

State of New Mexico
Energy, Minerals and Natural Resources Department

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March 27, 2025

Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503

Attn: Docket No. CEQ-2025-0002 Council on Environmental Quality Removal of National Environmental Policy Act Implementing Regulations

To Whom It May Concern,

The New Mexico Energy, Minerals & Natural Resources Department (EMNRD) on behalf of the State of New Mexico and associated State agencies including the Office of the State Engineer and Interstate Stream Commission, the New Mexico Environment Department and the New Mexico Department of Game and Fish, submits the following comments in response to the February 25, 2025, notice in the *Federal Register* indicating the availability of the Council on Environmental Quality's (CEQ) interim final rule to remove the existing implementing regulations for the National Environmental Policy Act (NEPA). As the federal government works to revise NEPA regulations to streamline permitting processes, the State's comments outline some concerns, particularly with regard to stakeholder and public engagement, that should be carefully considered.

Demand for development and improved efficiency of federal actions must be balanced with the duty to protect the environment.

As an energy export state, and a state with significant water management responsibilities, New Mexico understands the tension that can often exist with respect to regulatory responsibilities. The state produces more than seven times as much energy as it consumes but is unable to fully access the western energy market because of a lack of adequate high voltage transmission infrastructure. This is compounded by the remote location of some of New Mexico's most valuable generation resources such as geothermal, wind and solar. New Mexico wants to see the energy generated from these resources reach New Mexicans and the larger market to enhance reliability and affordability across the region. However, the state is also home to valuable cultural resources and has a history of adverse effects from projects that did not fully consider the impacts of human activity on the land and the people who live there. As federal agencies work to streamline permitting processes, the State strongly advises they prioritize maintaining robust environmental protections for projects subject to NEPA review in order to safeguard citizens access to clean air and water.

Forgoing governmentwide rules for agency specific rules can result in contradictory or conflicting regulations.

The State urges CEQ and all impacted federal government agencies to have robust interagency collaboration and public engagement throughout this rulemaking process. The primary goals of the agency rulemaking process should be to create largely consistent regulations across agencies that aim to improve the NEPA review process while maintaining environmental protections and creating regulations that are legally durable. Without robust interagency cooperation, it is unlikely that the revised NEPA implementation rules will reach their full potential for improvement of the review process.

CEQ is requesting comments on the rationale for removing CEQ's NEPA Implementation Regulations from the Federal Register (90 FR 10611). CEQ's notice of rulemaking states that NEPA's actual requirements are not at issue in this rulemaking and that it is not requesting input on the specific content and substance of the NEPA rules (90 FR 10615). Because many aspects of NEPA implementation currently are being addressed by CEQ through a separate process on which public comment has not been solicited, public comment and input has been precluded.

A February 19, 2025, CEQ Memorandum for Heads of Federal Departments and Agencies states that federal agencies must revise or establish their own NEPA implementing procedures within 12 months to be consistent with NEPA and the Fiscal Responsibility Act, to prioritize efficiency and certainty over any other policy objectives, and to address specific criteria on topics such as the range of alternatives and scope of effects to be analyzed in NEPA documents. An additional opportunity for comment should be allowed regarding any agency-level NEPA regulations, handbooks, manuals, protocols or guidance that is developed.

Uncertainty is harmful for projects

Uncertainty surrounding the NEPA process and compliance will have negative impacts on projects. One source of potential uncertainty for projects seeking federal approval will be the absence of a unified set of NEPA regulations. Without the comprehensive interagency collaboration referenced above, there could be situations in which different agencies adopt differing approaches to NEPA enforcement. This could create confusion and delays for projects seeking approvals or permits from multiple agencies, with each potentially following different procedures while reviewing the same project. Furthermore, any additional delays or regulatory uncertainties could deter badly needed investment in energy or water infrastructure projects. These types of projects require significant financial resources and already have a long period to see a return on investment, additional hurdles have the potential to discourage continued investment in these important sectors.

Conclusion

While the State is concerned with the potential outcomes of this expedited process, we recognize there are potential benefits to project streamlining particularly for the buildout of transmission infrastructure and water management projects. According to the Department of Energy (DOE), the demand for electricity is expected to increase approximately 15-20% within the next decade and double by 2050. To accommodate this significant rise in demand increased grid capacity will be essential, through both the optimization of existing and construction of new transmission infrastructure. Similarly, New Mexico is experiencing the effects of a hotter, drier future and will require flexibility and adaptability in connection with water management activities that have become increasingly more challenging. Currently, projects often take years to go through the requisite environmental and other reviews before construction. While the State

recognizes the potential benefits of streamlining efforts, as our comments outline, we are concerned with the process that will occur to accomplish this goal.

Thank you for your consideration of these comments.

Regards,

A handwritten signature in black ink, consisting of stylized, overlapping letters that appear to be 'BS' followed by a horizontal line extending to the right.

Benjamin Shelton
Deputy Cabinet Secretary
New Mexico Energy, Mineral and Natural Resources Department