document and consider any environmental effects no matter how speculative or remote. And the FRA makes further improvements by ensuring federal agencies need only consider and defend in court a “reasonable range of alternatives” to the proposed project that are “technically and economically feasible” instead of *any* possible alternatives to the proposed project or activities, no matter how implausible which has added time and cost to these reviews.
- ***Enable Agencies to Adopt Other Agencies’ Categorical Exclusions from NEPA.*** A categorical exclusion (CE) refers to a category of projects/activities for which no environmental impact statement or environmental assessment and finding of no significant impact under NEPA is required. If a determination has been made that a project/activity does not have a significant impact, then that determination should apply across government and not be specific to just one agency. Unfortunately, for too long some agencies that do not have CEs for these same or similar projects/activities have had to take on the NEPA process or a complex procedure to secure the CE from another agency. The FRA establishes a streamlined process to facilitate agencies’ adoption of other agencies’ CEs.

Congress last amended NEPA more than 40 years ago, in 1982. These are meaningful, generational reforms that will help reduce agency timelines for issuing environmental reviews, curtail frivolous lawsuits, and accelerate project delivery.

In addition to the environmental review reforms, the FRA’s new work requirements for some individuals receiving federal assistance may bring more people back into the workforce. It is no secret that pandemic-era measures that paid people not to work exacerbated workforce shortages in virtually every sector of the economy. These shortages undermined economic growth, including in construction. The new measures included in the FRA could help lead some people to high-paying careers in professions like construction, an industry that continues to face a national workforce shortage. According to a January 2023 AGC and Sage survey, an overwhelming 80 percent of construction contractors report they are having a hard time filling some or all salaried or hourly craft positions. In March 2023, the U.S. Bureau of Labor Statistics reports there were 355,000 job openings in construction.

The provisions in the FRA contain important improvements to the appropriations process, permitting process, and federal incentives for the domestic workforce; President Biden and the Congressional leadership should be commended for negotiating this important legislative package. However, consideration of this legislation cannot be considered in a vacuum. Failure to enact the FRA in the next few days would needlessly place the U.S. economy at risk. The federal government must meet its financial obligations, on time and on budget, just like AGC members do every day.

Passage of the FRA will allow the U.S. government to meet its immediate obligations, take important steps to reduce its future obligations, and will make necessary reforms to improve the economy. **Again, AGC urges all representatives to vote “YES” on the FRA and will record their vote as a KEY VOTE.**

Sincerely,



James V. Christianson  
Vice President, Government Relations

**Cc: Members of the U.S. Representatives**