



DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 302

[Docket No.: 250626-0114]

RIN: 0610-AA87

Amendment to Environment Regulation

AGENCY: Economic Development Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: Through this final rule, the Economic Development Administration (EDA), U.S. Department of Commerce, is amending its environmental regulation. Amending this regulation is necessary to remove references to the Council on Environmental Quality (CEQ)'s National Environmental Policy Act (NEPA) implementing regulations, which CEQ has rescinded, and to clarify EDA internal staffing of Environmental Officers.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

Background

EDA's enabling statute is the Public Works and Economic Development Act of 1965 (PWEDA) and EDA's regulations are codified at 13 CFR Chapter III. The CEQ issued an interim final rule, (90 FR 10610, February 25, 2025; 90 FR 12690, March 19,

2025), effective April 11, 2025, to remove the existing implementing regulations for the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, as amended (NEPA). This action was necessitated by and is consistent with Executive Order (E.O.) 14154, *Unleashing American Energy* (90 FR 8353; January 29, 2025), in which President Trump rescinded President Carter's E.O. 11991, *Relating to Protection and Enhancement of Environmental Quality* (42 FR 26967; May 24, 1977), which was the basis CEQ had invoked for its authority to make rules to begin with.

EDA's environmental regulation at 13 CFR 302.1 is intended to inform prospective and current grant recipients of their environmental responsibilities under all federal environmental laws, regulations, and Executive Orders. The current regulation also contains a specific reference to CEQ's NEPA implementing regulations and discusses some requirements under NEPA generally. In light of CEQ's removal of its NEPA implementing regulations and the fact that EDA has its own NEPA policies at Directive 17-02.2, it is necessary to update EDA's environmental regulation to remove references to CEQ's NEPA implementing procedures.

In addition, EDA is updating language in the regulation to make it consistent with EDA's internal staffing practices. The regulation formerly discussed that an EDA Environmental Officer is associated with an EDA regional office. However, due to staffing changes, EDA no longer necessarily assigns an Environmental Officer on a regional basis, but instead on a case-by-case basis. This regulation does not provide any additional guidance and only clarifies an internal staffing practice.

This rule is part of the overall package of updates to EDA's environmental practices to ensure consistency with CEQ's rescission of its implementing regulations and with governmentwide updates to agency NEPA procedures, which EDA is executing through a separate action to Directive 17.02-2. EDA is revising Directive 17.02-2 in

response to E.O. 14154 as well as Congressional amendments to NEPA and recent court cases.

Congress amended NEPA in significant part in the Fiscal Responsibility Act of 2023 (FRA), Public Law 118-5, signed on June 3, 2023, adding substantial detail and direction in Title I of NEPA, including in particular on procedural issues that CEQ and individual acting agencies had previously addressed in their own procedures. EDA recognized the need to update its NEPA implementing procedures in light of these significant legislative changes. Since EDA's procedures were originally designed as a supplement to CEQ's NEPA regulations, the EDA had been awaiting CEQ action before revising its procedures, consistent with CEQ direction. *See* 40 C.F.R. 1507.3(b) (2024); *see also* 86 FR 34154 (June 29, 2021). However, with CEQ's regulations now rescinded, and with EDA's NEPA implementing procedures still unmodified more than two years after this significant legislative overhaul, it is exigent that EDA move quickly to conform its procedures to the statute as amended.

Additionally, the Supreme Court on May 29, 2025 issued its decision in *Seven County Infrastructure Coalition v. Eagle County*, Colorado, 145 S.Ct. 1497 (2025), in which it described the “transform[ation]” of NEPA from its roots as “a modest procedural requirement,” into a significant “substantive roadblock” that “paralyze[s]” “agency decisionmaking.” *Id.* at 1507, 1513 (quotations omitted). The Supreme Court explained that part of that problem had been caused by decisions of lower courts, which it rejected, issuing a “course correction” mandating that courts give “substantial deference” to reasonable agency conclusions underlying its NEPA process. *Id.* at 1513-14. But the Court also acknowledged, and through its course correction sought to address, the effect on “litigation-averse agencies” which, in light of judicial “micromanage[ment],” had been “tak[ing] ever more time and [] prepar[ing] ever longer EISs for future projects.” *Id.* at 1513. EDA, thus, is issuing this final rule as part of its project of revising its NEPA

implementing procedures to align its actions with the Supreme Court's decision and streamline its process of ensuring reasonable NEPA decisions.

Classification

Administrative Procedure Act and Regulatory Flexibility Act

Pursuant to 5 U.S.C. 553(b)(A), notice and comment are not required because this is a rule of agency organization, procedure, or practice inasmuch as it updates an internal staffing structure. This rule also does not substantively affect EDA's implementation of NEPA which EDA administers through Directive 17-02.2, not the regulation at 13 CFR 302.1. As previously stated, the Directive is being updated in response to E.O. 14154 as well as Congressional amendments to NEPA and recent court cases. Rather, EDA is simply removing a cross-reference to a set of CEQ NEPA implementing procedures that CEQ rescinded.

In addition, to the extent that prior notice and solicitation of public comment would otherwise be required, EDA finds that there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary. 5 U.S.C. 553(b)(B). The APA authorizes agencies to issue regulations without notice and public comment when an agency finds, for good cause, that notice and comment is "impracticable, unnecessary, or contrary to the public interest," 5 U.S.C. 553(b)(B), and to make the rule effective immediately for good cause. 5 U.S.C. 553(d)(3). This rule amends an environmental regulation to remove references to regulations that are no longer in force and updates an internal staffing structure so that is consistent with current practices. Therefore, public comment would serve no purpose and is unnecessary, and there is accordingly good cause to forgo notice-and-comment-procedures. There is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness. As this rule does not alter the rights or responsibilities of any party, delaying implementation of this rule serves no purpose. Moreover, EDA is removing

references to regulations that are no longer in force, against the backdrop of an executive-branch wide revision of NEPA regulations, which includes EDA separately promulgating new NEPA procedures in its Directive 17-02.2. Confusion would result if part 302's references to defunct regulations remained on the books; good cause lies in promptly conforming it instead to the existing state of law.

Because prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Executive Orders No. 12866, 13563, and 14192

This final rule was drafted in accordance with Executive Orders 12866, 13563, and 14192. OMB has determined that this rule is significant for purposes of Executive Orders 12866 and 13563, and has reviewed. This final rule is an Executive Order 14192 deregulatory action.

Congressional Review Act

This final rule is not a "major rule" under the Congressional Review Act (5 U.S.C. 801 *et seq.*).

Executive Order No. 13132

This final rule does not contain policies that have federalism implications.

Paperwork Reduction Act

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 13 CFR Part 302

Community development, Grant programs-business, Grant programs-housing and community development, Technical assistance.

For the reasons discussed in the preamble, EDA amends 13 CFR part 302 as follows:

PART 302—GENERAL TERMS AND CONDITIONS FOR INVESTMENT

ASSISTANCE.

1. The authority citation for part 302 continues to read as follows:

Authority: 19 U.S.C. 2341 *et seq.*; 42 U.S.C. 3150; 42 U.S.C. 3152; 42 U.S.C. 3153; 42 U.S.C. 3192; 42 U.S.C. 3193; 42 U.S.C. 3194; 42 U.S.C. 3211; 42 U.S.C. 3212; 42 U.S.C. 3216; 42 U.S.C. 3218; 42 U.S.C. 3220; 42 U.S.C. 5141; 15 U.S.C. 3701; Department of Commerce Delegation Order 10-4.

2. Revise § 302.1 to read as follows:

§ 302.1—Environment.

EDA will undertake environmental reviews of projects in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190; 42 U.S.C. 4321 *et seq.*) (“NEPA”), and all applicable Federal environmental statutes, regulations, and Executive Orders. Depending on the project's location, environmental information concerning specific projects may be obtained from the individual serving as the Environmental Officer for the proposed action.

Dated: June 27, 2025

Benjamin Page
Deputy Assistant Secretary and Chief Operating Officer

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