



January 31, 2020

The Honorable Mary Neumayr
Chairman
Council on Environmental Quality
730 Jackson Pl, NW
Washington, D.C. 20503

Re: Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act (Docket: CEQ-2019-0003)

Dear Chairman Neumayr,

On behalf of the National Association of Counties (NACo), the National Association of County Engineers (NACE) and the 3,069 counties, parishes and boroughs we represent, we write to offer comments in response to the Council on Environmental Quality (CEQ) proposed rule updating the implementation of the National Environmental Policy Act (NEPA). Counties appreciate the opportunity to offer input on these proposed revisions that will directly impact the ability of local governments to accomplish our mission of public service.

As co-regulators and intergovernmental partners with federal agencies, counties have a direct interest in any proposed changes to the NEPA process. Counties support revising NEPA in order to strengthen the involvement of local governments in the federal decision-making process, including clarifying the cooperating agency definition, and to expedite project analyses that deliver final decisions in a more timely and effective manner.

Counties believe that CEQ's efforts to standardize the qualifications for cooperating agencies under the draft rule will be beneficial to both local governments and the citizens we serve. The inclusion of state, tribal and local governments as cooperating agencies can currently vary considerably from agency to agency and even from region to region within an agency, creating difficulties between the federal government and its state and local partners. Counties support the amended definition of "cooperating agency" to ensure greater involvement from state, local and tribal government experts in the NEPA process. We appreciate the opportunity for cooperating agencies to participate in the schedule planning process for NEPA analyses under the draft rule, which will help to expedite the process and aid in the ensuring deadlines are met.

Counties further believe that cooperation should be ongoing and not just limited to specific projects or steps within the NEPA process. Early, consistent and meaningful engagement with state and local partners is vital to the development and implementation of effective environmental policies, programs and regulations. Engaging state and local officials in stakeholder meetings on a regular basis is critical to ensure transparency and open lines of communication.

Additionally, the Administration should vest the greatest possible authority in local and regional offices of the various federal agencies to enter into formal agreements with state and local partners, including allowing state and local governments to conduct portions of the NEPA analysis or provide critical data used in the NEPA analysis. Counties believe the opportunities afforded to serve as co-lead agencies in CEQ's proposed rulemaking are a positive step to ensure early, consistent cooperation and coordination with state, local and tribal governments. Furthermore, we are supportive of language directing lead agencies to meet with cooperating agencies at the latter's request, which will further ensure the ability of counties to offer specific input on environmental assessments (EA) and environmental impacts statements (EIS).

Counties support the broader use of categorical exclusions (CE) under NEPA to address threats to communities or watersheds, reduce the risk of catastrophic events and ensure the timely construction and maintenance of critical transportation and water infrastructure. As individual agencies lead project specific NEPA analyses, these agencies are best suited for determining when and how to apply a CE.

Counties also recommend that federal agencies work with state and local officials to ensure that proposed actions and CEs are consistent with state and local infrastructure development and land management plans. States currently work with federal officials through consistency reviews to synchronize federal and state plans and ensure that both levels of government are working toward the same goals. Expanding and mandating such reviews for federal agencies with counties will create a better relationship and result in improved decision-making moving forward.

Local governments often find the NEPA process to be cumbersome and inefficient. Administrative burdens alone can be overwhelming for counties whose resources are limited. The proposed page and time limitations for EAs and EISs will ensure projects are appropriately studied within a reasonable timeframe. Additional requirements for federal agencies to formally request comments from all impacted county governments, rather than just county or other local environmental agencies, before an EIS is finalized will help to guarantee that local input remains an essential component of the NEPA process.

Finally, counties urge CEQ to ensure that the cumulative impacts of projects analyzed include reasonable calculations and appropriately review all environmental impacts. The input of all impacted parties, including state and local governments, private industry and local citizens, must be considered as this aspect of the draft NEPA regulations is finalized. Counties also desire CEQ to clarify any potential harmful environmental impacts a project may cause will continue to be thoroughly analyzed as changes to NEPA implementation proceed. Environmental stewardship is a primary function of county governments to create healthy, safe and vibrant communities for our citizens. As both regulators and regulated entities, counties are tasked with the mission of ensuring air, water and land resources are protected for our communities.

Counties appreciate the opportunity to offer comments on the proposed revisions to NEPA implementation. It is imperative that NEPA analyses are conducted in a consistent and timely manner that balances the need for environmental protection with improved community development. As committed stewards of the environment with significant public safety and infrastructure responsibilities, counties support common sense reforms to the federal

permitting process and subsequent regulations. We commit to continue to work with our federal partners to achieve our shared environmental, economic and infrastructure goals.

Sincerely,

A handwritten signature in black ink that reads "Matthew D. Chase". The signature is fluid and cursive, with the first name being the most prominent.

Matthew D. Chase
Executive Director
National Association of Counties

A handwritten signature in black ink that reads "Kevan P. Stone". The signature is fluid and cursive, with the first name being the most prominent.

Kevan P. Stone
Executive Director
National Association of County Engineers



NEPA-Related Provisions from the American County Platform

Environment, Energy and Land Use

LAND USE

A. Intergovernmental Roles and Relationships: NACo urges federal, state and local coordination through the comprehensive planning process. Because land use control should take place at the local level, federal and state objectives should reflect the needs and conditions of local governments. NACo supports federal and state land use planning and management actions being consistent with local land use policies. Activities involving federal agencies under the National Environmental Policy Act (NEPA) should not exclude local governments on interdisciplinary teams because of the provisions of the Federal Advisory Committee Act (FACA).

Public Lands

FEDERAL LAND USE PLANNING

A. Current and Future Federal Land Management Agency Land Management Plan Revisions: Federal land management agencies shall coordinate with local government officials and maintain maximum consistency with local plans and policies when conducting current and future revisions of Resource Management Plans (RMPs) and Forest Management Plans. Counties should utilize the coordination process and/or serve as cooperating agencies in the NEPA process as counties see fit and be provided meaningful opportunities for involvement in the revision process from start to finish. Once land management agency plans become approved management practices or policies, new agency actions should not contradict those plans. Plans should provide for economic and social sustainability, emphasize multiple use management and commodity production and require that federal decisions be made at the most local level of the federal agency.

B. National Environmental Policy Act (NEPA) Improvement: NACo supports the revision of NEPA to strengthen the involvement of local governments in the federal decision-making process, expedite project analysis and make final decisions in a timely but effective manner. NACo supports requiring federal agencies to coordinate with local governments, offer cooperating agency status and negotiate mutually agreeable memoranda of understanding (MOU). NACo encourages increased opportunities for involvement of the public during the legally mandated public comment process, including opportunities for verbal input during town halls, hearings and listening sessions within or in close proximity to the impacted communities and, when possible, increased time to provide written input and testimony.

FEDERAL LAND MANAGEMENT

I. Forest and Rangeland Health: NACo supports forest health initiatives that include fuels reduction, fuel breaks, and managing for diseases and pests, while maintaining the multiple use mandates and utilizing the best available, peer-reviewed science. NACo also supports broader use of categorical exclusions under NEPA, especially in cases of imminent threats to community watersheds, to timely and effectively address the threat of catastrophic events to our public

forest and rangeland resources, and to allow for harvest of resources while they have economic value. Federal land management agencies shall utilize an appropriate mix of management practices including categorical exclusions and increased private, local and state contract and partnerships for pre-fire management, effective fire suppression, and restoration of federal forest and rangelands.

RESOLUTIONS

Resolution on the Council of Environmental Quality's Revisions to the National Environmental Policy Act Implementing Regulations

Issue: The Council of Environmental Quality ("CEQ") is in the process of updating its National Environmental Policy Act ("NEPA") implementing regulations.

Adopted Policy: The National Association of Counties (NACo) supports revising NEPA implementing regulations to require federal agencies to regularly provide meaningful opportunities for states and counties to be involved in the NEPA process for planning and projects on federal lands that may affect the economy, society and culture of constituents. NACo asks that the CEQ work closely with state and local governments to revise the NEPA regulations.

Transportation

RESOLUTIONS

Resolution in Support of Eliminating Regulatory Impediments for Effective Delivery of Federal Aid Projects

Issue: Federal regulatory impediments hinder the effective delivery of federal aid projects.

Adopted Policy: The National Association of Counties (NACo) urges the administration and Congress to implement measures that would eliminate regulatory impediments on local and state sponsored federal aid projects to achieve our shared goals of strengthening transportation networks, improving public safety and advancing our economic competitiveness.