



COUNCIL ON ENVIRONMENTAL QUALITY

[3225-F5-P]

Initial List of Actions to Enhance and Modernize the Federal Environmental Review and Authorization Process

AGENCY: Council on Environmental Quality.

ACTION: Notice.

SUMMARY: The Council on Environmental Quality (CEQ) is publishing its initial list of actions pursuant to Executive Order 13807 of August 15, 2017, titled “Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects,” and published on August 24, 2017.

ADDRESSES: This Initial List of Actions will be available at <https://www.whitehouse.gov/ceq> and on the National Environmental Policy Act (NEPA) web site at <https://ceq.doe.gov/>.

FOR FURTHER INFORMATION CONTACT: Council on Environmental Quality (ATTN: Ted Boling, Associate Director for the National Environmental Policy Act), 730 Jackson Place, N.W., Washington, DC 20503. Telephone: (202) 395-5750. Email: NEPA@ceq.eop.gov.

SUPPLEMENTARY INFORMATION: On August 15, 2017, the President signed Executive Order 13807 titled “Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects,” which was published on August 24, 2017. 82 FR 40463. The Executive Order directs the Council on Environmental Quality (CEQ) to undertake a number of actions. In particular, Section 5(e)(i) of Executive Order 13807 provides that “[w]ithin 30 days of the date of this order, the CEQ shall develop an initial list of actions it will take to enhance and modernize the Federal environmental review and authorization process.

Such actions should include issuing such regulations, guidance, and directives as CEQ may deem necessary to:

- (A) ensure optimal interagency coordination of environmental review and authorization decisions, including by providing for an expanded role and authorities for lead agencies, more clearly defined responsibilities for cooperating and participating agencies, and Government-wide applicability of NEPA decisions and analyses;
- (B) ensure that environmental reviews and authorization decisions involving multiple agencies are conducted in a manner that is concurrent, synchronized, timely, and efficient;
- (C) provide for agency use, to the maximum extent permitted by law, of environmental studies, analysis, and decisions conducted in support of earlier Federal, State, tribal, or local environmental reviews or authorization decisions; and
- (D) ensure that agencies apply NEPA in a manner that reduces unnecessary burdens and delays as much as possible, including by using CEQ's authority to interpret NEPA to simplify and accelerate the NEPA review process."

Pursuant to Section 5(e)(i) of Executive Order 13807, CEQ identifies the following initial list of actions that it intends to undertake to enhance and modernize the Federal environmental review and authorization process:

1. To comply with Section 5(b)(iv) of Executive Order 13807, CEQ intends to develop with the Office of Management and Budget (OMB), and in consultation with the Federal Permitting Improvement Steering Council (Permitting Council), a framework providing

for the implementation of One Federal Decision. This framework may be supplemented with additional guidance and directives as needed.

2. To comply with Section 5(d) of Executive Order 13807, CEQ will refer various requests for designation of State projects pursuant to Executive Order 13766 to the Permitting Council, Department of Transportation and U.S. Army Corps of Engineers as appropriate. CEQ will, as appropriate in response to any additional requests from States, refer projects that qualify for designation as high priority projects in accordance with Section 5(d) of Executive Order 13807.
3. To comply with Section 5(e)(i) of the Executive Order, CEQ intends to
 - (a) revise, modify or supplement its existing guidance regarding:
 - i. Establishing, Applying, and Revising Categorical Exclusions under NEPA, with supporting information regarding established Categorical Exclusions;
 - ii. Preparing Environmental Assessments;
 - iii. Improving the Process for Preparing Efficient and Timely Environmental Reviews under NEPA;
 - iv. Appropriate Use of Mitigation and Monitoring and Appropriate Use of Mitigated Findings of No Significant Impact; and
 - v. Environmental Collaboration and Conflict Resolution;
 - (b) review existing CEQ Regulations implementing the procedural provisions of NEPA in order to identify changes needed to update and clarify those regulations; and

(c) issue such additional guidance to agency heads as CEQ may deem necessary to simplify and accelerate the NEPA process for infrastructure projects, including infrastructure-specific guidance to be compiled in a NEPA practitioners' handbook for infrastructure project proposals, to address issues including but not limited to the following:

- i. public involvement, including meetings and sufficiency of notice;
- ii. deference to the lead Federal agency with regard to key NEPA elements such as the development of the statement of purpose and need and range of alternatives;
- iii. appropriate cumulative impacts analysis methodologies or tools for infrastructure projects;
- iv. sources of information that may be relied upon in analyzing impacts;
- v. reliance on prior studies, analyses or decisions for projects within the same general locations; and
- vi. reliance on State, local and tribal environmental impacts analyses for purposes of NEPA.

4. To comply with Section 5(e)(iii), CEQ will convene an interagency Executive Order 13807 Working Group, consisting of agency Chief Environmental Review and Permit Officers, the OMB Director, and representatives of other such Federal agencies as CEQ shall deem appropriate. The working group shall review the NEPA implementing regulations and other environmental review and authorization procedures and policies of Federal agencies that are members of the Permitting Council to identify impediments to

the efficient and effective processing of environmental reviews and authorizations for infrastructure projects and to identify agencies that require an action plan to address the identified impediments. Based on this review, involved Federal agencies shall develop their action plans setting forth the actions they will take as well as timelines for completing those actions, and submit their action plans to CEQ and OMB for comment. Each agency's action plan shall, at a minimum, establish procedures for a regular review and update of categorical exclusions, where appropriate. CEQ anticipates that the working group will address a number of issues relating to environmental reviews, including but not limited to consultations pursuant to Section 7 of the Endangered Species Act, compliance with Section 106 of the National Historic Preservation Act, and permitting and certifications pursuant to the Clean Water Act.

(Authority: 42 U.S.C. 4332, 4342, 4344; 40 CFR Parts 1500, 1501, 1502, 1503, 1505, 1506, 1507, and 1508; E.O. 13807, 82 FR 40463.)

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