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COUNCIL ON ENVIRONMENTAL QUALITY PLAN FOR RETROSPECTIVE REVIEW OF
EXISTING REGULATIONS – IMPLEMENTATION REPORT

FROM: Nancy H. Sutley
Chair

The Council on Environmental Quality (CEQ) is pleased to present this report on implementation of the CEQ's Plan for Retrospective Review of Existing Regulations ("Plan") in accordance with Executive Order 13563¹ and guidance from the Office of Information and Regulatory Affairs.² As described in CEQ's Plan, CEQ has identified projects under its NEPA Pilot Program to facilitate a review of provisions of CEQ's NEPA Regulations³. This report summarizes CEQ's efforts to identify and deploy innovative approaches that advance the goals of Executive Order 13563 by reducing the time and costs required for Federal environmental reviews. Since its previous Implementation Report on January 23, 2012, CEQ announced the selection of the fifth and final NEPA pilot project. There has also been significant progress in the implementation of the other four NEPA pilot projects. This report provides an update on the recent activities and status of each of the NEPA pilot projects. CEQ has made information on each of the pilot projects and the guidance document described below publicly available on its website.⁴

The first NEPA pilot project, announced August 31, 2011, is demonstrating a smarter way to regulate that promotes faster and more effective Federal decisions on projects that create jobs, grow the economy, and protect the health and environment of communities. For this pilot project, CEQ identified two information technology (IT) tools that have significant potential to reduce costs and save time in Federal NEPA implementation. Those tools are the Planning, Environment, and Public Comment System (PEPC), an online collaboration tool developed by the National Park Service (NPS), and Electronic Modernization of NEPA (eMNEPA), a suite of web-based tools and databases used by the U.S. Forest Service (USFS). Both PEPC and eMNEPA share similar functions that make the NEPA process more efficient, including shortening the time needed to process and analyze public comments received through online submission. Additionally, both PEPC and eMNEPA enable collaborative

¹ "Improving Regulation and Regulatory Review," Exec. Order 13,563, 76 FR 3821 (January 21, 2011), *available at* www.gpo.gov/fdsys/pkg/FR-2011-01-21/pdf/2011-1385.pdf.

² Memorandum for the Heads of Executive Departments and Agencies, "Implementation of Retrospective Review Plans" (October 26, 2011).

³ http://ceq.hss.doe.gov/ceq_regulations/regulations.html

⁴ <http://www.whitehouse.gov/administration/eop/ceq/initiatives/nepa/nepa-pilot-project> and <http://www.whitehouse.gov/administration/eop/ceq/initiatives/nepa/efficiencies-guidance>

development, and online publication and storage, of NEPA documents. These IT tools embody the directives of Executive Order 13563 by improving the efficiency of environmental reviews through online submission and processing of public comments and by allowing personnel from different agencies or jurisdictions to coordinate review timelines, share data, and review documents through a common, internet-based platform. Indeed the Office of Management and Budget's E-gov Office is currently using these tools as examples to assess an opportunity for deploying a public comment analysis tool to be shared across the government, in an effort to save significant amounts of time and money during the rulemaking process.

CEQ announced the selection of the second NEPA pilot project on October 19, 2011. CEQ selected a proposal to gather lessons-learned from agencies that have significant experience preparing Environmental Assessments (EAs) and create best practice principles to facilitate more efficient and cost-effective NEPA environmental reviews. EAs are one of the three types of environmental reviews frequently prepared as a method for compliance with NEPA. If a Federal agency determines, based on its EA, that a finding no significant impact on the environment is appropriate, the agency can proceed without completing a more intensive Environmental Impact Statement. Because limited guidance exists on the preparation of EAs, Federal agencies often dedicate significant time and resources preparing lengthy documents that are more complex and difficult to comprehend than necessary or originally intended. CEQ is awaiting a report from the National Association of Environmental Professionals (NAEP), which has surveyed agencies and over 1000 NEPA practitioners to assemble lessons learned and design best practice principles. Experience-based best practice principles will focus on the preparation of effective EAs that are timelier, more cost-effective, and incorporate those environmental issues that are relevant to the decision making process. CEQ will seek public comment and input on the best practice principles and, once finalized, provide them to agency NEPA practitioners and use them as a training and educational tool. In the meantime, on March 12, 2012, after soliciting public comment, CEQ issued a guidance document titled "Improving the Process for Preparing Efficient and Timely Environmental Reviews under the National Environmental Policy Act."⁵ The guidance clarifies that these efficiencies can and should be applied to all types of environmental reviews, including Environmental Assessments. On April 25, 2012, CEQ also participated in a NAEP webinar about this guidance, which is a part of CEQ's ongoing efforts to modernize the NEPA process and expedite the permitting and other environmental decisions involved in the development of needed infrastructure projects. The work done under this pilot project will improve the quality and transparency of agency decision making by decreasing the length and complexity of EAs, encouraging the use of timelines and page limit ranges, providing for expedited review, and promoting public involvement.

For the third pilot project, announced on October 19, 2011, CEQ selected a project to make a NEPA information technology tool more user-friendly and available to the public. This pilot project created a more user-friendly interface for the Environmental Protection Agency's NEPAAssist Geographic Information System. NEPAAssist is a web-based application that has a proven track record of helping Federal, tribal, state and local NEPA practitioners effectively analyze and use area-specific environmental and geographic data relevant to the NEPA process. This NEPA pilot project was selected to expand the number of data sets and geospatial layers available to NEPA practitioners and to make the

⁵ "Improving the Process for Preparing Efficient and Timely Environmental Reviews under the National Environmental Policy Act," available at <http://www.whitehouse.gov/administration/eop/ceq/initiatives/nepa/efficiencies-guidance>.

tool available to the public. The web-based application draws environmental data dynamically from EPA's Geographic Information System databases and web services and provides immediate screening of environmental assessment indicators for a user-defined area of interest. These features contribute to a streamlined review process that potentially raises important environmental issues at the earliest stages of project development. EPA announced the public NEPAAssist site⁶ on April 26th, 2012, and is actively evaluating additional data sets and layers for inclusion. This pilot project has successfully eased access and encouraged more agencies to take advantage of the time- and cost-saving program.

On January 13, 2012, CEQ and the U.S. Department of Transportation's Federal Railroad Administration (FRA) announced the selection of the fourth NEPA pilot project, which implements an innovative, efficient NEPA review process for high-speed passenger rail service in the Northeast Corridor (NEC). CEQ and FRA are committed to engaging Federal, state and local governments and the public in the environmental review process earlier to set benchmarks that maintain rigorous environmental protections and save time and costs by avoiding conflicts and delays found in similar complex multi-state transportation projects. To that end, in February and March, FRA and CEQ began an early dialogue with the field offices of federal resource agencies in the NEC. These informal agency meetings presented FRA's planning approach and laid out, in broad terms, the purpose of the Pilot Project. This process was used to introduce some of the technological innovations used to modernize NEPA, including making the Tier 1 environmental impact statement (EIS) available to the public via the Federal Infrastructure Projects Dashboard at www.performance.gov. This early engagement has been followed by a round of regional meetings. Additionally, after reviewing over 50 memoranda of understanding and memoranda of agreement, CEQ and FRA introduced to the resource agencies an innovative MOU process for resolving interagency conflicts that would take advantage of the transparency of the Dashboard, the scheduling feature on the Dashboard, and the collaborative IT workspace (MAX.gov). This new approach advanced the high-speed rail project by removing from the MOU process legal requirements that were neither enforceable nor intuitively collaborative. CEQ's clear message to the federal agencies was centered on the philosophy of a collaborative and inclusive approach where federal and state agencies and the Native American tribes would all participate throughout the Tier 1 EIS process in an open dialog with FRA. These efficiencies identified for the high-speed rail project will be used to develop best practices for environmental reviews across the Federal Government.

On February 9, 2012, CEQ and the USFS announced the selection of the fifth pilot project, "Approaches to Restoration Management," which will evaluate and compare the effectiveness of U.S. Forest Service environmental reviews for two forest restoration projects and identify best practices that can be applied to environmental reviews for future restoration projects. Under this NEPA pilot project, the Forest Service will compare and contrast environmental review methods used for the landscape-scale Four Forest Restoration Initiative in Arizona and the smaller-scale 5-Mile Bell project in Oregon. These two projects demonstrate that by involving partners early in the NEPA process the Federal government can cut costs and operate more efficiently while still maintaining strong environmental safeguards at the ground level. CEQ is coordinating with USFS to hold the first of a series of joint meetings to discuss the progress made and the unique approaches being employed. CEQ looks forward to replicating what

⁶ <http://nepassisttool.epa.gov/nepassist/>

the USFS is doing in Arizona and Oregon to other parts of the country engaged in critical restoration work.

CEQ is pleased to have taken these steps to implement the principles of Executive Order 13563. CEQ looks forward to continuing its efforts to help Federal agencies save time and money, and promote more efficient and effective environmental reviews for projects that create jobs, grow the economy, and protect the health and environment of communities.