

**42 USC Ch. 55: NATIONAL ENVIRONMENTAL POLICY**

**From Title 42—THE PUBLIC HEALTH AND WELFARE**

**CHAPTER 55—NATIONAL ENVIRONMENTAL POLICY**

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### §4321. Congressional declaration of purpose

The purposes of this chapter are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

(Pub. L. 91-190, §2, Jan. 1, 1970, 83 Stat. 852.)

#### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### SHORT TITLE OF 2020 AMENDMENT

Pub. L. 116-260, div. S, §102(a), Dec. 27, 2020, 134 Stat. 2243, provided that: "This section [enacting section 16298 of this title, amending sections 4370m and 7403 of this title, and enacting provisions set out as a note under section 4370m of this title] may be cited as the 'Utilizing Significant Emissions with Innovative Technologies Act' or the 'USE IT Act'."

#### SHORT TITLE

Pub. L. 91-190, §1, Jan. 1, 1970, 83 Stat. 852, provided: "That this Act [enacting this chapter] may be cited as the 'National Environmental Policy Act of 1969'."

#### ENVIRONMENTAL PRODUCT DECLARATION ASSISTANCE

Pub. L. 117-169, title VI, §60112, Aug. 16, 2022, 136 Stat. 2072, provided that:

"(a) IN GENERAL.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$250,000,000, to remain available until September 30, 2031, to develop and carry out a program to support the development, enhanced standardization and transparency, and reporting criteria for environmental product declarations that include measurements of the embodied greenhouse gas emissions of the material or product associated with all relevant stages of production, use, and disposal, and conform with international standards, for construction materials and products by—

"(1) providing grants to businesses that manufacture construction materials and products for developing and verifying environmental product declarations, and to States, Indian Tribes, and nonprofit organizations that will support such businesses;

"(2) providing technical assistance to businesses that manufacture construction materials and products in developing and verifying environmental product declarations, and to States, Indian Tribes, and nonprofit organizations that will support such businesses; and

"(3) carrying out other activities that assist in measuring, reporting, and steadily reducing the quantity of embodied carbon of construction materials and products.

"(b) ADMINISTRATIVE COSTS.—Of the amounts made available under this section, the Administrator of the Environmental Protection Agency shall reserve 5 percent for administrative costs necessary to carry out this section.

"(c) DEFINITIONS.—In this section:

"(1) GREENHOUSE GAS.—The term 'greenhouse gas' means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.

"(2) STATE.—The term 'State' has the meaning given to that term in section 302(d) of the Clean Air Act (42 U.S.C. 7602(d))."

### **LOW-EMBODIED CARBON LABELING FOR CONSTRUCTION MATERIALS**

Pub. L. 117–169, [title VI, §60116](#), [Aug. 16, 2022](#), 136 Stat. 2077, provided that:

"(a) IN GENERAL.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$100,000,000, to remain available until September 30, 2026, for necessary administrative costs of the Administrator of the Environmental Protection Agency to carry out this section and to develop and carry out a program, in consultation with the Administrator of the Federal Highway Administration for construction materials used in transportation projects and the Administrator of General Services for construction materials used for Federal buildings, to identify and label construction materials and products that have substantially lower levels of embodied greenhouse gas emissions associated with all relevant stages of production, use, and disposal, as compared to estimated industry averages of similar materials or products, as determined by the Administrator of the Environmental Protection Agency, based on—

"(1) environmental product declarations; or

"(2) determinations by State agencies, as verified by the Administrator of the Environmental Protection Agency.

"(b) DEFINITION OF GREENHOUSE GAS.—In this section, the term 'greenhouse gas' means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride."

### **ENVIRONMENTAL PROTECTION AGENCY HEADQUARTERS**

Pub. L. 112–237, [§2](#), [Dec. 28, 2012](#), 126 Stat. 1628, provided that:

"(a) *Redesignation*.—The Environmental Protection Agency Headquarters located at 1200 Pennsylvania Avenue N.W. in Washington, D.C., known as the Ariel Rios Building, shall be known and redesignated as the 'William Jefferson Clinton Federal Building'.

"(b) *References*.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Environmental Protection Agency Headquarters referred to in subsection (a) shall be deemed to be a reference to the 'William Jefferson Clinton Federal Building'."

### **MODIFICATION OR REPLACEMENT OF EXECUTIVE ORDER NO. 13423**

Pub. L. 111–117, [div. C, title VII, §742\(b\)](#), [Dec. 16, 2009](#), 123 Stat. 3216, provided that: "Hereafter, the President may modify or replace Executive Order No. 13423 [formerly set out below] if the President determines that a revised or new executive order will achieve equal or better environmental or energy efficiency results."

[Pursuant to section 742(b) of Pub. L. 111–117, set out above, Ex. Ord. No. 13423 was replaced by Ex. Ord. No. 13693, Mar. 19, 2015, 80 F.R. 15871, formerly set out below.]

Pub. L. 111–8, [div. D, title VII, §748](#), [Mar. 11, 2009](#), 123 Stat. 693, which provided that Ex. Ord. No. 13423 (formerly set out below) would remain in effect on and after Mar. 11, 2009, except as otherwise provided by law after Mar. 11, 2009, was repealed by Pub. L. 111–117, [div. C, title VII, §742\(a\)](#), [Dec. 16, 2009](#), 123 Stat. 3216.

### **NECESSITY OF MILITARY LOW-LEVEL FLIGHT TRAINING TO PROTECT NATIONAL SECURITY AND ENHANCE MILITARY READINESS**

Pub. L. 106–398, [§1](#) [[div. A](#)], [title III, §317](#)], [Oct. 30, 2000](#), 114 Stat. 1654, [1654A-57](#), provided that: "Nothing in the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or the regulations implementing such law shall require the Secretary of Defense or the Secretary of a military department to prepare a programmatic, nation-wide environmental impact statement for low-level flight training as a precondition to the use by the Armed Forces of an airspace for the performance of low-level training flights."

### **POLLUTION PROSECUTION**

Pub. L. 101–593, [title II](#), [Nov. 16, 1990](#), 104 Stat. 2962, provided that:

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Pollution Prosecution Act of 1990'.

"SEC. 202. EPA OFFICE OF CRIMINAL INVESTIGATION.

"(a) The Administrator of the Environmental Protection Agency (hereinafter referred to as the 'Administrator') shall increase the number of criminal investigators assigned to the Office of Criminal Investigations by such numbers as may be necessary to assure that the number of criminal investigators assigned to the office—

"(1) for the period October 1, 1991, through September 30, 1992, is not less than 72;

"(2) for the period October 1, 1992, through September 30, 1993, is not less than 110;

"(3) for the period October 1, 1993, through September 30, 1994, is not less than 123;

"(4) for the period October 1, 1994, through September 30, 1995, is not less than 160;

"(5) beginning October 1, 1995, is not less than 200.

"(b) For fiscal year 1991 and in each of the following 4 fiscal years, the Administrator shall, during each such fiscal year, provide increasing numbers of additional support staff to the Office of Criminal Investigations.

"(c) The head of the Office of Criminal Investigations shall be a position in the competitive service as defined in 2102 of title 5 U.S.C. or a career reserve [reserved] position as defined in 3132(A) [3132(a)] of title 5 U.S.C. and the head of such office shall report directly, without intervening review or approval, to the Assistant Administrator for Enforcement.

"SEC. 203. CIVIL INVESTIGATORS.

"The Administrator, as soon as practicable following the date of the enactment of this Act [Nov. 16, 1990], but no later than September 30, 1991, shall increase by fifty the number of civil investigators assigned to assist the Office of Enforcement in developing and prosecuting civil and administrative actions and carrying out its other functions.

"SEC. 204. NATIONAL TRAINING INSTITUTE.

"The Administrator shall, as soon as practicable but no later than September 30, 1991 establish within the Office of Enforcement the National Enforcement Training Institute. It shall be the function of the Institute, among others, to train Federal, State, and local lawyers, inspectors, civil and criminal investigators, and technical experts in the enforcement of the Nation's environmental laws.

"SEC. 205. AUTHORIZATION.

"For the purposes of carrying out the provisions of this Act [probably should be "this title"], there is authorized to be appropriated to the Environmental Protection Agency \$13,000,000 for fiscal year 1991, \$18,000,000 for fiscal year 1992, \$20,000,000 for fiscal year 1993, \$26,000,000 for fiscal year 1994, and \$33,000,000 for fiscal year 1995."

## EXECUTIVE DOCUMENTS

### TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with system activities requiring coordination and approval under this chapter, and enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this chapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

### EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Administrator of Environmental Protection Agency, see Parts 1, 2, and 16 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of this title.

## REORGANIZATION PLAN NO. 3 OF 1970

EFF. DEC. 2, 1970, 35 F.R. 15623, 84 STAT. 2086, AS AMENDED PUB. L. 98-80, §2(A)(2), (B)(2), (C)(2)(C), AUG. 23, 1983, 97 STAT. 485, 486

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, July 9, 1970, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

### ENVIRONMENTAL PROTECTION AGENCY

#### SECTION 1. ESTABLISHMENT OF AGENCY

(a) There is hereby established the Environmental Protection Agency, hereinafter referred to as the "Agency."

(b) There shall be at the head of the Agency the Administrator of the Environmental Protection Agency, hereinafter referred to as the "Administrator." The Administrator shall be appointed by the President, by and with the advice and consent of the Senate.

(c) There shall be in the Agency a Deputy Administrator of the Environmental Protection Agency who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

(d) There shall be in the Agency not to exceed five Assistant Administrators of the Environmental Protection Agency who shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Administrator shall perform such functions as the Administrator shall from time to time assign or delegate. [As amended Pub. L. 98-80, §2(a)(2), (b)(2), (c)(2)(C), Aug. 23, 1983, 97 Stat. 485, 486.]

#### SEC. 2. TRANSFERS TO ENVIRONMENTAL PROTECTION AGENCY

(a) There are hereby transferred to the Administrator:

(1) All functions vested by law in the Secretary of the Interior and the Department of the Interior which are administered through the Federal Water Quality Administration, all functions which were transferred to the Secretary of the Interior by Reorganization Plan No. 2 of 1966 (80 Stat. 1608), and all functions vested in the Secretary of the Interior or the Department of the Interior by the Federal Water Pollution Control Act or by provisions of law amendatory or supplementary thereof [see 33 U.S.C. 1251 et seq.].

(2)(i) The functions vested in the Secretary of the Interior by the Act of August 1, 1958, 72 Stat. 479, 16 U.S.C. 742d-1 (being an Act relating to studies on the effects of insecticides, herbicides, fungicides, and pesticides upon the fish and wildlife resources of the United States), and (ii) the functions vested by law in the Secretary of the Interior and the Department of the Interior which are administered by the Gulf Breeze Biological Laboratory of the Bureau of Commercial Fisheries at Gulf Breeze, Florida.

(3) The functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the following components thereof:

- (i) The National Air Pollution Control Administration,
- (ii) The Environmental Control Administration:
  - (A) Bureau of Solid Waste Management,
  - (B) Bureau of Water Hygiene,
  - (C) Bureau of Radiological Health,

except that functions carried out by the following components of the Environmental Control Administration of the Environmental Health Service are not transferred: (i) Bureau of Community Environmental Management, (ii) Bureau of Occupational Safety and Health, and (iii) Bureau of Radiological Health, insofar as the functions carried out by the latter Bureau pertain to (A) regulation of radiation from consumer products, including electronic product radiation, (B) radiation as used in the healing arts, (C) occupational exposures to radiation, and (D) research, technical assistance, and training related to clauses (A), (B), and (C).

(4) The functions vested in the Secretary of Health, Education, and Welfare of establishing tolerances for pesticide chemicals under the Federal Food, Drug, and Cosmetic Act, as amended, 21 U.S.C. 346, 346a, and 348, together with authority, in connection with the functions transferred, (i) to monitor compliance with the tolerances and the effectiveness of surveillance and enforcement, and (ii) to provide technical assistance to the States and conduct research under the Federal Food, Drug, and Cosmetic Act, as amended [21 U.S.C. 301 et seq.], and the Public Health Service Act, as amended [42 U.S.C. 201 et seq.].

(5) So much of the functions of the Council on Environmental Quality under section 204(5) of the National Environmental Policy Act of 1969 (Public Law 91–190, approved January 1, 1970, 83 Stat. 855) [42 U.S.C. 4344(5)], as pertains to ecological systems.

(6) The functions of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], administered through its Division of Radiation Protection Standards, to the extent that such functions of the Commission consist of establishing generally applicable environmental standards for the protection of the general environment from radioactive material. As used herein, standards mean limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radio-active material.

(7) All functions of the Federal Radiation Council (42 U.S.C. 2021(h)).

(8)(i) The functions of the Secretary of Agriculture and the Department of Agriculture under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135–135k) [7 U.S.C. 136 et seq.], (ii) the functions of the Secretary of Agriculture and the Department of Agriculture under section 408(l) of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 346a(l)), and (iii) the functions vested by law in the Secretary of Agriculture and the Department of Agriculture which are administered through the Environmental Quality Branch of the Plant Protection Division of the Agricultural Research Service.

(9) So much of the functions of the transferor officers and agencies referred to in or affected by the foregoing provisions of this section as is incidental to or necessary for the performance by or under the Administrator of the functions transferred by those provisions or relates primarily to those functions. The transfers to the Administrator made by this section shall be deemed to include the transfer of (1) authority, provided by law, to prescribe regulations relating primarily to the transferred functions, and (2) the functions vested in the Secretary of the Interior and the Secretary of Health, Education, and Welfare by section 169(d)(1)(B) and (3) of the Internal Revenue Code of 1954 (as enacted by section 704 of the Tax Reform Act of 1969, 83 Stat. 668); but shall be deemed to exclude the transfer of the functions of the Bureau of Reclamation under section 3(b)(1) of the Water Pollution Control Act (33 U.S.C. [former] 466a(b)(1)).

(b) There are hereby transferred to the Agency:

(1) From the Department of the Interior, (i) the Water Pollution Control Advisory Board (33 U.S.C. [former] 466f) [see 33 U.S.C. 1363], together with its functions, and (ii) the hearing boards provided for in sections 10(c)(4) and 10(f) of the Federal Water Pollution Control Act, as amended (33 U.S.C. [former] 466g(c)(4); 466g(f)). The functions of the Secretary of the Interior with respect to being or designating the Chairman of the Water Pollution Control Advisory Board are hereby transferred to the Administrator.

(2) From the Department of Health, Education, and Welfare, the Air Quality Advisory Board (42 U.S.C. 1857e) [42 U.S.C. 7417], together with its functions. The functions of the Secretary of Health, Education, and Welfare with respect to being a member and the Chairman of that Board are hereby transferred to the Administrator.

### **SEC. 3. PERFORMANCE OF TRANSFERRED FUNCTIONS**

The Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this reorganization plan by any other officer, or by any organizational entity or employee, of the Agency.

### **SEC. 4. INCIDENTAL TRANSFERS**

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available or to be made available in connection with the functions transferred to the Administrator or the Agency by this reorganization plan as the Director of the Office of Management and Budget shall determine shall be transferred to the Agency at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

### **SEC. 5. INTERIM OFFICERS**

(a) The President may authorize any person who immediately prior to the effective date of this reorganization plan held a position in the executive branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Administrator, authorize any such person to act as Assistant Administrator, and authorize any such person to act as the head of

any principal constituent organizational entity of the Administration.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect of which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

## **SEC. 6. ABOLITIONS**

(a) Subject to the provisions of this reorganization plan, the following, exclusive of any functions, are hereby abolished:

(1) The Federal Water Quality Administration in the Department of the Interior (33 U.S.C. [former] 466–1).

(2) The Federal Radiation Council (73 Stat. 690; 42 U.S.C. 2021(h)).

(b) Such provisions as may be necessary with respect to terminating any outstanding affairs shall be made by the Secretary of the Interior in the case of the Federal Water Quality Administration and by the Administrator of General Services in the case of the Federal Radiation Council.

## **SEC. 7. EFFECTIVE DATE**

The provisions of this reorganization plan shall take effect sixty days after the date they would take effect under 5 U.S.C. 906(a) in the absence of this section.

## **MESSAGE OF THE PRESIDENT**

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 3 of 1970, prepared in accordance with chapter 9 of title 5 of the United States Code and providing for an Environmental Protection Agency. My reasons for transmitting this plan are stated in a more extended accompanying message.

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 3 of 1970 is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to section 901(a)(1), "to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;" and section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable."

The reorganizations provided for in the plan make necessary the appointment and compensation of new officers as specified in section 1 of the plan. The rates of compensation fixed for these officers are comparable to those fixed for other officers in the executive branch who have similar responsibilities.

Section 907 of title 5 of the United States Code will operate to preserve administrative proceedings, including any public hearing proceedings, related to the transferred functions, which are pending immediately prior to the taking effect of the reorganization plan.

The reorganization plan should result in more efficient operation of the Government. It is not practical, however, to itemize or aggregate the exact expenditure reductions which will result from this action.

RICHARD NIXON.

THE WHITE HOUSE, July 9, 1970.

## **MESSAGE OF THE PRESIDENT**

To the Congress of the United States:

As concern with the condition of our physical environment has intensified, it has become increasingly clear that we need to know more about the total environment—land, water and air. It also has become increasingly clear that only by reorganizing our Federal efforts can we develop that knowledge, and effectively ensure the protection, development and enhancement of the total environment itself.

The Government's environmentally-related activities have grown up piecemeal over the years. The time has come to organize them rationally and systematically. As a major step in this direction, I am transmitting today two reorganization plans: one to establish an Environmental Protection Agency, and one to establish, within the Department of Commerce, a National Oceanic and Atmospheric Administration.

## **ENVIRONMENTAL PROTECTION AGENCY (EPA)**

Our national government today is not structured to make a coordinated attack on the pollutants which debase the air we breathe, the water we drink, and the land that grows our food. Indeed, the present governmental structure for dealing with environmental pollution often defies effective and concerted action.

Despite its complexity, for pollution control purposes the environment must be perceived as a single, interrelated system. Present assignments of departmental responsibilities do not reflect this interrelatedness.

Many agency missions, for example, are designed primarily along media lines—air, water, and land. Yet the sources of air, water, and land pollution are interrelated and often interchangeable. A single source may pollute the air with smoke and chemicals, the land with solid wastes, and a river or lake with chemical and other wastes. Control of the air pollution may produce more solid wastes, which then pollute the land or water. Control of the water-polluting effluent may convert it into solid wastes, which must be disposed of on land.

Similarly, some pollutants—chemicals, radiation, pesticides—appear in all media. Successful control of them at present requires the coordinated efforts of a variety of separate agencies and departments. The results are not always successful.

A far more effective approach to pollution control would:

- identify pollutants.
- trace them through the entire ecological chain, observing and recording changes in form as they occur.
- Determine the total exposure of man his environment.
- Examine interactions among forms of pollution.
- Identify where in the ecological chain interdiction would be most appropriate.

In organizational terms, this requires pulling together into one agency a variety of research, monitoring, standard-setting and enforcement activities now scattered through several departments and agencies. It also requires that the new agency include sufficient support elements—in research and in aids to State and local anti-pollution programs, for example—to give it the needed strength and potential for carrying out its mission. The new agency would also, of course, draw upon the results of research conducted by other agencies.

### **COMPONENTS OF THE EPA**

Under the terms of Reorganization Plan No. 3, the following would be moved to the new Environmental Protection Agency:

- The functions carried out by the Federal Water Quality Administration (from the Department of the Interior).
- Functions with respect to pesticides studies now vested in the Department of the Interior.
- The functions carried out by the National Air Pollution Control Administration (from the Department of Health, Education, and Welfare).
- The functions carried out by the Bureau of Solid Waste Management and the Bureau of Water Hygiene, and portions of the functions carried out by the Bureau of Radiological Health of the Environmental Control Administration (from the Department of Health, Education, and Welfare).
- Certain functions with respect to pesticides carried out by the Food and Drug Administration (from the Department of Health, Education, and Welfare).
- Authority to perform studies relating to ecological systems now vested in the Council on Environmental Quality.
- Certain functions respecting radiation criteria and standards now vested in the Atomic Energy Commission and the Federal Radiation Council.
- Functions respecting pesticides registration and related activities now carried out by the Agricultural Research Service (from the Department of Agriculture).

With its broad mandate, EPA would also develop competence in areas of environmental protection that have not previously been given enough attention, such, for example, as the problem of noise, and it would provide an organization to which new programs in these areas could be added.

In brief, these are the principal functions to be transferred:

**Federal Water Quality Administration.**—Charged with the control of pollutants which impair water quality, it is broadly concerned with the impact of degraded water quality. It performs a wide variety of functions, including research, standard-setting and enforcement, and provides construction grants and technical assistance.

**Certain pesticides research authority from the Department of the Interior.**—Authority for research on the effects of pesticides on fish and wildlife would be provided to the EPA through transfer of the specialized research authority of the pesticides act enacted in 1958. Interior would retain its responsibility to do research on all factors affecting fish and wildlife. Under this provision, only one laboratory would be transferred to the EPA—the Gulf Breeze Biological Laboratory of the Bureau of Commercial Fisheries. The EPA would work closely with the fish and wildlife laboratories remaining with the Bureau of Sport Fisheries and Wildlife.

**National Air Pollution Control Administration.**—As the principal Federal agency concerned with air pollution, it conducts research on the effects of air pollution, operates a monitoring network, and promulgates criteria which serve as the basis for setting air quality standards. Its regulatory functions are similar to those of the Federal Water Quality Administration. NAPCA is responsible for administering the Clean Air Act, which involves designating air quality regions, approving State standards and providing



financial and technical assistance to State Control agencies to enable them to comply with the Act's provisions. It also sets and enforces Federal automotive emission standards.

Elements of the Environmental Control Administration.—ECA is the focal point within HEW for evaluation and control of a broad range of environmental health problems, including water quality, solid wastes, and radiation. Programs in the ECA involve research, development of criteria and standards, and the administration of planning and demonstration grants. From the ECA, the activities of the Bureau of Water Hygiene and Solid Waste Management and portions of the activities of the Bureau of Radiological Health would be transferred. Other functions of the ECA including those related to the regulation of radiation from consumer products and occupational safety and health would remain in HEW.

Pesticides research and standard-setting programs of the Food and Drug Administration.—FDA's pesticides program consists of setting and enforcing standards which limit pesticide residues in food. EPA would have the authority to set pesticide standards and to monitor compliance with them, as well as to conduct related research. However, as an integral part of its food protection activities, FDA would retain its authority to remove from the market food with excess pesticide residues.

General ecological research from the Council on Environmental Quality.—This authority to perform studies and research relating to ecological systems would be in addition to EPA's other specific research authorities, and it would help EPA to measure the impact of pollutants. The Council on Environmental Quality would retain its authority to conduct studies and research relating to environmental quality.

Environmental radiation standards programs.—The Atomic Energy Commission is now responsible for establishing environmental radiation standards and emission limits for radioactivity. Those standards have been based largely on broad guidelines recommended by the Federal Radiation Council. The Atomic Energy Commission's authority to set standards for the protection of the general environment from radioactive material would be transferred to the Environmental Protection Agency. The functions of the Federal Radiation Council would also be transferred. AEC would retain responsibility for the implementation and enforcement of radiation standards through its licensing authority.

Pesticides registration program of the Agricultural Research Service.—The Department of Agriculture is currently responsible for several distinct functions related to pesticides use. It conducts research on the efficacy of various pesticides as related to other pest control methods and on the effects of pesticides on non-target plants, livestock, and poultry. It registers pesticides, monitors their persistence and carries out an educational program on pesticide use through the extension service. It conducts extensive pest control programs which utilize pesticides.

By transferring the Department of Agriculture's pesticides registration and monitoring function to the EPA and merging it with the pesticides programs being transferred from HEW and Interior, the new agency would be given a broad capability for control over the introduction of pesticides into the environment.

The Department of Agriculture would continue to conduct research on the effectiveness of pesticides. The Department would furnish this information to the EPA, which would have the responsibility for actually licensing pesticides for use after considering environmental and health effects. Thus the new agency would be able to make use of the expertise of the Department.

### **ADVANTAGES OF REORGANIZATION**

This reorganization would permit response to environmental problems in a manner beyond the previous capability of our pollution control programs. The EPA would have the capacity to do research on important pollutants irrespective of the media in which they appear, and on the impact of these pollutants on the total environment. Both by itself and together with other agencies, the EPA would monitor the condition of the environment—biological as well as physical. With these data, the EPA would be able to establish quantitative "environmental baselines"—critical if we are to measure adequately the success or failure of our pollution abatement efforts.

As no disjointed array of separate programs can, the EPA would be able—in concert with the States—to set and enforce standards for air and water quality and for individual pollutants. This consolidation of pollution control authorities would help assure that we do not create new environmental problems in the process of controlling existing ones. Industries seeking to minimize the adverse impact of their activities on the environment would be assured of consistent standards covering the full range of their waste disposal problems. As the States develop and expand their own pollution control programs, they would be able to look to one agency to support their efforts with financial and technical assistance and training.

In proposing that the Environmental Protection Agency be set up as a separate new agency, I am making an exception to one of my own principles: that, as a matter of effective and orderly administration, additional new independent agencies normally should not be created. In this case, however, the arguments against placing environmental protection activities under the jurisdiction of one or another of the existing departments and agencies are compelling.

In the first place, almost every part of government is concerned with the environment in some way, and affects it in some way. Yet each department also has its own primary mission—such as resource development, transportation, health, defense, urban growth or agriculture—which necessarily affects its own view of environmental questions.

In the second place, if the critical standard-setting functions were centralized within any one existing department, it would require that department constantly to make decisions affecting other departments—in which, whether fairly or unfairly, its own objectivity as an impartial arbiter could be called into question.

Because environmental protection cuts across so many jurisdictions, and because arresting environmental deterioration is of great importance to the quality of life in our country and the world, I believe that in this case a strong, independent agency is needed. That agency would, of course, work closely with and draw upon the expertise and assistance of other agencies having experience in the environmental area.

### **ROLES AND FUNCTIONS OF EPA**

The principal roles and functions of the EPA would include:

—The establishment and enforcement of environmental protection standards consistent with national environmental goals.

—The conduct of research on the adverse effects of pollution and on methods and equipment for controlling it, the gathering of information on pollution, and the use of this information in strengthening environmental protection programs and recommending policy changes.

—Assisting others, through grants, technical assistance and other means in arresting pollution of the environment.

—Assisting the Council on Environmental Quality in developing and recommending to the President new policies for the protection of the environment.

One natural question concerns the relationship between the EPA and the Council on Environmental Quality, recently established by Act of Congress.

It is my intention and expectation that the two will work in close harmony, reinforcing each other's mission. Essentially, the Council is a top-level advisory group (which might be compared with the Council of Economic Advisers), while the EPA would be an operating, "line" organization. The Council will continue to be a part of the Executive Office of the President and will perform its overall coordinating and advisory roles with respect to all Federal programs related to environmental quality.

The Council, then, is concerned with all aspects of environmental quality—wildlife preservation, parklands, land use, and population growth, as well as pollution. The EPA would be charged with protecting the environment by abating pollution. In short, the Council focuses on what our broad policies in the environment field should be; the EPA would focus on setting and enforcing pollution control standards. The two are not competing, but complementary—and taken together, they should give us, for the first time, the means to mount an effectively coordinated campaign against environmental degradation in all of its many forms.

### **NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

The oceans and the atmosphere are interacting parts of the total environmental system upon which we depend not only for the quality of our lives, but for life itself.

We face immediate and compelling needs for better protection of life and property from natural hazards, and for a better understanding of the total environment—and understanding which will enable us more effectively to monitor and predict its actions, and ultimately, perhaps to exercise some degree of control over them.

We also face a compelling need for exploration and development leading to the intelligent use of our marine resources. The global oceans, which constitute nearly three-fourths of the surface of our planet, are today the least-understood, the least-developed, and the least-protected part of our earth. Food from the oceans will increasingly be a key element in the world's fight against hunger. The mineral resources of the ocean beds and of the oceans themselves, are being increasingly tapped to meet the growing world demand. We must understand the nature of these resources, and assure their development without either contaminating the marine environment or upsetting its balance.

Establishment of the National Oceanic and Atmospheric Administration—NOAA—within the Department of Commerce would enable us to approach these tasks in a coordinated way. By employing a unified approach to the problems of the oceans and atmosphere, we can increase our knowledge and expand our opportunities not only in those areas, but in the third major component of our environment, the solid earth, as well.

Scattered through various Federal departments and agencies, we already have the scientific, technological, and administrative resources to make an effective, unified approach possible. What we need is to bring them together. Establishment of NOAA would do so.

By far the largest of the components being merged would be the Commerce Department's Environmental Science Services Administration (ESSA), with some 10,000 employees (70 percent of NOAA's total personnel strength) and estimated Fiscal 1970 expenditures of almost \$200 million. Placing NOAA within the Department of Commerce therefore entails the least dislocation, while also placing it within a Department which has traditionally been a center for service activities in the scientific and technological area.

### **COMPONENTS OF NOAA**

Under terms of Reorganization Plan No. 4, the programs of the following organizations would be moved into NOAA:

- The Environmental Science Services Administration (from within the Department of Commerce).
- Elements of the Bureau of Commercial Fisheries (from the Department of the Interior).
- The marine sport fish program of the Bureau of Sport Fisheries and Wildlife (from the Department of the Interior).
- The Marine Minerals Technology Center of the Bureau of Mines (from the Department of the Interior).
- The Office of Sea Grant Programs (from the National Science Foundation).
- Elements of the United States Lake Survey (from the Department of the Army).

In addition, by executive action, the programs of the following organizations would be transferred to NOAA:

- The National Oceanographic Data Center (from the Department of the Navy).
- The National Oceanographic Instrumentation Center (from the Department of the Navy).
- The National Data Buoy Project (from the Department of Transportation).

In brief, these are the principal functions of the programs and agencies to be combined:

### **THE ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION**

(ESSA) comprises the following components:

- The Weather Bureau (weather, marine, river and flood forecasting and warning).
- The Coast and Geodetic Survey (earth and marine description, mapping and charting).
- The Environmental Data Service (storage and retrieval of environmental data).
- The National Environmental Satellite Center (observation of the global environment from earth-orbiting satellites).
- The ESSA Research Laboratories (research on physical environmental problems).

ESSA's activities include observing and predicting the state of the oceans, the state of the lower and upper atmosphere, and the size and shape of the earth. It maintains the nation's warning systems for such natural hazards as hurricanes, tornadoes, floods, earthquakes and seismic sea waves. It provides information for national defense, agriculture, transportation and industry.

ESSA monitors atmospheric, oceanic and geophysical phenomena on a global basis, through an unparalleled complex of air, ocean, earth and space facilities. It also prepares aeronautical and marine maps and charts.

Bureau of Commercial Fisheries and marine sport fish activities.—Those fishery activities of the Department of the Interior's U.S. Fish and Wildlife Service which are ocean related and those which are directed toward commercial fishing would be transferred. The Fish and Wildlife Service's Bureau of Commercial Fisheries has the dual function of strengthening the fishing industry and promoting conservation of fishery stocks. It conducts research on important marine species and on fundamental oceanography, and operates a fleet of oceanographic vessels and a number of laboratories. Most of its activities would be transferred. From the Fish and Wildlife Service's Bureau of Sport Fisheries and Wildlife, the marine sport fishing program would be transferred. This involves five supporting laboratories and three ships engaged in activities to enhance marine sport fishing opportunities.

The Marine Minerals Technology Center is concerned with the development of marine mining technology.

Office of Sea Grant Programs.—The Sea Grant Program was authorized in 1966 to permit the Federal Government to assist the academic and industrial communities in developing marine resources and technology. It aims at strengthening education and training of marine specialists, supporting applied research in the recovery and use of marine resources, and developing extension and advisory services. The Office carries out these objectives by making grants to selected academic institutions.

The U.S. Lake Survey has two primary missions. It prepares and publishes navigation charts of the Great Lakes and tributary waters and conducts research on a variety of hydraulic and hydrologic phenomena of the Great Lakes' waters. Its activities are very similar to those conducted along the Atlantic and Pacific coasts by ESSA's Coast and Geodetic Survey.

The National Oceanographic Data Center is responsible for the collection and dissemination of oceanographic data accumulated by all Federal agencies.

The National Oceanographic Instrumentation Center provides a central Federal service for the calibration and testing of oceanographic instruments.

The National Data Buoy Development Project was established to determine the feasibility of deploying a system of automatic ocean buoys to obtain oceanic and atmospheric data.

### **ROLE OF NOAA**

Drawing these activities together into a single agency would make possible a balanced Federal program to improve our understanding of the resources of the sea, and permit their development and use while guarding against the sort of thoughtless exploitation that in the past laid waste to so many of our precious natural assets. It would make possible a consolidated program for achieving a more comprehensive understanding of oceanic and atmospheric phenomena, which so greatly affect our lives and activities. It would facilitate the cooperation between public and private interests that can best serve the interests of all.

I expect that NOAA would exercise leadership in developing a national oceanic and atmospheric program of research and development. It would coordinate its own scientific and technical resources with the technical and operational capabilities of other government agencies and private institutions. As important, NOAA would continue to provide those services to other agencies of government, industry and private individuals which have become essential to the efficient operation of our transportation systems, our agriculture and our national security. I expect it to maintain continuing and close liaison with the new Environmental Protection Agency and the Council on Environmental Quality as part of an effort to ensure that environmental questions are dealt with in their totality and they benefit from the full range of the government's technical and human resources.

Authorities who have studied this matter, including the Commission on Marine Science, Engineering and Resources, strongly recommended the creation of a National Advisory Committee for the Oceans. I agree. Consequently, I will request, upon approval of the plan, that the Secretary of Commerce establish a National Advisory Committee for the Oceans and the Atmosphere to advise him on the progress of governmental and private programs in achieving the nation's oceanic and atmospheric objectives.

### **AN ON-GOING PROCESS**

The reorganizations which I am here proposing afford both the Congress and the Executive Branch an opportunity to re-evaluate the adequacy of existing program authorities involved in these consolidations. As these two new organizations come into being, we may well find that supplementary legislation to perfect their authorities will be necessary. I look forward to working with the Congress in this task.

In formulating these reorganization plans, I have been greatly aided by the work of the President's Advisory Council on Executive Organization (the Ash Council), the Commission on Marine Science, Engineering and Resources (the Stratton Commission, appointed by President Johnson), my special task force on oceanography headed by Dr. James Wakelin, and by the information developed during both House and Senate hearings on proposed NOAA legislation.

Many of those who have advised me have proposed additional reorganizations, and it may well be that in the future I shall recommend further changes. For the present, however, I think the two reorganizations transmitted today represent a sound and significant beginning. I also think that in practical terms, in this sensitive and rapidly developing area, it is better to proceed a step at a time—and thus to be sure that we are not caught up in a form of organizational indigestion from trying to rearrange too much at once. As we see how these changes work out, we will gain a better understanding of what further changes—in addition to these—might be desirable.

Ultimately, our objective should be to insure that the nation's environmental and resource protection activities are so organized as to maximize both the effective coordination of all and the effective functioning of each.

The Congress, the Administration and the public all share a profound commitment to the rescue of our natural environment, and the preservation of the Earth as a place both habitable by and hospitable to man. With its acceptance of these reorganization plans, the Congress will help us fulfill that commitment.

RICHARD NIXON.

THE WHITE HOUSE, July 9, 1970.

### **EX. ORD. NO. 11472. CABINET COMMITTEE ON THE ENVIRONMENT AND CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY**

Ex. Ord. No. 11472, May 29, 1969, 34 F.R. 8693, as amended by Ex. Ord. No. 11514, Mar. 5, 1970, 35 F.R. 4247; Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, provided:

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

### **PART I—CABINET COMMITTEE ON THE ENVIRONMENT**

SECTION 101. *Establishment of the Cabinet Committee.* (a) There is hereby established the Cabinet Committee on the Environment (hereinafter referred to as "the Cabinet Committee").

(b) The President of the United States shall preside over meetings of the Cabinet Committee. The Vice President shall preside in the absence of the President.

(c) The Cabinet Committee shall be composed of the following members:

The Vice President of the United States  
Secretary of Agriculture  
Secretary of Commerce  
Secretary of Health, Education, and Welfare  
Secretary of Housing and Urban Development  
Secretary of the Interior  
Secretary of Transportation

and such other heads of departments and agencies and others as the President may from time to time direct.

(d) Each member of the Cabinet Committee may designate an alternate, who shall serve as a member of the Cabinet Committee whenever the regular member is unable to attend any meeting of the Cabinet Committee.

(e) When matters which affect the interest of Federal agencies the heads of which are not members of the Cabinet Committee are to be considered by the Cabinet Committee, the President or his representative may invite such agency heads or their alternates to participate in the deliberations of the Cabinet Committee.

(f) The Director of the Bureau of the Budget [now the Director of the Office of Management and Budget], the Director of the Office of Science and Technology, the Chairman of the Council of Economic Advisers, and the Executive Secretary of the Council for Urban Affairs or their representatives may participate in the deliberations of the Cabinet Committee on the Environment as observers.

(g) The Chairman of the Council on Environmental Quality (established by Public Law 91-190) [this chapter] shall assist the President in directing the affairs of the Cabinet Committee.

SEC. 102. *Functions of the Cabinet Committee.* (a) The Cabinet Committee shall advise and assist the President with respect to environmental quality matters and shall perform such other related duties as the President may from time to time prescribe. In addition thereto, the Cabinet Committee is directed to:

(1) Recommend measures to ensure that Federal policies and programs, including those for development and conservation of natural resources, take adequate account of environmental effects.

(2) Review the adequacy of existing systems for monitoring and predicting environmental changes so as to achieve effective coverage and efficient use of facilities and other resources.

(3) Foster cooperation between the Federal Government, State and local governments, and private organizations in environmental programs.

(4) Seek advancement of scientific knowledge of changes in the environment and encourage the development of technology to prevent or minimize adverse effects that endanger man's health and well-being.

(5) Stimulate public and private participation in programs and activities to protect against pollution of the Nation's air, water, and land and its living resources.

(6) Encourage timely public disclosure by all levels of government and by private parties of plans that would affect the quality of environment.

(7) Assure assessment of new and changing technologies for their potential effects on the environment.

(8) Facilitate coordination among departments and agencies of the Federal Government in protecting and improving the environment.

(b) The Cabinet Committee shall review plans and actions of Federal agencies affecting outdoor recreation and natural beauty. The Cabinet Committee may conduct studies and make recommendations to the President on matters of policy in the fields of outdoor recreation and natural beauty. In carrying out the foregoing provisions of this subsection, the Cabinet Committee shall, as far as may be practical, advise Federal agencies with respect to the effect of their respective plans and programs on recreation and natural beauty, and may suggest to such agencies ways to accomplish the purposes of this order. For the purposes of this order, plans and programs may include, but are not limited to, those for or affecting: (1) Development, restoration, and preservation of the beauty of the countryside, urban and suburban areas, water resources, wild rivers, scenic roads, parkways and highways, (2) the protection and appropriate management of scenic or primitive areas, natural wonders, historic sites, and recreation areas, (3) the management of Federal land and water resources, including fish and wildlife, to enhance natural beauty and recreational opportunities consistent with other essential uses, (4) cooperation with the States and their local subdivisions and private organizations and individuals in areas of mutual

interest, (5) interstate arrangements, including Federal participation where authorized and necessary, and (6) leadership in a nationwide recreation and beautification effort.

SEC. 103. *Coordination.* The Secretary of the Interior may make available to the Cabinet Committee for coordination of outdoor recreation the authorities and resources available to him under the Act of May 28, 1963, 77 Stat. 49 [see 54 U.S.C. 200101], to the extent permitted by law, he may make such authorities and resources available to the Cabinet Committee also for promoting such coordination of other matters assigned to the Cabinet Committee by this order.

SEC. 104. *Assistance for the Cabinet Committee.* In compliance with provisions of applicable law, and as necessary to serve the purposes of this order, (1) the Council on Environmental Quality (established by Public Law 91-190) [this chapter] shall provide or arrange for necessary administrative and staff services, support, and facilities for the Cabinet Committee, and (2) each department and agency which has membership on the Cabinet Committee under Section 101(c) hereof shall furnish the Cabinet Committee such information and other assistance as may be available.

## **PART II—CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY**

[Revoked. Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839.]

## **PART III—GENERAL PROVISIONS**

SEC. 301. *Construction.* Nothing in this order shall be construed as subjecting any department, establishment, or other instrumentality of the executive branch of the Federal Government or the head thereof, or any function vested by law in or assigned pursuant to law to any such agency or head, to the authority of any other such agency or head or as abrogating, modifying, or restricting any such function in any manner.

SEC. 302. *Prior bodies and orders.* The President's Council on Recreation and Natural Beauty and the Citizens' Advisory Committee on Recreation and Natural Beauty are hereby terminated and the following are revoked:

- (1) Executive Order No. 11278 of May 4, 1966.
- (2) Executive Order No. 11359A of June 29, 1967.
- (3) Executive Order No. 11402 of March 29, 1968.

## **TERMINATION OF CABINET COMMITTEE ON THE ENVIRONMENT**

The Cabinet Committee on the Environment was terminated and its functions transferred to the Domestic Council, see section 2(b) of Ex. Ord. No. 11541, eff. July 1, 1970, 35 F.R. 10737, set out as a note under section 501 of Title 31, Money and Finance.

The Domestic Council was abolished by Reorg. Plan No. 1 of 1977, §3, 42 F.R. 56101, 91 Stat. 1633, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by the President. Section 5D of Reorg. Plan No. 1 of 1977 transferred all functions vested in the Domestic Council to the President with power to delegate the performance of such transferred functions within the Executive Office of the President.

## **TERMINATION OF CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY**

For provisions relating to termination of Citizens' Advisory Committee on Environmental Quality see Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

## **EX. ORD. NO. 11514. PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY**

Ex. Ord. No. 11514, Mar. 5, 1970, 35 F.R. 4247, as amended by Ex. Ord. No. 11991, May 24, 1977, 42 F.R. 26967, provided:

By virtue of the authority vested in me as President of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (Public Law No. 91-190, approved January 1, 1970) [this chapter], it is ordered as follows:

SECTION 1. *Policy.* The Federal Government shall provide leadership in protecting and enhancing the quality of the Nation's environment to sustain and enrich human life. Federal agencies shall initiate measures needed to direct their policies, plans and programs so as to meet national environmental goals. The Council on Environmental Quality, through the Chairman, shall advise and assist the President in leading this national effort.

SEC. 2. *Responsibilities of Federal agencies.* Consonant with Title I of the National Environmental Policy Act of 1969 [42 U.S.C. 4331 et seq.], hereafter referred to as the "Act", the heads of Federal agencies shall:

(a) Monitor, evaluate, and control on a continuing basis their agencies' activities so as to protect and enhance the quality of the environment. Such activities shall include those directed to controlling pollution

and enhancing the environment and those designed to accomplish other program objectives which may affect the quality of the environment. Agencies shall develop programs and measures to protect and enhance environmental quality and shall assess progress in meeting the specific objectives of such activities. Heads of agencies shall consult with appropriate Federal, State and local agencies in carrying out their activities as they affect the quality of the environment.

(b) Develop procedures to ensure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties. These procedures shall include, whenever appropriate, provision for public hearings, and shall provide the public with relevant information, including information on alternative courses of action. Federal agencies shall also encourage State and local agencies to adopt similar procedures for informing the public concerning their activities affecting the quality of the environment.

(c) Insure that information regarding existing or potential environmental problems and control methods developed as part of research, development, demonstration, test, or evaluation activities is made available to Federal agencies, States, counties, municipalities, institutions, and other entities, as appropriate.

(d) Review their agencies' statutory authority, administrative regulations, policies, and procedures, including those relating to loans, grants, contracts, leases, licenses, or permits, in order to identify any deficiencies or inconsistencies therein which prohibit or limit full compliance with the purposes and provisions of the Act. A report on this review and the corrective actions taken or planned, including such measures to be proposed to the President as may be necessary to bring their authority and policies into conformance with the intent, purposes, and procedures of the Act, shall be provided to the Council on Environmental Quality not later than September 1, 1970.

(e) Engage in exchange of data and research results, and cooperate with agencies of other governments to foster the purposes of the Act.

(f) Proceed, in coordination with other agencies, with actions required by section 102 of the Act [42 U.S.C. 4332].

(g) In carrying out their responsibilities under the Act and this Order, comply with the regulations issued by the Council except where such compliance would be inconsistent with statutory requirements.

*SEC. 3. Responsibilities of Council on Environmental Quality.* The Council on Environmental Quality shall:

(a) Evaluate existing and proposed policies and activities of the Federal Government directed to the control of pollution and the enhancement of the environment and to the accomplishment of other objectives which affect the quality of the environment. This shall include continuing review of procedures employed in the development and enforcement of Federal standards affecting environmental quality. Based upon such evaluations the Council shall, where appropriate, recommend to the President policies and programs to achieve more effective protection and enhancement of environmental quality and shall, where appropriate, seek resolution of significant environmental issues.

(b) Recommend to the President and to the agencies priorities among programs designed for the control of pollution and for enhancement of the environment.

(c) Determine the need for new policies and programs for dealing with environmental problems not being adequately addressed.

(d) Conduct, as it determines to be appropriate, public hearings or conferences on issues of environmental significance.

(e) Promote the development and use of indices and monitoring systems (1) to assess environmental conditions and trends, (2) to predict the environmental impact of proposed public and private actions, and (3) to determine the effectiveness of programs for protecting and enhancing environmental quality.

(f) Coordinate Federal programs related to environmental quality.

(g) Advise and assist the President and the agencies in achieving international cooperation for dealing with environmental problems, under the foreign policy guidance of the Secretary of State.

(h) Issue regulations to Federal agencies for the implementation of the procedural provisions of the Act (42 U.S.C. 4332(2)). Such regulations shall be developed after consultation with affected agencies and after such public hearings as may be appropriate. They will be designed to make the environmental impact statement process more useful to decisionmakers and the public; and to reduce paperwork and the accumulation of extraneous background data, in order to emphasize the need to focus on real environmental issues and alternatives. They will require impact statements to be concise, clear, and to the point, and supported by evidence that agencies have made the necessary environmental analyses. The Council shall include in its regulations procedures (1) for the early preparation of environmental impact statements, and (2) for the referral to the Council of conflicts between agencies concerning the implementation of the National Environmental Policy Act of 1969, as amended [this chapter], and Section 309 of the Clean Air Act, as amended [42 U.S.C. 7609], for the Council's recommendation as to their prompt resolution.

(i) Issue such other instructions to agencies, and request such reports and other information from them, as may be required to carry out the Council's responsibilities under the Act.

(j) Assist the President in preparing the annual Environmental Quality Report provided for in section 201 of the Act [42 U.S.C. 4341].

(k) Foster investigations, studies, surveys, research, and analyses relating to (i) ecological systems and environmental quality, (ii) the impact of new and changing technologies thereon, and (iii) means of preventing or reducing adverse effects from such technologies.

SEC. 4. *Amendments of E.O. 11472.* Executive Order No. 11472 of May 29, 1969, including the heading thereof, is hereby amended:

(1) By substituting for the term "the Environmental Quality Council", wherever it occurs, the following: "the Cabinet Committee on the Environment".

(2) By substituting for the term "the Council", wherever it occurs, the following: "the Cabinet Committee".

(3) By inserting in subsection (f) of section 101, after "Budget," the following: "the Director of the Office of Science and Technology,".

(4) By substituting for subsection (g) of section 101 the following:

"(g) The Chairman of the Council on Environmental Quality (established by Public Law 91-190) [this chapter] shall assist the President in directing the affairs of the Cabinet Committee."

(5) By deleting subsection (c) of section 102.

(6) By substituting for "the Office of Science and Technology", in section 104, the following: "the Council on Environmental Quality (established by Public Law 91-190) [this chapter]".

(7) By substituting for "(hereinafter referred to as the 'Committee')", in section 201, the following: "(hereinafter referred to as the 'Citizens' Committee')".

(8) By substituting for the term "the Committee", wherever it occurs, the following: "the Citizens' Committee".

### **EX. ORD. NO. 11523. NATIONAL INDUSTRIAL POLLUTION CONTROL COUNCIL**

Ex. Ord. No. 11523, eff. Apr. 9, 1970, 35 F.R. 5993, provided:

By virtue of the authority vested in me as President of the United States, and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (Public Law 91-190, approved January 1, 1970) [this chapter], it is ordered as follows:

SECTION 1. *Establishment of the Council.* (a) There is hereby established the National Industrial Pollution Control Council (hereinafter referred to as "the Industrial Council") which shall be composed of a Chairman, a Vice-chairman, and other representatives of business and industry appointed by the Secretary of Commerce (hereinafter referred to as "the Secretary").

(b) The Secretary, with the concurrence of the Chairman, shall appoint an Executive Director of the Industrial Council.

SEC. 2. *Functions of the Industrial Council.* The Industrial Council shall advise the President and the Chairman of the Council on Environmental Quality, through the Secretary, on programs of industry relating to the quality of the environment. In particular, the Industrial Council may—

(1) Survey and evaluate the plans and actions of industry in the field of environmental quality.

(2) Identify and examine problems of the effects on the environment of industrial practices and the needs of industry for improvements in the quality of the environment, and recommend solutions to those problems.

(3) Provide liaison among members of the business and industrial community on environmental quality matters.

(4) Encourage the business and industrial community to improve the quality of the environment.

(5) Advise on plans and actions of Federal, State, and local agencies involving environmental quality policies affecting industry which are referred to it by the Secretary, or by the Chairman of the Council on Environmental Quality through the Secretary.

SEC. 3. *Subordinate Committees.* The Industrial Council may establish, with the concurrence of the Secretary, such subordinate committees as it may deem appropriate to assist in the performance of its functions. Each subordinate committee shall be headed by a chairman appointed by the Chairman of the Industrial Council with the concurrence of the Secretary.

SEC. 4. *Assistance for the Industrial Council.* In compliance with applicable law, and as necessary to serve the purposes of this order, the Secretary shall provide or arrange for administrative and staff services, support, and facilities for the Industrial Council and any of its subordinate committees.

SEC. 5. *Expenses.* Members of the Industrial Council or any of its subordinate committees shall receive no compensation from the United States by reason of their services hereunder, but may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.



SEC. 6. *Regulations.* The provisions of Executive Order No. 11007 of February 26, 1962 (3 CFR 573) [see 5 U.S.C. 901 note] prescribing regulations for the formation and use of advisory committees, are hereby made applicable to the Industrial Council and each of its subordinate committees. The Secretary may exercise the discretionary powers set forth in that order.

SEC. 7. *Construction.* Nothing in this order shall be construed as subjecting any Federal agency, or any function vested by law in, or assigned pursuant to law to, any Federal agency to the authority of any other Federal agency or of the Industrial Council or of any of its subordinate committees, or as abrogating or restricting any such function in any manner.

RICHARD NIXON.

### **EXECUTIVE ORDER NO. 11643**

Ex. Ord. No. 11643, eff. Feb. 8, 1972, 37 F.R. 2875, as amended by Ex. Ord. No. 11870, eff. July 18, 1975, 40 F.R. 30611; Ex. Ord. No. 11917, eff. May 28, 1976, 41 F.R. 22239, which related to environmental safeguards on activities for animal damage control on Federal lands, was revoked by Ex. Ord. No. 12342, Jan. 27, 1982, 47 F.R. 4223.

### **EX. ORD. NO. 11644. USE OF OFF-ROAD VEHICLES ON PUBLIC LANDS**

Ex. Ord. No. 11644, Feb. 8, 1972, 37 F.R. 2877, as amended by Ex. Ord. No. 11989, May 24, 1977, 42 F.R. 26959; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

An estimated 5 million off-road recreational vehicles—motorcycles, minibikes, trail bikes, snowmobiles, dunebuggies, all-terrain vehicles, and others—are in use in the United States today, and their popularity continues to increase rapidly. The widespread use of such vehicles on the public lands—often for legitimate purposes but also in frequent conflict with wise land and resource management practices, environmental values, and other types of recreational activity—has demonstrated the need for a unified Federal policy toward the use of such vehicles on the public lands.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States by the Constitution of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (42 U.S.C. 4321), it is hereby ordered as follows:

SECTION 1. *Purpose.* It is the purpose of this order to establish policies and provide for procedures that will ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands.

SEC. 2. *Definitions.* As used in this order, the term:

(1) "public lands" means (A) all lands under the custody and control of the Secretary of the Interior and the Secretary of Agriculture, except Indian lands, (B) lands under the custody and control of the Tennessee Valley Authority that are situated in western Kentucky and Tennessee and are designated as "Land Between the Lakes," and (C) lands under the custody and control of the Secretary of Defense;

(2) "respective agency head" means the Secretary of the Interior, the Secretary of Defense, the Secretary of Agriculture, and the Board of Directors of the Tennessee Valley Authority, with respect to public lands under the custody and control of each;

(3) "off-road vehicle" means any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain; except that such term excludes (A) any registered motorboat, (B) any fire, military, emergency or law enforcement vehicle when used for emergency purposes, and any combat or combat support vehicle when used for national defense purposes, and (C) any vehicle whose use is expressly authorized by the respective agency head under a permit, lease, license, or contract; and

(4) "official use" means use by an employee, agent, or designated representative of the Federal Government or one of its contractors in the course of his employment, agency, or representation.

SEC. 3. *Zones of Use.* (a) Each respective agency head shall develop and issue regulations and administrative instructions, within six months of the date of this order, to provide for administrative designation of the specific areas and trails on public lands on which the use of off-road vehicles may be permitted, and areas in which the use of off-road vehicles may not be permitted, and set a date by which such designation of all public lands shall be completed. Those regulations shall direct that the designation of such areas and trails will be based upon the protection of the resources of the public lands, promotion of the safety of all users of those lands, and minimization of conflicts among the various uses of those lands. The regulations shall further require that the designation of such areas and trails shall be in accordance with the following—

(1) Areas and trails shall be located to minimize damage to soil, watershed, vegetation, or other resources of the public lands.

(2) Areas and trails shall be located to minimize harassment of wildlife or significant disruption of wildlife habitats.

(3) Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.

(4) Areas and trails shall not be located in officially designated Wilderness Areas or Primitive Areas. Areas and trails shall be located in areas of the National Park system, Natural Areas, or National Wildlife Refuges and Game Ranges only if the respective agency head determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or scenic values.

(b) The respective agency head shall ensure adequate opportunity for public participation in the promulgation of such regulations and in the designation of areas and trails under this section.

(c) The limitations on off-road vehicle use imposed under this section shall not apply to official use.

*SEC. 4. Operating Conditions.* Each respective agency head shall develop and publish, within one year of the date of this order, regulations prescribing operating conditions for off-road vehicles on the public lands. These regulations shall be directed at protecting resource values, preserving public health, safety, and welfare, and minimizing use conflicts.

*SEC. 5. Public Information.* The respective agency head shall ensure that areas and trails where off-road vehicle use is permitted are well marked and shall provide for the publication and distribution of information, including maps, describing such areas and trails and explaining the conditions on vehicle use. He shall seek cooperation of relevant State agencies in the dissemination of this information.

*SEC. 6. Enforcement.* The respective agency head shall, where authorized by law, prescribe appropriate penalties for violation of regulations adopted pursuant to this order, and shall establish procedures for the enforcement of those regulations. To the extent permitted by law, he may enter into agreements with State or local governmental agencies for cooperative enforcement of laws and regulations relating to off-road vehicle use.

*SEC. 7. Consultation.* Before issuing the regulations or administrative instructions required by this order or designating areas or trails are required by this order and those regulations and administrative instructions, the Secretary of the Interior shall, as appropriate, consult with the Secretary of Energy and the Nuclear Regulatory Commission.

*SEC. 8. Monitoring of Effects and Review.* (a) The respective agency head shall monitor the effects of the use of off-road vehicles on lands under their jurisdictions. On the basis of the information gathered, they shall from time to time amend or rescind designation of areas or other actions taken pursuant to this order as necessary to further the policy of this order.

(b) The Council on Environmental Quality shall maintain a continuing review of the implementation of this order.

*SEC. 9. Special Protection of the Public Lands.* (a) Notwithstanding the provisions of Section 3 of this Order, the respective agency head shall, whenever he determines that the use of off-road vehicles will cause or is causing considerable adverse effects on the soil, vegetation, wildlife, wildlife habitat or cultural or historic resources of particular areas or trails of the public lands, immediately close such areas or trails to the type of off-road vehicle causing such effects, until such time as he determines that such adverse effects have been eliminated and that measures have been implemented to prevent future recurrence.

(b) Each respective agency head is authorized to adopt the policy that portions of the public lands within his jurisdiction shall be closed to use by off-road vehicles except those areas or trails which are suitable and specifically designated as open to such use pursuant to Section 3 of this Order.

### **EXECUTIVE ORDER NO. 11987**

Ex. Ord. No. 11987, May 24, 1977, 42 F.R. 26949, which directed executive agencies, and encouraged States, local governments, and private citizens, to restrict the introduction of exotic species into the natural ecosystems on lands and waters under their control, and which directed executive agencies to restrict the exportation of native species for introduction of such species into ecosystems outside the United States where they do not naturally occur, unless such introduction or exportation was found not to have an adverse effect on natural ecosystems, was revoked by Ex. Ord. No. 13112, §6(b), Feb. 3, 1999, 64 F.R. 6186, set out below.

### **EX. ORD. NO. 11988. FLOODPLAIN MANAGEMENT**

Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, as amended by Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239; Ex. Ord. No. 13690, §2, Jan. 30, 2015, 80 F.R. 6425, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in furtherance of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), the National Flood Insurance Act of 1968, as amended (42

U.S.C. 4001 et seq.), and the Flood Disaster Protection Act of 1973 (Public Law 93–234, 87 Stat. 975) [see Short Title of 1973 Amendment note set out under 42 U.S.C. 4001], in order to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative, it is hereby ordered as follows:

SECTION 1. Each agency shall provide leadership and shall take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

SEC. 2. In carrying out the activities described in Section 1 of this Order, each agency has a responsibility to evaluate the potential effects of any actions it may take in a floodplain; to ensure that its planning programs and budget requests reflect consideration of flood hazards and floodplain management; and to prescribe procedures to implement the policies and requirements of this Order, as follows, to the extent permitted by law:

(a)(1) Before taking an action, each agency shall determine whether the proposed action will occur in a floodplain—for major Federal actions significantly affecting the quality of the human environment, the evaluation required below will be included in any statement prepared under Section 102(2)(C) of the National Environmental Policy Act [42 U.S.C. 4332(2)(C)]. To determine whether the action is located in a floodplain, the agency shall use one of the approaches in Section 6(c) of this Order based on the best-available information and the Federal Emergency Management Agency's effective Flood Insurance Rate Map.

(2) If an agency has determined to, or proposes to, conduct, support, or allow an action to be located in a floodplain, the agency shall consider alternatives to avoid adverse effects and incompatible development in the floodplains. Where possible, an agency shall use natural systems, ecosystem processes, and nature-based approaches when developing alternatives for consideration. If the head of the agency finds that the only practicable alternative consistent with the law and with the policy set forth in this Order requires siting in a floodplain, the agency shall, prior to taking action, (i) design or modify its action in order to minimize potential harm to or within the floodplain, consistent with regulations issued in accord with Section 2(d) of this Order, and (ii) prepare and circulate a notice containing an explanation of why the action is proposed to be located in the floodplain.

(3) For programs subject to the Office of Management and Budget Circular A–95, the agency shall send the notice, not to exceed three pages in length including a location map, to the state and areawide A–95 clearinghouses for the geographic areas affected. The notice shall include: (i) the reasons why the action is proposed to be located in a floodplain; (ii) a statement indicating whether the action conforms to applicable state or local floodplain protection standards and (iii) a list of the alternatives considered. Agencies shall endeavor to allow a brief comment period prior to taking any action.

(4) Each agency shall also provide opportunity for early public review of any plans or proposals for actions in floodplains, in accordance with Section 2(b) of Executive Order No. 11514, as amended [set out above], including the development of procedures to accomplish this objective for Federal actions whose impact is not significant enough to require the preparation of an environmental impact statement under Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended [42 U.S.C. 4332(2)(C)].

(b) Any requests for new authorizations or appropriations transmitted to the Office of Management and Budget shall indicate, if an action to be proposed will be located in a floodplain, whether the proposed action is in accord with this Order.

(c) Each agency shall take floodplain management into account when formulating or evaluating any water and land use plans and shall require land and water resources use appropriate to the degree of hazard involved. Agencies shall include adequate provision for the evaluation and consideration of flood hazards in the regulations and operating procedures for the licenses, permits, loan or grants-in-aid programs that they administer. Agencies shall also encourage and provide appropriate guidance to applicants to evaluate the effects of their proposals in floodplains prior to submitting applications for Federal licenses, permits, loans or grants.

(d) As allowed by law, each agency shall issue or amend existing regulations and procedures within one year to comply with this Order. These procedures shall incorporate the Unified National Program for Floodplain Management of the Water Resources Council, and shall explain the means that the agency will employ to pursue the nonhazardous use of riverine, coastal and other floodplains in connection with the activities under its authority. To the extent possible, existing processes, such as those of the Council on Environmental Quality and the Water Resources Council, shall be utilized to fulfill the requirements of

this Order. Agencies shall prepare their procedures in consultation with the Water Resources Council, the Administrator of the Federal Emergency Management Agency, and the Council on Environmental Quality, and shall update such procedures as necessary.

SEC. 3. In addition to the requirements of Section 2, agencies with responsibilities for Federal real property and facilities shall take the following measures:

(a) The regulations and procedures established under Section 2(d) of this Order shall, at a minimum, require the construction of Federal structures and facilities to be in accordance with the standards and criteria and to be consistent with the intent of those promulgated under the National Flood Insurance Program. The regulations and procedures must also be consistent with the Federal Flood Risk Management Standard (FFRMS). They shall deviate only to the extent that the standards of the Flood Insurance Program and FFRMS are demonstrably inappropriate for a given type of structure or facility.

(b) If, after compliance with the requirements of this Order, new construction of structures or facilities are to be located in a floodplain, accepted floodproofing and other flood protection measures shall be applied to new construction or rehabilitation. To achieve flood protection, agencies shall, wherever practicable, elevate structures above the elevation of the floodplain as defined in Section 6(c) of this Order rather than filling in land.

(c) If property used by the general public has suffered flood damage or is located in an identified flood hazard area, the responsible agency shall provide on structures, and other places where appropriate, conspicuous delineation of past and probable flood height in order to enhance public awareness of and knowledge about flood hazards.

(d) When property in floodplains is proposed for lease, easement, right-of-way, or disposal to non-Federal public or private parties, the Federal agency shall (1) reference in the conveyance those uses that are restricted under identified Federal, State or local floodplain regulations; and (2) attach other appropriate restrictions to the uses of properties by the grantee or purchaser and any successors, except where prohibited by law; or (3) withhold such properties from conveyance.

SEC. 4. In addition to any responsibilities under this Order and Sections 102, 202, and 205 of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4012a, 4106, and 4128), agencies which guarantee, approve, regulate, or insure any financial transaction which is related to an area located in an area subject to the base flood shall, prior to completing action on such transaction, inform any private parties participating in the transaction of the hazards of locating structures in the area subject to the base flood.

SEC. 5. The head of each agency shall submit a report to the Council on Environmental Quality and to the Water Resources Council on June 30, 1978, regarding the status of their procedures and the impact of this Order on the agency's operations. Thereafter, the Water Resources Council shall periodically evaluate agency procedures and their effectiveness.

SEC. 6. As used in this Order:

(a) The term "agency" shall have the same meaning as the term "Executive agency" in Section 105 of Title 5 of the United States Code and shall include the military departments; the directives contained in this Order, however, are meant to apply only to those agencies which perform the activities described in Section 1 which are located in or affecting floodplains.

(b) The term "base flood" shall mean that flood which has a one percent or greater chance of occurrence in any given year.

(c) The term "floodplain" shall mean the lowland and relatively flat areas adjoining inland and coastal waters including floodprone areas of offshore islands. The floodplain shall be established using one of the following approaches:

(1) Unless an exception is made under paragraph (2), the floodplain shall be:

(i) the elevation and flood hazard area that result from using a climate-informed science approach that uses the best-available, actionable hydrologic and hydraulic data and methods that integrate current and future changes in flooding based on climate science. This approach will also include an emphasis on whether the action is a critical action as one of the factors to be considered when conducting the analysis;

(ii) the elevation and flood hazard area that result from using the freeboard value, reached by adding an additional 2 feet to the base flood elevation for non-critical actions and by adding an additional 3 feet to the base flood elevation for critical actions;

(iii) the area subject to flooding by the 0.2 percent annual chance flood; or

(iv) the elevation and flood hazard area that result from using any other method identified in an update to the FFRMS.

(2) The head of an agency may except an agency action from paragraph (1) where it is in the interest of national security, where the agency action is an emergency action, where application to a Federal facility or structure is demonstrably inappropriate, or where the agency action is a mission-critical requirement related to a national security interest or an emergency action. When an agency action is excepted from paragraph (1) because it is in the interest of national security, it is an emergency action, or

it is a mission-critical requirement related to a national security interest or an emergency action, the agency head shall rely on the area of land subject to the base flood.

(d) The term "critical action" shall mean any activity for which even a slight chance of flooding would be too great.

SEC. 7. Executive Order No. 11296 of August 10, 1966, is hereby revoked. All actions, procedures, and issuances taken under that Order and still in effect shall remain in effect until modified by appropriate authority under the terms of this Order.

SEC. 8. Nothing in this Order shall apply to assistance provided for emergency work essential to save lives and protect property and public health and safety, performed pursuant to Sections 403 and 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (42 U.S.C. 5170b and 5192).

SEC. 9. To the extent the provisions of Section 2(a) of this Order are applicable to projects covered by Section 104(h) of the Housing and Community Development Act of 1974, as amended (88 Stat. 640, 42 U.S.C. 5304(h)), the responsibilities under those provisions may be assumed by the appropriate applicant, if the applicant has also assumed, with respect to such projects, all of the responsibilities for environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969, as amended [42 U.S.C. 4321].

### **EX. ORD. NO. 11990. PROTECTION OF WETLANDS**

Ex. Ord. No. 11990, May 24, 1977, 42 F.R. 26961, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in furtherance of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), in order to avoid to the extent possible the long and short term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative, it is hereby ordered as follows:

SECTION 1. (a) Each agency shall provide leadership and shall take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; and (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

(b) This Order does not apply to the issuance by Federal agencies of permits, licenses, or allocations to private parties for activities involving wetlands on non-Federal property.

SEC. 2. (a) In furtherance of Section 101(b)(3) of the National Environmental Policy Act of 1969 (42 U.S.C. 4331(b)(3)) to improve and coordinate Federal plans, functions, programs and resources to the end that the Nation may attain the widest range of beneficial uses of the environment without degradation and risk to health or safety, each agency, to the extent permitted by law, shall avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds (1) that there is no practicable alternative to such construction, and (2) that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use. In making this finding the head of the agency may take into account economic, environmental and other pertinent factors.

(b) Each agency shall also provide opportunity for early public review of any plans or proposals for new construction in wetlands, in accordance with Section 2(b) of Executive Order No. 11514, as amended [set out above], including the development of procedures to accomplish this objective for Federal actions whose impact is not significant enough to require the preparation of an environmental impact statement under Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended [42 U.S.C. 4332(2)(C)].

SEC. 3. Any requests for new authorizations or appropriations transmitted to the Office of Management and Budget shall indicate, if an action to be proposed will be located in wetlands, whether the proposed action is in accord with this Order.

SEC. 4. When Federally-owned wetlands or portions of wetlands are proposed for lease, easement, right-of-way or disposal to non-Federal public or private parties, the Federal agency shall (a) reference in the conveyance those uses that are restricted under identified Federal, State or local wetlands regulations; and (b) attach other appropriate restrictions to the uses of properties by the grantee or purchaser and any successor, except where prohibited by law; or (c) withhold such properties from disposal.

SEC. 5. In carrying out the activities described in Section 1 of this Order, each agency shall consider factors relevant to a proposal's effect on the survival and quality of the wetlands. Among these factors are:

(a) public health, safety, and welfare, including water supply, quality, recharge and discharge; pollution; flood and storm hazards; and sediment and erosion;

(b) maintenance of natural systems, including conservation and long term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources; and

(c) other uses of wetlands in the public interest, including recreational, scientific, and cultural uses.

SEC. 6. As allowed by law, agencies shall issue or amend their existing procedures in order to comply with this Order. To the extent possible, existing processes, such as those of the Council on Environmental Quality, shall be utilized to fulfill the requirements of this Order.

SEC. 7. As used in this Order:

(a) The term "agency" shall have the same meaning as the term "Executive agency" in Section 105 of Title 5 of the United States Code and shall include the military departments; the directives contained in this Order, however, are meant to apply only to those agencies which perform the activities described in Section 1 which are located in or affecting wetlands.

(b) The term "new construction" shall include draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities begun or authorized after the effective date of this Order.

(c) The term "wetlands" means those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

SEC. 8. This Order does not apply to projects presently under construction, or to projects for which all of the funds have been appropriated through Fiscal Year 1977, or to projects and programs for which a draft or final environmental impact statement will be filed prior to October 1, 1977. The provisions of Section 2 of this Order shall be implemented by each agency not later than October 1, 1977.

SEC. 9. Nothing in this Order shall apply to assistance provided for emergency work, essential to save lives and protect property and public health and safety, performed pursuant to Sections 305 and 306 of the Disaster Relief Act of 1974 (88 Stat. 148, 42 U.S.C. 5145 and 5146).

SEC. 10. To the extent the provisions of Sections 2 and 5 of this Order are applicable to projects covered by Section 104(h) of the Housing and Community Development Act of 1974, as amended (88 Stat. 640, 42 U.S.C. 5304(h)), the responsibilities under those provisions may be assumed by the appropriate applicant, if the applicant has also assumed, with respect to such projects, all of the responsibilities for environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969, as amended [42 U.S.C. 4321 et seq.].

## **EX. ORD. NO. 12088. FEDERAL COMPLIANCE WITH POLLUTION CONTROL STANDARDS**

Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, as amended by Ex. Ord. No. 12580, Jan. 23, 1987, 52 F.R. 2928; Ex. Ord. No. 13148, §901, Apr. 21, 2000, 65 F.R. 24604, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 22 of the Toxic Substances Control Act (15 U.S.C. 2621), Section 313 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323), Section 1447 of the Public Health Service Act, as amended by the Safe Drinking Water Act [now Safe Drinking Water Act of 1974] (42 U.S.C. 300j-6), Section 118 of the Clean Air Act, as amended (42 U.S.C. 7418(b)), Section 4 of the Noise Control Act of 1972 (42 U.S.C. 4903), Section 6001 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6961), and Section 301 of Title 3 of the United States Code, and to ensure Federal compliance with applicable pollution control standards, it is hereby ordered as follows:

### **1-1. APPLICABILITY OF POLLUTION CONTROL STANDARDS**

1-101. The head of each Executive agency is responsible for ensuring that all necessary actions are taken for the prevention, control, and abatement of environmental pollution with respect to Federal facilities and activities under the control of the agency.

1-102. The head of each Executive agency is responsible for compliance with applicable pollution control standards, including those established pursuant to, but not limited to, the following:

(a) Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

(b) Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.).

(c) Public Health Service Act, as amended by the Safe Drinking Water Act [now Safe Drinking Water Act of 1974] (42 U.S.C. 300f et seq.).

(d) Clean Air Act, as amended (42 U.S.C. 7401 et seq.).

(e) Noise Control Act of 1972 (42 U.S.C. 4901 et seq.).

(f) Solid Waste Disposal Act, as amended (42 U.S.C. 6901 et seq.).

(g) Radiation guidance pursuant to Section 274(h) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021(h); see also, the Radiation Protection Guidance to Federal Agencies for Diagnostic X Rays approved by the President on January 26, 1978 and published at page 4377 of the Federal Register on February 1, 1978).

(h) Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1401, 1402, 1411–1421, 1441–1444 and 16 U.S.C. 1431–1434) [16 U.S.C. 1431 et seq., 1447 et seq.; 33 U.S.C. 1401 et seq., 2801 et seq.].

(i) Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 et seq.).

1–103. "Applicable pollution control standards" means the same substantive, procedural, and other requirements that would apply to a private person.

## **1–2. AGENCY COORDINATION**

1–201. Each Executive agency shall cooperate with the Administrator of the Environmental Protection Agency, hereinafter referred to as the Administrator, and State, interstate, and local agencies in the prevention, control, and abatement of environmental pollution.

1–202. Each Executive agency shall consult with the Administrator and with State, interstate, and local agencies concerning the best techniques and methods available for the prevention, control, and abatement of environmental pollution.

## **1–3. TECHNICAL ADVICE AND OVERSIGHT**

1–301. The Administrator shall provide technical advice and assistance to Executive agencies in order to ensure their cost effective and timely compliance with applicable pollution control standards.

1–302. The administrator shall conduct such reviews and inspections as may be necessary to monitor compliance with applicable pollution control standards by Federal facilities and activities.

## **1–4. POLLUTION CONTROL PLAN**

[Revoked by Ex. Ord. No. 13148, §901, Apr. 21, 2000, 65 F.R. 24604.]

## **1–5. FUNDING**

1–501. The head of each Executive agency shall ensure that sufficient funds for compliance with applicable pollution control standards are requested in the agency budget.

1–502. The head of each Executive agency shall ensure that funds appropriated and apportioned for the prevention, control and abatement of environmental pollution are not used for any other purpose unless permitted by law and specifically approved by the Office of Management and Budget.

## **1–6. COMPLIANCE WITH POLLUTION CONTROLS**

1–601. Whenever the Administrator or the appropriate State, interstate, or local agency notifies an Executive agency that it is in violation of an applicable pollution control standard (see Section 1–102 of this Order), the Executive agency shall promptly consult with the notifying agency and provide for its approval a plan to achieve and maintain compliance with the applicable pollution control standard. This plan shall include an implementation schedule for coming into compliance as soon as practicable.

1–602. The Administrator shall make every effort to resolve conflicts regarding such violation between Executive agencies and, on request of any party, such conflicts between an Executive agency and a State, interstate, or a local agency. If the Administrator cannot resolve a conflict, the Administrator shall request the Director of the Office of Management and Budget to resolve the conflict.

1–603. The Director of the Office of Management and Budget shall consider unresolved conflicts at the request of the Administrator. The Director shall seek the Administrator's technological judgment and determination with regard to the applicability of statutes and regulations.

1–604. These conflict resolution procedures are in addition to, not in lieu of, other procedures, including sanctions, for the enforcement of applicable pollution control standards.

1–605. Except as expressly provided by a Presidential exemption under this Order, nothing in this Order, nor any action or inaction under this Order, shall be construed to revise or modify any applicable pollution control standard.

## **1–7. LIMITATION ON EXEMPTIONS**

1–701. Exemptions from applicable pollution control standards may only be granted under statutes cited in Section 1–102(a) through 1–102(f) if the President makes the required appropriate statutory determination: that such exemption is necessary (a) in the interest of national security, or (b) in the paramount interest of the United States.

1-702. The head of an Executive agency may, from time to time, recommend to the President through the Director of the Office of Management and Budget, that an activity or facility, or uses thereof, be exempt from an applicable pollution control standard.

1-703. The Administrator shall advise the President, through the Director of the Office of Management and Budget, whether he agrees or disagrees with a recommendation for exemption and his reasons therefor.

1-704. The Director of the Office of Management and Budget must advise the President within sixty days of receipt of the Administrator's views.

## **1-8. GENERAL PROVISIONS**

1-801. The head of each Executive agency that is responsible for the construction or operation of Federal facilities outside the United States shall ensure that such construction or operation complies with the environmental pollution control standards of general applicability in the host country or jurisdiction.

1-802. Nothing in this Order shall create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

1-803. Executive Order No. 11752 of December 17, 1973, is revoked.

## **EX. ORD. NO. 12114. ENVIRONMENTAL EFFECTS ABROAD OF MAJOR FEDERAL ACTIONS**

Ex. Ord. No. 12114, Jan. 4, 1979, 44 F.R. 1957, provided:

By virtue of the authority vested in me by the Constitution and the laws of the United States, and as President of the United States, in order to further environmental objectives consistent with the foreign policy and national security policy of the United States, it is ordered as follows:

### **SECTION 1**

1-1. *Purpose and Scope.* The purpose of this Executive Order is to enable responsible officials of Federal agencies having ultimate responsibility for authorizing and approving actions encompassed by this Order to be informed of pertinent environmental considerations and to take such considerations into account, with other pertinent considerations of national policy, in making decisions regarding such actions. While based on independent authority, this Order furthers the purpose of the National Environmental Policy Act [42 U.S.C. 4321 et seq.] and the Marine Protection Research and Sanctuaries Act [16 U.S.C. 1431 et seq. and 33 U.S.C. 1401 et seq.] and the Deepwater Port Act [33 U.S.C. 1501 et seq.] consistent with the foreign policy and national security policy of the United States, and represents the United States government's exclusive and complete determination of the procedural and other actions to be taken by Federal agencies to further the purpose of the National Environmental Policy Act, with respect to the environment outside the United States, its territories and possessions.

### **SECTION 2**

2-1. *Agency Procedures.* Every Federal agency taking major Federal actions encompassed hereby and not exempted herefrom having significant effects on the environment outside the geographical borders of the United States and its territories and possessions shall within eight months after the effective date of this Order have in effect procedures to implement this Order. Agencies shall consult with the Department of State and the Council on Environmental Quality concerning such procedures prior to placing them in effect.

2-2. *Information Exchange.* To assist in effectuating the foregoing purpose, the Department of State and the Council on Environmental Quality in collaboration with other interested Federal agencies and other nations shall conduct a program for exchange on a continuing basis of information concerning the environment. The objectives of this program shall be to provide information for use by decisionmakers, to heighten awareness of and interest in environmental concerns and, as appropriate, to facilitate environmental cooperation with foreign nations.

2-3. *Actions Included.* Agencies in their procedures under Section 2-1 shall establish procedures by which their officers having ultimate responsibility for authorizing and approving actions in one of the following categories encompassed by this Order, take into consideration in making decisions concerning such actions, a document described in Section 2-4(a):

(a) major Federal actions significantly affecting the environment of the global commons outside the jurisdiction of any nation (e.g., the oceans or Antarctica);

(b) major Federal actions significantly affecting the environment of a foreign nation not participating with the United States and not otherwise involved in the action;

(c) major Federal actions significantly affecting the environment of a foreign nation which provide to that nation:



(1) a product, or physical project producing a principal product or an emission or effluent, which is prohibited or strictly regulated by Federal law in the United States because its toxic effects on the environment create a serious public health risk; or

(2) a physical project which in the United States is prohibited or strictly regulated by Federal law to protect the environment against radioactive substances.

(d) major Federal actions outside the United States, its territories and possessions which significantly affect natural or ecological resources of global importance designated for protection under this subsection by the President, or, in the case of such a resource protected by international agreement binding on the United States, by the Secretary of State. Recommendations to the President under this subsection shall be accompanied by the views of the Council on Environmental Quality and the Secretary of State.

2-4. *Applicable Procedures.* (a) There are the following types of documents to be used in connection with actions described in Section 2-3:

(i) environmental impact statements (including generic, program and specific statements);

(ii) bilateral or multilateral environmental studies, relevant or related to the proposed action, by the United States and one [or more] more foreign nations, or by an international body or organization in which the United States is a member or participant; or

(iii) concise reviews of the environmental issues involved, including environmental assessments, summary environmental analyses or other appropriate documents.

(b) Agencies shall in their procedures provide for preparation of documents described in Section 2-4(a), with respect to actions described in Section 2-3, as follows:

(i) for effects described in Section 2-3(a), an environmental impact statement described in Section 2-4(a)(i);

(ii) for effects described in Section 2-3(b), a document described in Section 2-4(a)(ii) or (iii), as determined by the agency;

(iii) for effects described in Section 2-3(c), a document described in Section 2-4(a)(ii) or (iii), as determined by the agency;

(iv) for effects described in Section 2-3(d), a document described in Section 2-4(a)(i), (ii) or (iii), as determined by the agency.

Such procedures may provide that an agency need not prepare a new document when a document described in Section 2-4(a) already exists.

(c) Nothing in this Order shall serve to invalidate any existing regulations of any agency which have been adopted pursuant to court order or pursuant to judicial settlement of any case or to prevent any agency from providing in its procedures for measures in addition to those provided for herein to further the purpose of the National Environmental Policy Act [43 U.S.C. 4321 et seq.] and other environmental laws, including the Marine Protection Research and Sanctuaries Act [16 U.S.C. 1431 et seq. and 33 U.S.C. 1401 et seq.], and the Deepwater Port Act [33 U.S.C. 1501 et seq.], consistent with the foreign and national security policies of the United States.

(d) Except as provided in Section 2-5(b), agencies taking action encompassed by this Order shall, as soon as feasible, inform other Federal agencies with relevant expertise of the availability of environmental documents prepared under this Order.

Agencies in their procedures under Section 2-1 shall make appropriate provision for determining when an affected nation shall be informed in accordance with Section 3-2 of this Order of the availability of environmental documents prepared pursuant to those procedures.

In order to avoid duplication of resources, agencies in their procedures shall provide for appropriate utilization of the resources of other Federal agencies with relevant environmental jurisdiction or expertise.

2-5. *Exemptions and Considerations.* (a) Notwithstanding Section 2-3, the following actions are exempt from this Order:

(i) actions not having a significant effect on the environment outside the United States as determined by the agency;

(ii) actions taken by the President;

(iii) actions taken by or pursuant to the direction of the President or Cabinet officer when the national security or interest is involved or when the action occurs in the course of an armed conflict;

(iv) intelligence activities and arms transfers;

(v) export licenses or permits or export approvals, and actions relating to nuclear activities except actions providing to a foreign nation a nuclear production or utilization facility as defined in the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], as amended, or a nuclear waste management facility;

(vi) votes and other actions in international conferences and organizations;

(vii) disaster and emergency relief action.

(b) Agency procedures under Section 2-1 implementing Section 2-4 may provide for appropriate modifications in the contents, timing and availability of documents to other affected Federal agencies and affected nations, where necessary to:

- (i) enable the agency to decide and act promptly as and when required;
- (ii) avoid adverse impacts on foreign relations or infringement in fact or appearance of other nations' sovereign responsibilities, or
- (iii) ensure appropriate reflection of:
  - (1) diplomatic factors;
  - (2) international commercial, competitive and export promotion factors;
  - (3) needs for governmental or commercial confidentiality;
  - (4) national security considerations;
  - (5) difficulties of obtaining information and agency ability to analyze meaningfully environmental effects of a proposed action; and
  - (6) the degree to which the agency is involved in or able to affect a decision to be made.
- (c) Agency procedure under Section 2–1 may provide for categorical exclusions and for such exemptions in addition to those specified in subsection (a) of this Section as may be necessary to meet emergency circumstances, situations involving exceptional foreign policy and national security sensitivities and other such special circumstances. In utilizing such additional exemptions agencies shall, as soon as feasible, consult with the Department of State and the Council on Environmental Quality.
- (d) The provisions of Section 2–5 do not apply to actions described in Section 2–3(a) unless permitted by law.

### **SECTION 3**

3–1. *Rights of Action.* This Order is solely for the purpose of establishing internal procedures for Federal agencies to consider the significant effects of their actions on the environment outside the United States, its territories and possessions, and nothing in this Order shall be construed to create a cause of action.

3–2. *Foreign Relations.* The Department of State shall coordinate all communications by agencies with foreign governments concerning environmental agreements and other arrangements in implementation of this Order.

3–3. *Multi-Agency Actions.* Where more than one Federal agency is involved in an action or program, a lead agency, as determined by the agencies involved, shall have responsibility for implementation of this Order.

3–4. *Certain Terms.* For purposes of this Order, "environment" means the natural and physical environment and excludes social, economic and other environments; and an action significantly affects the environment if it does significant harm to the environment even though on balance the agency believes the action to be beneficial to the environment. The term "export approvals" in Section 2–5(a)(v) does not mean or include direct loans to finance exports.

3–5. *Multiple Impacts.* If a major Federal action having effects on the environment of the United States or the global commons requires preparation of an environmental impact statement, and if the action also has effects on the environment of a foreign nation, an environmental impact statement need not be prepared with respect to the effects on the environment of the foreign nation.

JIMMY CARTER.

### **EXECUTIVE ORDER No. 12194**

Ex. Ord. No. 12194, Feb. 21, 1980, 45 F.R. 12209, which established the Radiation Policy Council and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 12379, §23, Aug. 17, 1982, 47 F.R. 36100, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

### **EXECUTIVE ORDER No. 12737**

Ex. Ord. No. 12737, Dec. 12, 1990, 55 F.R. 51681, which established President's Commission on Environmental Quality and provided for its functions and administration, was revoked by Ex. Ord. No. 12852, §4(c), June 29, 1993, 58 F.R. 35841, formerly set out below.

### **EX. ORD. No. 12761. ESTABLISHMENT OF PRESIDENT'S ENVIRONMENT AND CONSERVATION CHALLENGE AWARDS**

Ex. Ord. No. 12761, May 21, 1991, 56 F.R. 23645, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish, in accordance with the goals and purposes of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq.*), and the National Environmental Education Act, Public Law 101–619, 104 Stat. 3325 (1990) [20 U.S.C. 5501 *et seq.*], an awards program to raise environmental awareness and to recognize outstanding achievements in the United States and in its

territories in the areas of conservation and environmental protection by both the public and private sectors, it is hereby ordered as follows:

**SECTION 1. *Establishment.*** The President's Environment and Conservation Challenge Awards program is established for the purposes of recognizing outstanding environmental achievements by U.S. citizens, enterprises, or programs; providing an incentive for environmental accomplishment; promoting cooperative partnerships between diverse groups working together to achieve common environmental goals; and identifying successful environmental programs that can be replicated.

**SEC. 2. *Administration.*** (a) The Council on Environmental Quality, with the assistance of the President's Commission on Environmental Quality, shall organize, manage, and administer the awards program, including the development of selection criteria, the nomination of eligible individuals to receive the award, and the selection of award recipients.

(b) Any expenses of the program shall be paid from funds available for the expenses of the Council on Environmental Quality.

**SEC. 3. *Awards.*** (a) Up to three awards in each of the following four categories shall be made annually to eligible individuals, organizations, groups, or entities:

(i) Quality Environmental Management Awards (incorporation of environmental concerns into management decisions and practices);

(ii) Partnership Awards (successful coalition building efforts);

(iii) Innovation Awards (innovative technology programs, products, or processes); and

(iv) Education and Communication Awards (education and information programs contributing to the development of an ethic fostering conservation and environmental protection).

(b) Presidential citations shall be given to eligible program finalists who demonstrate notable or unique achievements, but who are not selected to receive awards.

**SEC. 4. *Eligibility.*** Only residents of the United States and organizations, groups, or entities doing business in the United States are eligible to receive an award under this program. An award under this program shall be given only for achievements in the United States or its territories. Organizations, groups, or entities may be profit or nonprofit, public or private entities.

**SEC. 5. *Information System.*** The Council on Environmental Quality shall establish and maintain a data bank with information about award nominees to catalogue and publicize model conservation or environmental protection programs which could be replicated.

GEORGE BUSH.

## **EXECUTIVE ORDER No. 12852**

Ex. Ord. No. 12852, June 29, 1993, 58 F.R. 35841, as amended by Ex. Ord. No. 12855, July 19, 1993, 58 F.R. 39107; Ex. Ord. No. 12965, June 27, 1995, 60 F.R. 34087; Ex. Ord. No. 12980, Nov. 17, 1995, 60 F.R. 57819; Ex. Ord. No. 13053, June 30, 1997, 62 F.R. 39945 [35945]; Ex. Ord. No. 13114, Feb. 25, 1999, 64 F.R. 10099, which established the President's Council on Sustainable Development, was revoked by Ex. Ord. No. 13138, §3(f), Sept. 30, 1999, 64 F.R. 53880, formerly set out as a note under section 14 of the Appendix to Title 5, Government Organization and Employees.

## **EX. ORD. NO. 12898. FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY POPULATIONS AND LOW-INCOME POPULATIONS**

Ex. Ord. No. 12898, Feb. 11, 1994, 59 F.R. 7629, as amended by Ex. Ord. No. 12948, Jan. 30, 1995, 60 F.R. 6381; Ex. Ord. No. 14008, §220, Jan. 27, 2021, 86 F.R. 7629, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

### **SECTION 1–1. IMPLEMENTATION.**

1–101. *Agency Responsibilities.* To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands.

1–102. *Creation of an Interagency Working Group on Environmental Justice.* (a) There is hereby created within the Executive Office of the President a White House Environmental Justice Interagency Council (Interagency Council). The Chair of the Council on Environmental Quality shall serve as Chair of the Interagency Council.

(b) *Membership.* The Interagency Council shall consist of the following additional members:

(i) the Secretary of Defense;

- (ii) the Attorney General;
- (iii) the Secretary of the Interior;
- (iv) the Secretary of Agriculture;
- (v) the Secretary of Commerce;
- (vi) the Secretary of Labor;
- (vii) the Secretary of Health and Human Services;
- (viii) the Secretary of Housing and Urban Development;
- (ix) the Secretary of Transportation;
- (x) the Secretary of Energy;
- (xi) the Chair of the Council of Economic Advisers;
- (xii) the Administrator of the Environmental Protection Agency;
- (xiii) the Director of the Office of Management and Budget;
- (xiv) the Executive Director of the Federal Permitting Improvement Steering Council;
- (xv) the Director of the Office of Science and Technology Policy;
- (xvi) the National Climate Advisor;
- (xvii) the Assistant to the President for Domestic Policy; and
- (xviii) the Assistant to the President for Economic Policy.

(c) At the direction of the Chair, the Interagency Council may establish subgroups consisting exclusively of Interagency Council members or their designees under this section, as appropriate.

(d) *Mission and Work.* The Interagency Council shall develop a strategy to address current and historic environmental injustice by consulting with the White House Environmental Justice Advisory Council and with local environmental justice leaders. The Interagency Council shall also develop clear performance metrics to ensure accountability, and publish an annual public performance scorecard on its implementation.

(e) *Administration.* The Office of Administration within the Executive Office of the President shall provide funding and administrative support for the Interagency Council, to the extent permitted by law and within existing appropriations. To the extent permitted by law, including the Economy Act (31 U.S.C. 1535), and subject to the availability of appropriations, the Department of Labor, the Department of Transportation, and the Environmental Protection Agency shall provide administrative support as necessary.

(f) *Meetings and Staff.* The Chair shall convene regular meetings of the Council, determine its agenda, and direct its work. The Chair shall designate an Executive Director of the Council, who shall coordinate the work of the Interagency Council and head any staff assigned to the Council.

(g) *Officers.* To facilitate the work of the Interagency Council, the head of each agency listed in subsection (b) shall assign a designated official within the agency to be an Environmental Justice Officer, with the authority to represent the agency on the Interagency Council and perform such other duties relating to the implementation of this order within the agency as the head of the agency deems appropriate.

1–103. *Development of Agency Strategies.* (a) Except as provided in section 6–605 of this order, each Federal agency shall develop an agency-wide environmental justice strategy, as set forth in subsections (b)–(e) of this section that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The environmental justice strategy shall list programs, policies, planning and public participation processes, enforcement, and/or rulemakings related to human health or the environment that should be revised to, at a minimum: (1) promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations; (2) ensure greater public participation; (3) improve research and data collection relating to the health of and environment of minority populations and low-income populations; and (4) identify differential patterns of consumption of natural resources among minority populations and low-income populations. In addition, the environmental justice strategy shall include, where appropriate, a timetable for undertaking identified revisions and consideration of economic and social implications of the revisions.

(b) Within 4 months of the date of this order, each Federal agency shall identify an internal administrative process for developing its environmental justice strategy, and shall inform the Working Group of the process.

(c) Within 6 months of the date of this order, each Federal agency shall provide the Working Group with an outline of its proposed environmental justice strategy.

(d) Within 10 months of the date of this order, each Federal agency shall provide the Working Group with its proposed environmental justice strategy.

(e) By March 24, 1995, each Federal agency shall finalize its environmental justice strategy and provide a copy and written description of its strategy to the Working Group. From the date of this order through March 24, 1995, each Federal agency, as part of its environmental justice strategy, shall identify

several specific projects that can be promptly undertaken to address particular concerns identified during the development of the proposed environmental justice strategy, and a schedule for implementing those projects.

(f) Within 24 months of the date of this order, each Federal agency shall report to the Working Group on its progress in implementing its agency-wide environmental justice strategy.

(g) Federal agencies shall provide additional periodic reports to the Working Group as requested by the Working Group.

1–104. *Reports to the President.* Within 14 months of the date of this order, the Working Group shall submit to the President, through the Office of the Deputy Assistant to the President for Environmental Policy and the Office of the Assistant to the President for Domestic Policy, a report that describes the implementation of this order, and includes the final environmental justice strategies described in section 1–103(e) of this order.

SEC. 2–2. FEDERAL AGENCY RESPONSIBILITIES FOR FEDERAL PROGRAMS. Each Federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin.

SEC. 3–3. RESEARCH, DATA COLLECTION, AND ANALYSIS.

3–301. *Human Health and Environmental Research and Analysis.* (a) Environmental human health research, whenever practicable and appropriate, shall include diverse segments of the population in epidemiological and clinical studies, including segments at high risk from environmental hazards, such as minority populations, low-income populations and workers who may be exposed to substantial environmental hazards.

(b) Environmental human health analyses, whenever practicable and appropriate, shall identify multiple and cumulative exposures.

(c) Federal agencies shall provide minority populations and low-income populations the opportunity to comment on the development and design of research strategies undertaken pursuant to this order.

3–302. *Human Health and Environmental Data Collection and Analysis.* To the extent permitted by existing law, including the Privacy Act, as amended (5 U.S.C. section 552a): (a) each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information assessing and comparing environmental and human health risks borne by populations identified by race, national origin, or income. To the extent practical and appropriate, Federal agencies shall use this information to determine whether their programs, policies, and activities have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;

(b) In connection with the development and implementation of agency strategies in section 1–103 of this order, each Federal agency, whenever practicable and appropriate, shall collect, maintain and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations, when such facilities or sites become the subject of a substantial Federal environmental administrative or judicial action. Such information shall be made available to the public, unless prohibited by law; and

(c) Each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding Federal facilities that are: (1) subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11001–11050 as mandated in Executive Order No. 12856 [former 42 U.S.C. 11001 note]; and (2) expected to have a substantial environmental, human health, or economic effect on surrounding populations. Such information shall be made available to the public, unless prohibited by law.

(d) In carrying out the responsibilities in this section, each Federal agency, whenever practicable and appropriate, shall share information and eliminate unnecessary duplication of efforts through the use of existing data systems and cooperative agreements among Federal agencies and with State, local, and tribal governments.

SEC. 4–4. SUBSISTENCE CONSUMPTION OF FISH AND WILDLIFE.

4–401. *Consumption Patterns.* In order to assist in identifying the need for ensuring protection of populations with differential patterns of subsistence consumption of fish and wildlife, Federal agencies, whenever practicable and appropriate, shall collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence. Federal agencies shall communicate to the public the risks of those consumption patterns.

4–402. *Guidance.* Federal agencies, whenever practicable and appropriate, shall work in a coordinated manner to publish guidance reflecting the latest scientific information available concerning methods for

evaluating the human health risks associated with the consumption of pollutant-bearing fish or wildlife. Agencies shall consider such guidance in developing their policies and rules.

SEC. 5-5. PUBLIC PARTICIPATION AND ACCESS TO INFORMATION. (a) The public may submit recommendations to Federal agencies relating to the incorporation of environmental justice principles into Federal agency programs or policies. Each Federal agency shall convey such recommendations to the Working Group.

(b) Each Federal agency may, whenever practicable and appropriate, translate crucial public documents, notices, and hearings relating to human health or the environment for limited English speaking populations.

(c) Each Federal agency shall work to ensure that public documents, notices, and hearings relating to human health or the environment are concise, understandable, and readily accessible to the public.

(d) The Working Group shall hold public meetings, as appropriate, for the purpose of fact-finding, receiving public comments, and conducting inquiries concerning environmental justice. The Working Group shall prepare for public review a summary of the comments and recommendations discussed at the public meetings.

#### SEC. 6-6. GENERAL PROVISIONS.

6-601. *Responsibility for Agency Implementation.* The head of each Federal agency shall be responsible for ensuring compliance with this order. Each Federal agency shall conduct internal reviews and take such other steps as may be necessary to monitor compliance with this order.

6-602. *Executive Order No. 12250.* This Executive order is intended to supplement but not supersede Executive Order No. 12250 [42 U.S.C. 2000d-1 note], which requires consistent and effective implementation of various laws prohibiting discriminatory practices in programs receiving Federal financial assistance. Nothing herein shall limit the effect or mandate of Executive Order No. 12250.

6-603. *Executive Order No. 12875.* This Executive order is not intended to limit the effect or mandate of Executive Order No. 12875 [former 5 U.S.C. 601 note].

6-604. *Scope.* For purposes of this order, Federal agency means any agency on the Working Group, and such other agencies as may be designated by the President, that conducts any Federal program or activity that substantially affects human health or the environment. Independent agencies are requested to comply with the provisions of this order.

6-605. *Petitions for Exemptions.* The head of a Federal agency may petition the President for an exemption from the requirements of this order on the grounds that all or some of the petitioning agency's programs or activities should not be subject to the requirements of this order.

6-606. *Native American Programs.* Each Federal agency responsibility set forth under this order shall apply equally to Native American programs. In addition, the Department of the Interior, in coordination with the Working Group, and, after consultation with tribal leaders, shall coordinate steps to be taken pursuant to this order that address Federally-recognized Indian Tribes.

6-607. *Costs.* Unless otherwise provided by law, Federal agencies shall assume the financial costs of complying with this order.

6-608. *General.* Federal agencies shall implement this order consistent with, and to the extent permitted by, existing law.

6-609. *Judicial Review.* This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance of the United States, its agencies, its officers, or any other person with this order.

## **EX. ORD. NO. 13045. PROTECTION OF CHILDREN FROM ENVIRONMENTAL HEALTH RISKS AND SAFETY RISKS**

Ex. Ord. No. 13045, Apr. 21, 1997, 62 F.R. 19885, as amended by Ex. Ord. No. 13229, Oct. 9, 2001, 66 F.R. 52013; Ex. Ord. No. 13296, Apr. 18, 2003, 68 F.R. 19931, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

#### SECTION 1. *Policy.*

1-101. A growing body of scientific knowledge demonstrates that children may suffer disproportionately from environmental health risks and safety risks. These risks arise because: children's neurological, immunological, digestive, and other bodily systems are still developing; children eat more food, drink more fluids, and breathe more air in proportion to their body weight than adults; children's size and weight may diminish their protection from standard safety features; and children's behavior patterns may make them more susceptible to accidents because they are less able to protect themselves.

Therefore, to the extent permitted by law and appropriate, and consistent with the agency's mission, each Federal agency:

(a) shall make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children; and

(b) shall ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks.

1–102. Each independent regulatory agency is encouraged to participate in the implementation of this order and comply with its provisions.

*SEC. 2. Definitions.* The following definitions shall apply to this order.

2–201. "Federal agency" means any authority of the United States that is an agency under 44 U.S.C. 3502(1) other than those considered to be independent regulatory agencies under 44 U.S.C. 3502(5). For purposes of this order, "military departments," as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

2–202. "Covered regulatory action" means any substantive action in a rulemaking, initiated after the date of this order or for which a Notice of Proposed Rulemaking is published 1 year after the date of this order, that is likely to result in a rule that may:

(a) be "economically significant" under Executive Order 12866 [5 U.S.C. 601 note] (a rulemaking that has an annual effect on the economy of \$100 million or more or would adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities); and

(b) concern an environmental health risk or safety risk that an agency has reason to believe may disproportionately affect children.

2–203. "Environmental health risks and safety risks" mean risks to health or to safety that are attributable to products or substances that the child is likely to come in contact with or ingest (such as the air we breath, the food we eat, the water we drink or use for recreation, the soil we live on, and the products we use or are exposed to).

*SEC. 3. Task Force on Environmental Health Risks and Safety Risks to Children.*

3–301. There is hereby established the Task Force on Environmental Health Risks and Safety Risks to Children ("Task Force").

3–302. The Task Force will report to the President in consultation with the Domestic Policy Council, the National Science and Technology Council, the Council on Environmental Quality, and the Office of Management and Budget (OMB).

3–303. *Membership.* The Task Force shall be composed of the:

(a) Secretary of Health and Human Services, who shall serve as a Co-Chair of the Council;

(b) Administrator of the Environmental Protection Agency, who shall serve as a Co-Chair of the Council;

(c) Secretary of Education;

(d) Secretary of Labor;

(e) Attorney General;

(f) Secretary of Energy;

(g) Secretary of Housing and Urban Development;

(h) Secretary of Agriculture;

(i) Secretary of Transportation;

(j) Director of the Office of Management and Budget;

(k) Chair of the Council on Environmental Quality;

(l) Chair of the Consumer Product Safety Commission;

(m) Assistant to the President for Economic Policy;

(n) Assistant to the President for Domestic Policy;

(o) Director of the Office of Science and Technology Policy;

(p) Chair of the Council of Economic Advisers; and

(q) Such other officials of executive departments and agencies as the President may, from time to time, designate.

Members of the Task Force may delegate their responsibilities under this order to subordinates.

3–304. *Functions.* The Task Force shall recommend to the President Federal strategies for children's environmental health and safety, within the limits of the Administration's budget, to include the following elements:

(a) statements of principles, general policy, and targeted annual priorities to guide the Federal approach to achieving the goals of this order;

(b) a coordinated research agenda for the Federal Government, including steps to implement the review of research databases described in section 4 of this order;

(c) recommendations for appropriate partnerships among Federal, State, local, and tribal governments and the private, academic, and nonprofit sectors;

(d) proposals to enhance public outreach and communication to assist families in evaluating risks to children and in making informed consumer choices;

(e) an identification of high-priority initiatives that the Federal Government has undertaken or will undertake in advancing protection of children's environmental health and safety; and

(f) a statement regarding the desirability of new legislation to fulfill or promote the purposes of this order.

3-305. The Task Force shall prepare a biennial report on research, data, or other information that would enhance our ability to understand, analyze, and respond to environmental health risks and safety risks to children. For purposes of this report, executive departments, the Environmental Protection Agency, and other agencies identified by the Task Force shall identify and specifically describe for the Task Force key data needs related to environmental health risks and safety risks to children that have arisen in the course of the agency's programs and activities. Each report shall also detail the accomplishments of the Task Force from the date of the preceding report. The Task Force shall incorporate agency submissions into its report and ensure that this report is publicly available and widely disseminated. The Office of Science and Technology Policy and the National Science and Technology Council shall ensure that this report is fully considered in establishing research priorities.

3-306. The Task Force shall exist for 8 years from the date of this order.

*SEC. 4. Research Coordination and Integration.*

4-401. Within 6 months of the date of this order, the Task Force shall develop or direct to be developed a review of existing and planned data resources and a proposed plan for ensuring that researchers and Federal research agencies have access to information on all research conducted or funded by the Federal Government that is related to adverse health risks in children resulting from exposure to environmental health risks or safety risks. The National Science and Technology Council shall review the plan.

4-402. The plan shall promote the sharing of information on academic and private research. It shall include recommendations to encourage that such data, to the extent permitted by law, is available to the public, the scientific and academic communities, and all Federal agencies.

*SEC. 5. Agency Environmental Health Risk or Safety Risk Regulations.*

5-501. For each covered regulatory action submitted to OMB's Office of Information and Regulatory Affairs (OIRA) for review pursuant to Executive Order 12866 [5 U.S.C. 601 note], the issuing agency shall provide to OIRA the following information developed as part of the agency's decisionmaking process, unless prohibited by law:

(a) an evaluation of the environmental health or safety effects of the planned regulation on children; and

(b) an explanation of why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency.

5-502. In emergency situations, or when an agency is obligated by law to act more quickly than normal review procedures allow, the agency shall comply with the provisions of this section to the extent practicable. For those covered regulatory actions that are governed by a court-imposed or statutory deadline, the agency shall, to the extent practicable, schedule any rulemaking proceedings so as to permit sufficient time for completing the analysis required by this section.

5-503. The analysis required by this section may be included as part of any other required analysis, and shall be made part of the administrative record for the covered regulatory action or otherwise made available to the public, to the extent permitted by law.

*SEC. 6. Interagency Forum on Child and Family Statistics.*

6-601. The Director of the OMB ("Director") shall convene an Interagency Forum on Child and Family Statistics ("Forum"), which will include representatives from the appropriate Federal statistics and research agencies. The Forum shall produce a biennial compendium ("Report") of the most important indicators of the well-being of the Nation's children.

6-602. The Forum shall determine the indicators to be included in each Report and identify the sources of data to be used for each indicator. The Forum shall provide an ongoing review of Federal collection and dissemination of data on children and families, and shall make recommendations to improve the coverage and coordination of data collection and to reduce duplication and overlap.

6-603. The Report shall be published by the Forum in collaboration with the National Institute of Child Health and Human Development [now the Eunice Kennedy Shriver National Institute of Child Health and Human Development]. The Forum shall present the first annual Report to the President, through the Director, by July 31, 1997. The Report shall be published biennially thereafter, using the most recently available data.

*SEC. 7. General Provisions.*



7-701. This order is intended only for internal management of the executive branch. This order is not intended, and should not be construed to create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or its employees. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance with this order by the United States, its agencies, its officers, or any other person.

7-702. Executive Order 12606 of September 2, 1987 is revoked.

7-703. Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

## **EX. ORD. NO. 13061. FEDERAL SUPPORT OF COMMUNITY EFFORTS ALONG AMERICAN HERITAGE RIVERS**

Ex. Ord. No. 13061, Sept. 11, 1997, 62 F.R. 48445, as amended by Ex. Ord. No. 13093, July 27, 1998, 63 F.R. 40357, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Environmental Policy Act of 1969 (Public Law 91-190) [42 U.S.C. 4321 et seq.], and in order to protect and restore rivers and their adjacent communities, it is hereby ordered as follows:

### *SECTION 1. Policies.*

(a) The American Heritage Rivers initiative has three objectives: natural resource and environmental protection, economic revitalization, and historic and cultural preservation.

(b) Executive agencies ("agencies"), to the extent permitted by law and consistent with their missions and resources, shall coordinate Federal plans, functions, programs, and resources to preserve, protect, and restore rivers and their associated resources important to our history, culture, and natural heritage.

(c) Agencies shall develop plans to bring increased efficiencies to existing and authorized programs with goals that are supportive of protection and restoration of communities along rivers.

(d) In accordance with Executive Order 12630 [5 U.S.C. 601 note], agencies shall act with due regard for the protection of private property provided for by the Fifth Amendment to the United States Constitution. No new regulatory authority is created as a result of the American Heritage Rivers initiative. This initiative will not interfere with matters of State, local, and tribal government jurisdiction.

(e) In furtherance of these policies, the President will designate rivers that meet certain criteria as "American Heritage Rivers."

(f) It is the policy of the Federal Government that communities shall nominate rivers as American Heritage Rivers and the Federal role will be solely to support community-based efforts to preserve, protect, and restore these rivers and their communities.

(g) Agencies should, to the extent practicable, help identify resources in the private and nonprofit sectors to aid revitalization efforts.

(h) Agencies are encouraged, to the extent permitted by law, to develop partnerships with State, local, and tribal governments and community and nongovernmental organizations. Agencies will be responsive to the diverse needs of different kinds of communities from the core of our cities to remote rural areas and shall seek to ensure that the role played by the Federal Government is complementary to the plans and work being carried out by State, local, and tribal governments. To the extent possible, Federal resources will be strategically directed to complement resources being spent by these governments.

(i) Agencies shall establish a method for field offices to assess the success of the American Heritage River initiative and provide a means to recommend changes that will improve the delivery and accessibility of Federal services and programs. Agencies are directed, where appropriate, to reduce and make more flexible procedural requirements and paperwork related to providing assistance to communities along designated rivers.

(j) Agencies shall commit to a policy under which they will seek to ensure that their actions have a positive effect on the natural, historic, economic, and cultural resources of American Heritage River communities. The policy will require agencies to consult with American Heritage River communities early in the planning stages of Federal actions, take into account the communities' goals and objectives and ensure that actions are compatible with the overall character of these communities. Agencies shall seek to ensure that their help for one community does not adversely affect neighboring communities. Additionally, agencies are encouraged to develop formal and informal partnerships to assist communities. Local Federal facilities, to the extent permitted by law and consistent with the agencies' missions and resources, should provide public access, physical space, technical assistance, and other support for American Heritage River communities.

(k) In addition to providing support to designated rivers, agencies will work together to provide information and services to all communities seeking support.

*SEC. 2. Process for Nominating an American Heritage River.*

(a) *Nomination.* Communities, in coordination with their State, local, or tribal governments, can nominate their river, river stretch, or river confluence for designation as an American Heritage River. When several communities are involved in the nomination of the same river, nominations will detail the coordination among the interested communities and the role each will play in the process. Individuals living outside the community may not nominate a river.

(b) *Selection Criteria.* Nominations will be judged based on the following:

(1) the characteristics of the natural, economic, agricultural, scenic, historic, cultural, or recreational resources of the river that render it distinctive or unique;

(2) the effectiveness with which the community has defined its plan of action and the extent to which the plan addresses, either through planned actions or past accomplishments, all three American Heritage Rivers objectives, which are set forth in section 1(a) of this order;

(3) the strength and diversity of community support for the nomination as evidenced by letters from elected officials; landowners; private citizens; businesses; and especially State, local, and tribal governments. Broad community support is essential to receiving the American Heritage River designation; and

(4) willingness and capability of the community to forge partnerships and agreements to implement their plan to meet their goals and objectives.

(c) *Recommendation Process.*

The Chair of the Council on Environmental Quality ("CEQ") shall develop a fair and objective procedure to obtain the views of a diverse group of experts for the purpose of making recommendations to the President as to which rivers shall be designated. These experts shall reflect a variety of viewpoints, such as those representing natural, cultural, and historic resources; scenic, environmental, and recreation interests; tourism, transportation, and economic development interests; and industries such as agriculture, hydropower, manufacturing, mining, and forest management. The Chair of the CEQ will ensure that the rivers recommended represent a variety of stream sizes, diverse geographical locations, and a wide range of settings from urban to rural and ensure that relatively pristine, successful revitalization efforts are considered as well as degraded rivers in need of restoration.

(d) *Designation.*

(1) The President will designate certain rivers as American Heritage Rivers. Based on the receipt of a sufficient number of qualified nominations, up to 20 rivers will be designated in the first phase of the initiative.

(2) The Interagency Committee provided for in section 3 of this order shall develop a process by which any community that nominates and has its river designated may have this designation terminated at its request.

(3) Upon a determination by the Chair of the CEQ that a community has failed to implement its plan, the Chair may recommend to the President that a designation be revoked. The Chair shall notify the community at least 30 days prior to making such a recommendation to the President. Based on that recommendation, the President may revoke the designation.

*SEC. 3. Establishment of an Interagency Committee.* There is hereby established the American Heritage Rivers Interagency Committee ("Committee"). The Committee shall have two co-chairs. The Chair of the CEQ shall be a permanent co-chair. The other co-chair will rotate among the heads of the agencies listed below.

(a) The Committee shall be composed of the following members or their designees at the Assistant Secretary level or equivalent:

(1) The Secretary of Defense;

(2) The Attorney General;

(3) The Secretary of the Interior;

(4) The Secretary of Agriculture;

(5) The Secretary of Commerce;

(6) The Secretary of Housing and Urban Development;

(7) The Secretary of Transportation;

(8) The Secretary of Energy;

(9) The Administrator of the Environmental Protection Agency;

(10) The Chair of the Advisory Council on Historic Preservation;

(11) The Chairperson of the National Endowment for the Arts; and

(12) The Chairperson of the National Endowment for the Humanities.

The Chair of the CEQ may invite to participate in meetings of the Committee, representatives of other agencies, as appropriate.

- (b) The Committee shall:
- (1) establish formal guidelines for designation as an American Heritage River;
  - (2) periodically review the actions of agencies in support of the American Heritage Rivers;
  - (3) report to the President on the progress, accomplishments, and effectiveness of the American Heritage Rivers initiative; and
  - (4) perform other duties as directed by the Chair of the CEQ.

SEC. 4. *Responsibilities of the Federal Agencies.* Consistent with Title I of the National Environmental Policy Act of 1969 [42 U.S.C. 4331 et seq.], agencies shall:

- (a) identify their existing programs and plans that give them the authority to offer assistance to communities involved in river conservation and community health and revitalization;
- (b) to the extent practicable and permitted by law and regulation, refocus programs, grants, and technical assistance to provide support for communities adjacent to American Heritage Rivers;
- (c) identify all technical tools, including those developed for purposes other than river conservation, that can be applied to river protection, restoration, and community revitalization;
- (d) provide access to existing scientific data and information to the extent permitted by law and consistent with the agencies mission and resources;
- (e) cooperate with State, local, and tribal governments and communities with respect to their activities that take place in, or affect the area around, an American Heritage River;
- (f) commit to a policy, as set forth in section 1(j) of this order, in making decisions affecting the quality of an American Heritage River;
- (g) select from among all the agencies a single individual called the "River Navigator," for each river that is designated an American Heritage River, with whom the communities can communicate goals and needs and who will facilitate community-agency interchange;
- (h) allow public access to the river, for agencies with facilities along American Heritage Rivers, to the extent practicable and consistent with their mission; and
- (i) cooperate, as appropriate, with communities on projects that protect or preserve stretches of the river that are on Federal property or adjacent to a Federal facility.

SEC. 5. *Responsibilities of the Committee and the Council on Environmental Quality.* The CEQ shall serve as Executive agent for the Committee, and the CEQ and the Committee shall ensure the implementation of the policies and purposes of this initiative.

SEC. 6. *Definition.* For the purposes of this order, Executive agency means any agency on the Committee and such other agency as may be designated by the President.

SEC. 7. *Judicial Review.* This order does not create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON.

## **EXECUTIVE ORDER NO. 13080**

Ex. Ord. No. 13080, Apr. 7, 1998, 63 F.R. 17667, as amended by Ex. Ord. No. 13093, July 27, 1998, 63 F.R. 40357, which established the American Heritage Rivers Initiative Advisory Committee, was revoked by Ex. Ord. No. 13225, §3(b), Sept. 28, 2001, 66 F.R. 50292, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

### **PROC. NO. 7112. DESIGNATION OF AMERICAN HERITAGE RIVERS**

Proc. No. 7112, July 30, 1998, 63 F.R. 41949, provided:

In celebration of America's rivers, and to recognize and reward grassroots efforts to restore them, last year I announced the American Heritage Rivers initiative. My goal was to help communities realize their visions for their rivers by making it easier for them to tap existing programs and resources of the Federal Government. From across the country, hundreds of communities answered my call for nominations, asking that their rivers be designated American Heritage Rivers. I applaud all of the communities that have drawn together and dedicated themselves to the goal of healthy rivers, now and forever.

Having reviewed the recommendations of the American Heritage Rivers Initiative Advisory Committee, I am pleased to be able to recognize a select group of rivers and communities that reflect the true diversity and splendor of America's natural endowment, and the tremendous energy and commitment of its citizenry.

Pursuant to Executive Orders 13061 [set out above], 13080, and 13093 [set out above], I hereby designate the following American Heritage Rivers:

- The Blackstone and Woonasquatucket Rivers, in the States of Massachusetts and Rhode Island;

- The Connecticut River, in the States of Connecticut, Massachusetts, New Hampshire, and Vermont;
- The Cuyahoga River, in the State of Ohio;
- The Detroit River, in the State of Michigan;
- The Hanalei River, in the State of Hawaii;
- The Hudson River, in the State of New York;
- The Upper Mississippi River, in the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin;
- The Lower Mississippi River, in the States of Louisiana and Tennessee;
- The New River, in the States of North Carolina, Virginia, and West Virginia;
- The Rio Grande, in the State of Texas;
- The Potomac River, in the District of Columbia and the States of Maryland, Pennsylvania, Virginia, and West Virginia;
- The St. Johns River, in the State of Florida;
- The Upper Susquehanna and Lackawanna Rivers, in the State of Pennsylvania;
- The Willamette River, in the State of Oregon.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of July, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-third.

WILLIAM J. CLINTON.

### **Ex. ORD. No. 13112. INVASIVE SPECIES**

Ex. Ord. No. 13112, Feb. 3, 1999, 64 F.R. 6183, as amended by Ex. Ord. No. 13286, §15, Feb. 28, 2003, 68 F.R. 10623; Ex. Ord. No. 13751, §§2, 3, 5–9, Dec. 5, 2016, 81 F.R. 88610, 88612–88614, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, as amended (16 U.S.C. 4701 *et seq.*), Lacey Act, as amended (18 U.S.C. 42), Federal Plant Pest Act (7 U.S.C. 150aa *et seq.*), Federal Noxious Weed Act of 1974, as amended (7 U.S.C. 2801 *et seq.*), Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and other pertinent statutes, to prevent the introduction of invasive species and provide for their control and to minimize the economic, ecological, and human health impacts that invasive species cause, it is ordered as follows:

SECTION 1. *Definitions.* (a) "Control" means containing, suppressing, or reducing populations of invasive species.

(b) "Eradication" means the removal or destruction of an entire population of invasive species.

(c) "Federal agency" means an executive department or agency, but does not include independent establishments as defined by 5 U.S.C. 104.

(d) "Introduction" means, as a result of human activity, the intentional or unintentional escape, release, dissemination, or placement of an organism into an ecosystem to which it is not native.

(e) "Invasive species" means, with regard to a particular ecosystem, a non-native organism whose introduction causes or is likely to cause economic or environmental harm, or harm to human, animal, or plant health.

(f) "Non-native species" or "alien species" means, with respect to a particular ecosystem, an organism, including its seeds, eggs, spores, or other biological material capable of propagating that species, that occurs outside of its natural range.

(g) "Pathway" means the mechanisms and processes by which non-native species are moved, intentionally or unintentionally, into a new ecosystem.

(h) "Prevention" means the action of stopping invasive species from being introduced or spreading into a new ecosystem.

(i) "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, the Commonwealth of the Northern Mariana Islands, all possessions, and the territorial sea of the United States as defined by Presidential Proclamation 5928 of December 27, 1988.

SEC. 2. *Federal Agency Duties.* (a) Each Federal agency for which that agency's actions may affect the introduction, establishment, or spread of invasive species shall, to the extent practicable and permitted by law,

(1) identify such agency actions;

(2) subject to the availability of appropriations, and within administrative, budgetary, and jurisdictional limits, use relevant agency programs and authorities to:

(i) prevent the introduction, establishment, and spread of invasive species;

(ii) detect and respond rapidly to eradicate or control populations of invasive species in a manner that is cost-effective and minimizes human, animal, plant, and environmental health risks;

(iii) monitor invasive species populations accurately and reliably;

(iv) provide for the restoration of native species, ecosystems, and other assets that have been impacted by invasive species;

(v) conduct research on invasive species and develop and apply technologies to prevent their introduction, and provide for environmentally sound methods of eradication and control of invasive species;

(vi) promote public education and action on invasive species, their pathways, and ways to address them, with an emphasis on prevention, and early detection and rapid response;

(vii) assess and strengthen, as appropriate, policy and regulatory frameworks pertaining to the prevention, eradication, and control of invasive species and address regulatory gaps, inconsistencies, and conflicts;

(viii) coordinate with and complement similar efforts of States, territories, federally recognized American Indian tribes, Alaska Native Corporations, Native Hawaiians, local governments, nongovernmental organizations, and the private sector; and

(ix) in consultation with the Department of State and with other agencies as appropriate, coordinate with foreign governments to prevent the movement and minimize the impacts of invasive species; and

(3) refrain from authorizing, funding, or implementing actions that are likely to cause or promote the introduction, establishment, or spread of invasive species in the United States unless, pursuant to guidelines that it has prescribed, the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measures to minimize risk of harm will be taken in conjunction with the actions.

(c) [sic] Federal agencies shall pursue the duties set forth in this section in coordination, to the extent practicable, with other member agencies of the Council and staff, consistent with the National Invasive Species Council Management Plan, and in cooperation with State, local, tribal, and territorial governments, and stakeholders, as appropriate, and in consultation with the Department of State when Federal agencies are working with international organizations and foreign nations.

(d) Federal agencies that are members of the Council, and Federal interagency bodies working on issues relevant to the prevention, eradication, and control of invasive species, shall provide the Council with annual information on actions taken that implement these duties and identify barriers to advancing priority actions.

(e) To the extent practicable, Federal agencies shall also expand the use of new and existing technologies and practices; develop, share, and utilize similar metrics and standards, methodologies, and databases and, where relevant, platforms for monitoring invasive species; and, facilitate the interoperability of information systems, open data, data analytics, predictive modeling, and data reporting necessary to inform timely, science-based decision making.

*SEC. 3. National Invasive Species Council.* (a) A National Invasive Species Council (Council) is hereby established. The mission of the Council is to provide the vision and leadership to coordinate, sustain, and expand Federal efforts to safeguard the interests of the United States through the prevention, eradication, and control of invasive species, and through the restoration of ecosystems and other assets impacted by invasive species.

(b) The Council's membership shall be composed of the following officials, who may designate a senior-level representative to perform the functions of the member:

(i) Secretary of State;

(ii) Secretary of the Treasury;

(iii) Secretary of Defense;

(iv) Secretary of the Interior;

(v) Secretary of Agriculture;

(vi) Secretary of Commerce;

(vii) Secretary of Health and Human Services;

(viii) Secretary of Transportation;

(ix) Secretary of Homeland Security;

(x) Administrator of the National Aeronautics and Space Administration;

(xi) Administrator of the Environmental Protection Agency;

(xii) Administrator of the United States Agency for International Development;

(xiii) United States Trade Representative;

(xiv) Director or Chair of the following components of the Executive Office of the President: the Office of Science and Technology Policy, the Council on Environmental Quality, and the Office of Management and Budget; and

(xv) Officials from such other departments, agencies, offices, or entities as the agencies set forth above, by consensus, deem appropriate.

(c) The Council shall be co-chaired by the Secretary of the Interior (Secretary), the Secretary of Agriculture, and the Secretary of Commerce, who shall meet quarterly or more frequently if needed, and who may designate a senior-level representative to perform the functions of the Co-Chair. The Council shall meet no less than once each year. The Secretary of the Interior shall, after consultation with the Co-Chairs, appoint an Executive Director of the Council to oversee a staff that supports the duties of the Council. Within 1 year of the date of this order, the Co-Chairs of the Council shall, with consensus of its members, complete a charter, which shall include any administrative policies and processes necessary to ensure the Council can satisfy the functions and responsibilities described in this order.

(d) The Secretary of the Interior shall maintain the current Invasive Species Advisory Committee established under the Federal Advisory Committee Act, 5 U.S.C. App., to provide information and advice for consideration by the Council. The Secretary shall, after consultation with other members of the Council, appoint members of the advisory committee who represent diverse stakeholders and who have expertise to advise the Council.

(e) Administration of the Council. The Department of the Interior shall provide funding and administrative support for the Council and the advisory committee consistent with existing authorities. To the extent permitted by law, including the Economy Act, and within existing appropriations, participating agencies may detail staff to the Department of the Interior to support the Council's efforts.

*SEC. 4. Duties of the National Invasive Species Council.* The Council shall provide national leadership regarding invasive species and shall:

(a) with regard to the implementation of this order, work to ensure that the Federal agency and interagency activities concerning invasive species are coordinated, complementary, cost-efficient, and effective;

(b) undertake a National Invasive Species Assessment in coordination with the U.S. Global Change Research Program's periodic national assessment, that evaluates the impact of invasive species on major U.S. assets, including food security, water resources, infrastructure, the environment, human, animal, and plant health, natural resources, cultural identity and resources, and military readiness, from ecological, social, and economic perspectives;

(c) advance national incident response, data collection, and rapid reporting capacities that build on existing frameworks and programs and strengthen early detection of and rapid response to invasive species, including those that are vectors, reservoirs, or causative agents of disease;

(d) publish an assessment by 2020 that identifies the most pressing scientific, technical, and programmatic coordination challenges to the Federal Government's capacity to prevent the introduction of invasive species, and that incorporate recommendations and priority actions to overcome these challenges into the National Invasive Species Council Management Plan, as appropriate;

(e) support and encourage the development of new technologies and practices, and promote the use of existing technologies and practices, to prevent, eradicate, and control invasive species, including those that are vectors, reservoirs, and causative agents of disease;

(f) convene annually to discuss and coordinate interagency priorities and report annually on activities and budget requirements for programs that contribute directly to the implementation of this order; and

(g) publish a National Invasive Species Council Management Plan as set forth in section 5 of this order.

*SEC. 5. National Invasive Species Council Management Plan.* (a) By December 31, 2019, the Council shall publish a National Invasive Species Council Management Plan (Management Plan), which shall, among other priorities identified by the Council, include actions to further the implementation of the duties of the National Invasive Species Council.

(b) The Management Plan shall recommend strategies to:

(1) provide institutional leadership and priority setting;

(2) achieve effective interagency coordination and cost-efficiency;

(3) raise awareness and motivate action, including through the promotion of appropriate transparency, community-level consultation, and stakeholder outreach concerning the benefits and risks to human, animal, or plant health when controlling or eradicating an invasive species;

(4) remove institutional and policy barriers;

(5) assess and strengthen capacities; and

(6) foster scientific, technical, and programmatic innovation.

(c) The Council shall evaluate the effectiveness of the Management Plan implementation and update the Plan every 3 years. The Council shall provide an annual report of its achievements to the public.

(d) Council members may complement the Management Plan with invasive species policies and plans specific to their respective agency's roles, responsibilities, and authorities.

*SEC. 6. Judicial Review and Administration.* (a) This order is intended only to improve the internal management of the executive branch and is not intended to create any right, benefit, or trust

responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any other person.

(b) Executive Order 11987 of May 24, 1977, is hereby revoked.

(c) The requirements of this order do not affect the obligations of Federal agencies under 16 U.S.C. 4713 with respect to ballast water programs.

(d) The duties of section 3(a)(2) [probably means 2(a)(2)] and section 3(a)(3) [2(a)(3)] of this order shall not apply to any action of the Department of State if the Secretary of State finds that exemption from such requirements is necessary for foreign policy, readiness, or national security reasons. The duties of section 3(a)(2) [2(a)(2)] and section 3(a)(3) [2(a)(3)] of this order shall not apply to any action of the Department of Defense if the Secretary of Defense finds that exemption from such requirements is necessary for foreign policy, readiness, or national security reasons.

(e) The requirements of this order do not affect the obligations of the Department of Health and Human Services under the Public Health Service Act or the Federal Food, Drug, and Cosmetic Act.

### **EXTENSION OF TERM OF INVASIVE SPECIES ADVISORY COMMITTEE**

Term of Invasive Species Advisory Committee extended until Sept. 30, 2023, by Ex. Ord. No. 14048, Sept. 30, 2021, 86 F.R. 55465, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Previous extensions of term of Invasive Species Advisory Committee were contained in the following prior Executive Orders:

Ex. Ord. No. 13811, Sept. 29, 2017, 82 F.R. 46363, extended term until Sept. 30, 2019.

Ex. Ord. No. 13708, Sept. 30, 2015, 80 F.R. 60271, extended term until Sept. 30, 2017.

### **EXECUTIVE ORDER NO. 13148**

Ex. Ord. No. 13148, Apr. 21, 2000, 65 F.R. 24595, which directed Federal agencies to establish strategies that supported environmental leadership programs, policies, and procedures and to implement environmental compliance audit programs and policies that emphasized pollution prevention, was revoked by Ex. Ord. No. 13423, §11(a)(iv), Jan. 24, 2007, 72 F.R. 3923, formerly set out below.

### **EXECUTIVE ORDER NO. 13423**

Ex. Ord. No. 13423, Jan. 24, 2007, 72 F.R. 3919, which set out various goals and duties for Federal Agencies to conduct their environmental, transportation, and energy-related activities under the law in support of their respective missions in an environmentally, economically and fiscally sound, integrated, continuously improving, efficient, and sustainable manner, was revoked by Ex. Ord. No. 13693, §16(a), Mar. 19, 2015, 80 F.R. 15880, formerly set out below.

### **EXECUTIVE ORDER NO. 13514**

Ex. Ord. No. 13514, Oct. 5, 2009, 74 F.R. 52117, which related to environmental sustainability in the Federal Government, was revoked by Ex. Ord. No. 13693, §16(b), Mar. 19, 2015, 80 F.R. 15880, formerly set out below.

### **EXECUTIVE ORDER NO. 13653**

Ex. Ord. No. 13653, Nov. 1, 2013, 78 F.R. 66819, as amended by Ex. Ord. No. 13683, §2, Dec. 11, 2014, 79 F.R. 75041; Ex. Ord. No. 13693, §16(f), Mar. 19, 2015, 80 F.R. 15881, which related to preparing the United States for the impacts of climate change by undertaking actions to enhance climate preparedness and resilience, was revoked by Ex. Ord. No. 13783, §3(a)(i), Mar. 28, 2017, 82 F.R. 16094, formerly set out as a note under section 13201 of this title.

### **EX. ORD. NO. 13690. ESTABLISHING A FEDERAL FLOOD RISK MANAGEMENT STANDARD AND A PROCESS FOR FURTHER SOLICITING AND CONSIDERING STAKEHOLDER INPUT**

Ex. Ord. No. 13690, Jan. 30, 2015, 80 F.R. 6425, revoked by Ex. Ord. No. 13807, §6, Aug. 15, 2017, 82 F.R. 40469, reinstated by Ex. Ord. No. 14030, §5(e), May 20, 2021, 86 F.R. 27969, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to improve the Nation's resilience to current and future flood risk, I hereby direct the following:

SECTION 1. *Policy.* It is the policy of the United States to improve the resilience of communities and Federal assets against the impacts of flooding. These impacts are anticipated to increase over time due

to the effects of climate change and other threats. Losses caused by flooding affect the environment, our economic prosperity, and public health and safety, each of which affects our national security.

The Federal Government must take action, informed by the best-available and actionable science, to improve the Nation's preparedness and resilience against flooding. Executive Order 11988 of May 24, 1977 (Floodplain Management) [set out above], requires executive departments and agencies (agencies) to avoid, to the extent possible, the long- and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative. The Federal Government has developed processes for evaluating the impacts of Federal actions in or affecting floodplains to implement Executive Order 11988.

As part of a national policy on resilience and risk reduction consistent with my *Climate Action Plan*, the National Security Council staff coordinated an interagency effort to create a new flood risk reduction standard for federally funded projects. The views of Governors, mayors, and other stakeholders were solicited and considered as efforts were made to establish a new flood risk reduction standard for federally funded projects. The result of these efforts is the Federal Flood Risk Management Standard (Standard), a flexible framework to increase resilience against flooding and help preserve the natural values of floodplains. Incorporating this Standard will ensure that agencies expand management from the current base flood level to a higher vertical elevation and corresponding horizontal floodplain to address current and future flood risk and ensure that projects funded with taxpayer dollars last as long as intended.

This order establishes the Standard and sets forth a process for further solicitation and consideration of public input, including from Governors, mayors, and other stakeholders, prior to implementation of the Standard.

SEC. 2. *Amendments to Executive Order 11988.* [Amended Ex. Ord. No. 11988, set out above.]

SEC. 3. *Agency Action.* (a) Prior to any action to implement the Standard, additional input from stakeholders shall be solicited and considered. To carry out this process:

(i) the Federal Emergency Management Agency, on behalf of the Mitigation Framework Leadership Group, shall publish for public comment draft amended Floodplain Management Guidelines for Implementing Executive Order 11988 (Guidelines) to provide guidance to agencies on the implementation of Executive Order 11988, as amended, consistent with the Standard;

(ii) during the comment period, the Mitigation Framework Leadership Group shall host public meetings with stakeholders to solicit input; and

(iii) after the comment period closes, and based on the comments received on the draft Guidelines during the comment period, in accordance with subsections (a)(i) and (ii) of this section, the Mitigation Framework Leadership Group shall provide recommendations to the Water Resources Council.

(b) After additional input from stakeholders has been solicited and considered as set forth in subsections (a)(i) and (ii) of this section and after consideration of the recommendations made by the Mitigation Framework Leadership Group pursuant to subsection (a)(iii) of this section, the Water Resources Council shall issue amended Guidelines to provide guidance to agencies on the implementation of Executive Order 11988, as amended, consistent with the Standard.

(c) To the extent permitted by law, each agency shall, in consultation with the Water Resources Council, Federal Interagency Floodplain Management Task Force, Federal Emergency Management Agency, and Council on Environmental Quality, issue or amend existing regulations and procedures to comply with this order, and update those regulations and procedures as warranted. Within 30 days of the closing of the public comment period for the draft amendments to the Guidelines as described in subsection (a) of this section, each agency shall submit an implementation plan to the National Security Council staff that contains milestones and a timeline for implementation of this order and the Standard, by the agency as it applies to the agency's processes and mission. Agencies shall not issue or amend existing regulations and procedures pursuant to this subsection until after the Water Resources Council has issued amended Guidelines pursuant to subsection (b) of this order [sic].

SEC. 4. *Reassessment.* (a) The Water Resources Council shall issue any further amendments to the Guidelines as warranted.

(b) The Mitigation Framework Leadership Group in consultation with the Federal Interagency Floodplain Management Task Force shall reassess the Standard annually, after seeking stakeholder input, and provide recommendations to the Water Resources Council to update the Standard if warranted based on accurate and actionable science that takes into account changes to climate and other changes in flood risk. The Water Resources Council shall issue an update to the Standard at least every 5 years.

SEC. 5. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.



(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Water Resources Council shall carry out its responsibilities under this order in consultation with the Mitigation Framework Leadership Group.

[BARACK OBAMA.]

## **EXECUTIVE ORDER NO. 13693**

Ex. Ord. No. 13693, Mar. 19, 2015, 80 F.R. 15871, which related to planning by executive departments and agencies for environmental sustainability, was revoked by Ex. Ord. No. 13834, §8, May 17, 2018, 83 F.R. 23773, formerly set out below.

### **EX. ORD. NO. 13751. SAFEGUARDING THE NATION FROM THE IMPACTS OF INVASIVE SPECIES**

Ex. Ord. No. 13751, Dec. 5, 2016, 81 F.R. 88609, provided:

By the authority vested in me as President by the Constitution and to ensure the faithful execution of the laws of the United States of America, including the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, (16 U.S.C. 4701 et seq.), the Plant Protection Act (7 U.S.C. 7701 et seq.), the Lacey Act, as amended (18 U.S.C. 42, 16 U.S.C. 3371–3378 et seq.), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), the Noxious Weed Control and Eradication Act of 2004 (7 U.S.C. 7781 et seq.), and other pertinent statutes, to prevent the introduction of invasive species and provide for their control, and to minimize the economic, plant, animal, ecological, and human health impacts that invasive species cause, it is hereby ordered as follows:

**SECTION 1. Policy.** It is the policy of the United States to prevent the introduction, establishment, and spread of invasive species, as well as to eradicate and control populations of invasive species that are established. Invasive species pose threats to prosperity, security, and quality of life. They have negative impacts on the environment and natural resources, agriculture and food production systems, water resources, human, animal, and plant health, infrastructure, the economy, energy, cultural resources, and military readiness. Every year, invasive species cost the United States billions of dollars in economic losses and other damages.

Of substantial growing concern are invasive species that are or may be vectors, reservoirs, and causative agents of disease, which threaten human, animal, and plant health. The introduction, establishment, and spread of invasive species create the potential for serious public health impacts, especially when considered in the context of changing climate conditions. Climate change influences the establishment, spread, and impacts of invasive species.

Executive Order 13112 of February 3, 1999 (Invasive Species), called upon executive departments and agencies to take steps to prevent the introduction and spread of invasive species, and to support efforts to eradicate and control invasive species that are established. Executive Order 13112 also created a coordinating body—the Invasive Species Council, also referred to as the National Invasive Species Council—to oversee implementation of the order, encourage proactive planning and action, develop recommendations for international cooperation, and take other steps to improve the Federal response to invasive species. Past efforts at preventing, eradicating, and controlling invasive species demonstrated that collaboration across Federal, State, local, tribal, and territorial government; stakeholders; and the private sector is critical to minimizing the spread of invasive species and that coordinated action is necessary to protect the assets and security of the United States.

This order amends Executive Order 13112 and directs actions to continue coordinated Federal prevention and control efforts related to invasive species. This order maintains the National Invasive Species Council (Council) and the Invasive Species Advisory Committee; expands the membership of the Council; clarifies the operations of the Council; incorporates considerations of human and environmental health, climate change, technological innovation, and other emerging priorities into Federal efforts to address invasive species; and strengthens coordinated, cost-efficient Federal action.

**SEC. 2. Definitions.** [Amended Ex. Ord. No. 13112, set out as a note above.]

**SEC. 3. Federal Agency Duties.** [Amended Ex. Ord. No. 13112, set out as a note above.]

**SEC. 4. Emerging Priorities.** Federal agencies that are members of the Council and Federal interagency bodies working on issues relevant to the prevention, eradication, and control of invasive species shall take emerging priorities into consideration, including:

(a) Federal agencies shall consider the potential public health and safety impacts of invasive species, especially those species that are vectors, reservoirs, and causative agents of disease. The Department of Health and Human Services, in coordination and consultation with relevant agencies as appropriate, shall within 1 year of this order, and as requested by the Council thereafter, provide the Office of Science and Technology Policy and the Council a report on public health impacts associated with invasive species. That report shall describe the disease, injury, immunologic, and safety impacts associated with invasive species, including any direct and indirect impacts on low-income, minority, and tribal communities.

(b) Federal agencies shall consider the impacts of climate change when working on issues relevant to the prevention, eradication, and control of invasive species, including in research and monitoring efforts, and integrate invasive species into Federal climate change coordinating frameworks and initiatives.

(c) Federal agencies shall consider opportunities to apply innovative science and technology when addressing the duties identified in section 2 of Executive Order 13112, as amended, including, but not limited to, promoting open data and data analytics; harnessing technological advances in remote sensing technologies, molecular tools, cloud computing, and predictive analytics; and using tools such as challenge prizes, citizen science, and crowdsourcing.

SEC. 5. *National Invasive Species Council*. [Amended Ex. Ord. No. 13112, set out as a note above.]

SEC. 6. *Duties of the National Invasive Species Council*. [Amended Ex. Ord. No. 13112, set out as a note above.]

SEC. 7. *National Invasive Species Council Management Plan*. [Amended Ex. Ord. No. 13112, set out as a note above.]

SEC. 8. *Actions of the Department of State and Department of Defense*. [Amended Ex. Ord. No. 13112, set out as a note above.]

SEC. 9. *Obligations of the Department of Health and Human Services*. [Amended Ex. Ord. No. 13112, set out as a note above.]

SEC. 10. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

- (1) the authority granted by law to an executive department or agency, or the head thereof; or
- (2) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

## EXECUTIVE ORDER NO. 13834

Ex. Ord. No. 13834, May 17, 2018, 83 F.R. 23771, as amended by Ex. Ord. No. 13990, §7(a), Jan. 20, 2021, 86 F.R. 7041, which required executive departments and agencies to meet statutory requirements related to energy and environmental performance by prioritizing actions that reduce waste, cut costs, enhance the resilience of Federal infrastructure and operations, and enable more effective accomplishment of its mission, was revoked by Ex. Ord. No. 14057, §604, Dec. 8, 2021, 86 F.R. 70943, set out below.

### EX. ORD. NO. 13990. PROTECTING PUBLIC HEALTH AND THE ENVIRONMENT AND RESTORING SCIENCE TO TACKLE THE CLIMATE CRISIS

Ex. Ord. No. 13990, Jan. 20, 2021, 86 F.R. 7037, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. Our Nation has an abiding commitment to empower our workers and communities; promote and protect our public health and the environment; and conserve our national treasures and monuments, places that secure our national memory. Where the Federal Government has failed to meet that commitment in the past, it must advance environmental justice. In carrying out this charge, the Federal Government must be guided by the best science and be protected by processes that ensure the integrity of Federal decision-making. It is, therefore, the policy of my Administration to listen to the science; to improve public health and protect our environment; to ensure access to clean air and water; to limit exposure to dangerous chemicals and pesticides; to hold polluters accountable, including those who disproportionately harm communities of color and low-income communities; to reduce greenhouse gas emissions; to bolster resilience to the impacts of climate change; to restore and expand our national treasures and monuments; and to prioritize both environmental justice and the creation of the well-paying union jobs necessary to deliver on these goals.

To that end, this order directs all executive departments and agencies (agencies) to immediately review and, as appropriate and consistent with applicable law, take action to address the promulgation of Federal regulations and other actions during the last 4 years that conflict with these important national objectives, and to immediately commence work to confront the climate crisis.

*SEC. 2. Immediate Review of Agency Actions Taken Between January 20, 2017, and January 20, 2021.* (a) The heads of all agencies shall immediately review all existing regulations, orders, guidance documents, policies, and any other similar agency actions (agency actions) promulgated, issued, or adopted between January 20, 2017, and January 20, 2021, that are or may be inconsistent with, or present obstacles to, the policy set forth in section 1 of this order. For any such actions identified by the agencies, the heads of agencies shall, as appropriate and consistent with applicable law, consider suspending, revising, or rescinding the agency actions. In addition, for the agency actions in the 4 categories set forth in subsections (i) through (iv) of this section, the head of the relevant agency, as appropriate and consistent with applicable law, shall consider publishing for notice and comment a proposed rule suspending, revising, or rescinding the agency action within the time frame specified.

(i) Reducing Methane Emissions in the Oil and Gas Sector: "Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Reconsideration," 85 FR 57398 (September 15, 2020), by September 2021.

(ii) Establishing Ambitious, Job-Creating Fuel Economy Standards: "The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program," 84 FR 51310 (September 27, 2019), by April 2021; and "The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks," 85 FR 24174 (April 30, 2020), by July 2021. In considering whether to propose suspending, revising, or rescinding the latter rule, the agency should consider the views of representatives from labor unions, States, and industry.

(iii) Job-Creating Appliance- and Building-Efficiency Standards: "Energy Conservation Program for Appliance Standards: Procedures for Use in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment," 85 FR 8626 (February 14, 2020), with major revisions proposed by March 2021 and any remaining revisions proposed by June 2021; "Energy Conservation Program for Appliance Standards: Procedures for Evaluating Statutory Factors for Use in New or Revised Energy Conservation Standards," 85 FR 50937 (August 19, 2020), with major revisions proposed by March 2021 and any remaining revisions proposed by June 2021; "Final Determination Regarding Energy Efficiency Improvements in the 2018 International Energy Conservation Code (IECC)," 84 FR 67435 (December 10, 2019), by May 2021; "Final Determination Regarding Energy Efficiency Improvements in ANSI/ASHRAE/IES Standard 90.1–2016: Energy Standard for Buildings, Except Low-Rise Residential Buildings," 83 FR 8463 (February 27, 2018), by May 2021.

(iv) Protecting Our Air from Harmful Pollution: "National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units—Reconsideration of Supplemental Finding and Residual Risk and Technology Review," 85 FR 31286 (May 22, 2020), by August 2021; "Increasing Consistency and Transparency in Considering Benefits and Costs in the Clean Air Act Rulemaking Process," 85 FR 84130 (December 23, 2020), as soon as possible; "Strengthening Transparency in Pivotal Science Underlying Significant Regulatory Actions and Influential Scientific Information," 86 FR 469 (January 6, 2021), as soon as possible.

(b) Within 30 days of the date of this order [Jan. 20, 2021], heads of agencies shall submit to the Director of the Office of Management and Budget (OMB) a preliminary list of any actions being considered pursuant to section (2)(a) of this order that would be completed by December 31, 2021, and that would be subject to OMB review. Within 90 days of the date of this order, heads of agencies shall submit to the Director of OMB an updated list of any actions being considered pursuant to section (2)(a) of this order that would be completed by December 31, 2025, and that would be subject to OMB review. At the time of submission to the Director of OMB, heads of agencies shall also send each list to the National Climate Advisor. In addition, and at the same time, heads of agencies shall send to the National Climate Advisor a list of additional actions being considered pursuant to section (2)(a) of this order that would not be subject to OMB review.

(c) Heads of agencies shall, as appropriate and consistent with applicable law, consider whether to take any additional agency actions to fully enforce the policy set forth in section 1 of this order. With respect to the Administrator of the Environmental Protection Agency, the following specific actions should be considered:

(i) proposing new regulations to establish comprehensive standards of performance and emission guidelines for methane and volatile organic compound emissions from existing operations in the oil and gas sector, including the exploration and production, transmission, processing, and storage segments, by September 2021; and

(ii) proposing a Federal Implementation Plan in accordance with the Environmental Protection Agency's "Findings of Failure To Submit State Implementation Plan Revisions in Response to the 2016 Oil and

Natural Gas Industry Control Techniques Guidelines for the 2008 Ozone National Ambient Air Quality Standards (NAAQS) and for States in the Ozone Transport Region," 85 FR 72963 (November 16, 2020), for California, Connecticut, New York, Pennsylvania, and Texas by January 2022.

(d) The Attorney General may, as appropriate and consistent with applicable law, provide notice of this order and any actions taken pursuant to section 2(a) of this order to any court with jurisdiction over pending litigation related to those agency actions identified pursuant to section (2)(a) of this order, and may, in his discretion, request that the court stay or otherwise dispose of litigation, or seek other appropriate relief consistent with this order, until the completion of the processes described in this order.

(e) In carrying out the actions directed in this section, heads of agencies shall seek input from the public and stakeholders, including State local, Tribal, and territorial officials, scientists, labor unions, environmental advocates, and environmental justice organizations.

**SEC. 3. Restoring National Monuments.** (a) The Secretary of the Interior, as appropriate and consistent with applicable law, including the Antiquities Act [of 1906], 54 U.S.C. 320301 *et seq.*, shall, in consultation with the Attorney General, the Secretaries of Agriculture and Commerce, the Chair of the Council on Environmental Quality, and Tribal governments, conduct a review of the monument boundaries and conditions that were established by Proclamation 9681 of December 4, 2017 (Modifying the Bears Ears National Monument) [54 U.S.C. 320301 note]; Proclamation 9682 of December 4, 2017 (Modifying the Grand Staircase-Escalante National Monument) [54 U.S.C. 320301 note]; and Proclamation 10049 of June 5, 2020 (Modifying the Northeast Canyons and Seamounts Marine National Monument) [54 U.S.C. 320301 note], to determine whether restoration of the monument boundaries and conditions that existed as of January 20, 2017, would be appropriate.

(b) Within 60 days of the date of this order, the Secretary of the Interior shall submit a report to the President summarizing the findings of the review conducted pursuant to subsection (a), which shall include recommendations for such Presidential actions or other actions consistent with law as the Secretary may consider appropriate to carry out the policy set forth in section 1 of this order.

(c) The Attorney General may, as appropriate and consistent with applicable law, provide notice of this order to any court with jurisdiction over pending litigation related to the Grand Staircase-Escalante, Bears Ears, and Northeast Canyons and Seamounts Marine National Monuments, and may, in his discretion, request that the court stay the litigation or otherwise delay further litigation, or seek other appropriate relief consistent with this order, pending the completion of the actions described in subsection (a) of this section.

**SEC. 4. Arctic Refuge.** (a) In light of the alleged legal deficiencies underlying the program, including the inadequacy of the environmental review required by the National Environmental Policy Act [of 1969; 42 U.S.C. 4321 *et seq.*], the Secretary of the Interior shall, as appropriate and consistent with applicable law, place a temporary moratorium on all activities of the Federal Government relating to the implementation of the Coastal Plain Oil and Gas Leasing Program, as established by the Record of Decision signed August 17, 2020, in the Arctic National Wildlife Refuge. The Secretary shall review the program and, as appropriate and consistent with applicable law, conduct a new, comprehensive analysis of the potential environmental impacts of the oil and gas program.

(b) In Executive Order 13754 of December 9, 2016 (Northern Bering Sea Climate Resilience) [15 U.S.C. 4101 note], and in the Presidential Memorandum of December 20, 2016 (Withdrawal of Certain Portions of the United States Arctic Outer Continental Shelf From Mineral Leasing), President Obama withdrew areas in Arctic waters and the Bering Sea from oil and gas drilling and established the Northern Bering Sea Climate Resilience Area. Subsequently, the order was revoked and the memorandum was amended in Executive Order 13795 of April 28, 2017 (Implementing an America-First Offshore Energy Strategy) [former 43 U.S.C. 1331 note]. Pursuant to section 12(a) of the Outer Continental Shelf Lands Act, 43 U.S.C. 1341(a), Executive Order 13754 and the Presidential Memorandum of December 20, 2016, are hereby reinstated in their original form, thereby restoring the original withdrawal of certain offshore areas in Arctic waters and the Bering Sea from oil and gas drilling.

(c) The Attorney General may, as appropriate and consistent with applicable law, provide notice of this order to any court with jurisdiction over pending litigation related to the Coastal Plain Oil and Gas Leasing Program in the Arctic National Wildlife Refuge and other related programs, and may, in his discretion, request that the court stay the litigation or otherwise delay further litigation, or seek other appropriate relief consistent with this order, pending the completion of the actions described in subsection (a) of this section.

**SEC. 5. Accounting for the Benefits of Reducing Climate Pollution.** (a) It is essential that agencies capture the full costs of greenhouse gas emissions as accurately as possible, including by taking global damages into account. Doing so facilitates sound decision-making, recognizes the breadth of climate impacts, and supports the international leadership of the United States on climate issues. The "social cost of carbon" (SCC), "social cost of nitrous oxide" (SCN), and "social cost of methane" (SCM) are estimates of the monetized damages associated with incremental increases in greenhouse gas emissions. They are

intended to include changes in net agricultural productivity, human health, property damage from increased flood risk, and the value of ecosystem services. An accurate social cost is essential for agencies to accurately determine the social benefits of reducing greenhouse gas emissions when conducting cost-benefit analyses of regulatory and other actions.

(b) There is hereby established an Interagency Working Group on the Social Cost of Greenhouse Gases (the "Working Group"). The Chair of the Council of Economic Advisers, Director of OMB, and Director of the Office of Science and Technology Policy shall serve as Co-Chairs of the Working Group.

(i) Membership. The Working Group shall also include the following other officers, or their designees: the Secretary of the Treasury; the Secretary of the Interior; the Secretary of Agriculture; the Secretary of Commerce; the Secretary of Health and Human Services; the Secretary of Transportation; the Secretary of Energy; the Chair of the Council on Environmental Quality; the Administrator of the Environmental Protection Agency; the Assistant to the President and National Climate Advisor; and the Assistant to the President for Economic Policy and Director of the National Economic Council.

(ii) Mission and Work. The Working Group shall, as appropriate and consistent with applicable law:

(A) publish an interim SCC, SCN, and SCM within 30 days of the date of this order, which agencies shall use when monetizing the value of changes in greenhouse gas emissions resulting from regulations and other relevant agency actions until final values are published;

(B) publish a final SCC, SCN, and SCM by no later than January 2022;

(C) provide recommendations to the President, by no later than September 1, 2021, regarding areas of decision-making, budgeting, and procurement by the Federal Government where the SCC, SCN, and SCM should be applied;

(D) provide recommendations, by no later than June 1, 2022, regarding a process for reviewing, and, as appropriate, updating, the SCC, SCN, and SCM to ensure that these costs are based on the best available economics and science; and

(E) provide recommendations, to be published with the final SCC, SCN, and SCM under subparagraph (A) if feasible, and in any event by no later than June 1, 2022, to revise methodologies for calculating the SCC, SCN, and SCM, to the extent that current methodologies do not adequately take account of climate risk, environmental justice, and intergenerational equity.

(iii) Methodology. In carrying out its activities, the Working Group shall consider the recommendations of the National Academies of Science, Engineering, and Medicine as reported in *Valuing Climate Damages: Updating Estimation of the Social Cost of Carbon Dioxide (2017)* and other pertinent scientific literature; solicit public comment; engage with the public and stakeholders; seek the advice of ethics experts; and ensure that the SCC, SCN, and SCM reflect the interests of future generations in avoiding threats posed by climate change.

*SEC. 6. Revoking the March 2019 Permit for the Keystone XL Pipeline.* (a) On March 29, 2019, the President granted to TransCanada Keystone Pipeline, L.P. a Presidential permit (the "Permit") [84 F.R. 13101] to construct, connect, operate, and maintain pipeline facilities at the international border of the United States and Canada (the "Keystone XL pipeline"), subject to express conditions and potential revocation in the President's sole discretion. The Permit is hereby revoked in accordance with Article 1(1) of the Permit.

(b) In 2015, following an exhaustive review, the Department of State and the President determined that approving the proposed Keystone XL pipeline would not serve the U.S. national interest. That analysis, in addition to concluding that the significance of the proposed pipeline for our energy security and economy is limited, stressed that the United States must prioritize the development of a clean energy economy, which will in turn create good jobs. The analysis further concluded that approval of the proposed pipeline would undermine U.S. climate leadership by undercutting the credibility and influence of the United States in urging other countries to take ambitious climate action.

(c) Climate change has had a growing effect on the U.S. economy, with climate-related costs increasing over the last 4 years. Extreme weather events and other climate-related effects have harmed the health, safety, and security of the American people and have increased the urgency for combatting climate change and accelerating the transition toward a clean energy economy. The world must be put on a sustainable climate pathway to protect Americans and the domestic economy from harmful climate impacts, and to create well-paying union jobs as part of the climate solution.

(d) The Keystone XL pipeline disserves the U.S. national interest. The United States and the world face a climate crisis. That crisis must be met with action on a scale and at a speed commensurate with the need to avoid setting the world on a dangerous, potentially catastrophic, climate trajectory. At home, we will combat the crisis with an ambitious plan to build back better, designed to both reduce harmful emissions and create good clean-energy jobs. Our domestic efforts must go hand in hand with U.S. diplomatic engagement. Because most greenhouse gas emissions originate beyond our borders, such engagement is more necessary and urgent than ever. The United States must be in a position to exercise vigorous climate leadership in order to achieve a significant increase in global climate action and put the

world on a sustainable climate pathway. Leaving the Keystone XL pipeline permit in place would not be consistent with my Administration's economic and climate imperatives.

*SEC. 7. Other Revocations.* (a) Executive Order 13766 of January 24, 2017 (Expediting Environmental Reviews and Approvals For High Priority Infrastructure Projects) [former 42 U.S.C. 4370m note], Executive Order 13778 of February 28, 2017 (Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the "Waters of the United States" Rule) [82 F.R. 12497], Executive Order 13783 of March 28, 2017 (Promoting Energy Independence and Economic Growth) [former 42 U.S.C. 13201 note], Executive Order 13792 of April 26, 2017 (Review of Designations Under the Antiquities Act) [82 F.R. 20429], Executive Order 13795 of April 28, 2017 (Implementing an America-First Offshore Energy Strategy) [former 43 U.S.C. 1331 note], Executive Order 13868 of April 10, 2019 (Promoting Energy Infrastructure and Economic Growth) [former 42 U.S.C. 13201 note], and Executive Order 13927 of June 4, 2020 (Accelerating the Nation's Economic Recovery from the COVID-19 Emergency by Expediting Infrastructure Investments and Other Activities) [former 5 U.S.C. 601 note], are hereby revoked. Executive Order 13834 of May 17, 2018 (Efficient Federal Operations) [formerly set out above], is hereby revoked except for sections 6, 7, and 11.

(b) Executive Order 13807 of August 15, 2017 (Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects) [former 42 U.S.C. 4370m note], is hereby revoked. The Director of OMB and the Chair of the Council on Environmental Quality shall jointly consider whether to recommend that a replacement order be issued.

(c) Executive Order 13920 of May 1, 2020 (Securing the United States Bulk-Power System) [50 U.S.C. 1621 note], is hereby suspended for 90 days. The Secretary of Energy and the Director of OMB shall jointly consider whether to recommend that a replacement order be issued.

(d) The Presidential Memorandum of April 12, 2018 (Promoting Domestic Manufacturing and Job Creation Policies and Procedures Relating to Implementation of Air Quality Standards) [former 42 U.S.C. 7401 note], the Presidential Memorandum of October 19, 2018 (Promoting the Reliable Supply and Delivery of Water in the West) [former 33 U.S.C. 2201 note], and the Presidential Memorandum of February 19, 2020 (Developing and Delivering More Water Supplies in California), are hereby revoked.

(e) The Council on Environmental Quality shall rescind its draft guidance entitled, "Draft National Environmental Policy Act Guidance on Consideration of Greenhouse Gas Emissions," 84 FR 30097 (June 26, 2019). The Council, as appropriate and consistent with applicable law, shall review, revise, and update its final guidance entitled, "Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews," 81 FR 51866 (August 5, 2016).

(f) The Director of OMB and the heads of agencies shall promptly take steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof, including, if necessary, by proposing such rescissions through notice-and-comment rulemaking, implementing or enforcing the Executive Orders, Presidential Memoranda, and draft guidance identified in this section, as appropriate and consistent with applicable law.

*SEC. 8. General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented in a manner consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

## **EX. ORD. NO. 14008. TACKLING THE CLIMATE CRISIS AT HOME AND ABROAD**

Ex. Ord. No. 14008, Jan. 27, 2021, 86 F.R. 7619, provided:

The United States and the world face a profound climate crisis. We have a narrow moment to pursue action at home and abroad in order to avoid the most catastrophic impacts of that crisis and to seize the opportunity that tackling climate change presents. Domestic action must go hand in hand with United States international leadership, aimed at significantly enhancing global action. Together, we must listen to science and meet the moment.

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**PART I—PUTTING THE CLIMATE CRISIS AT THE CENTER OF UNITED STATES FOREIGN POLICY AND NATIONAL SECURITY**

SECTION 101. *Policy.* United States international engagement to address climate change—which has become a climate crisis—is more necessary and urgent than ever. The scientific community has made clear that the scale and speed of necessary action is greater than previously believed. There is little time left to avoid setting the world on a dangerous, potentially catastrophic, climate trajectory. Responding to the climate crisis will require both significant short-term global reductions in greenhouse gas emissions and net-zero global emissions by mid-century or before.

It is the policy of my Administration that climate considerations shall be an essential element of United States foreign policy and national security. The United States will work with other countries and partners, both bilaterally and multilaterally, to put the world on a sustainable climate pathway. The United States will also move quickly to build resilience, both at home and abroad, against the impacts of climate change that are already manifest and will continue to intensify according to current trajectories.

SEC. 102. *Purpose.* This order builds on and reaffirms actions my Administration has already taken to place the climate crisis at the forefront of this Nation's foreign policy and national security planning, including submitting the United States instrument of acceptance to rejoin the Paris Agreement. In implementing—and building upon—the Paris Agreement's three overarching objectives (a safe global temperature, increased climate resilience, and financial flows aligned with a pathway toward low greenhouse gas emissions and climate-resilient development), the United States will exercise its leadership to promote a significant increase in global climate ambition to meet the climate challenge. In this regard:

(a) I will host an early Leaders' Climate Summit aimed at raising climate ambition and making a positive contribution to the 26th United Nations Climate Change Conference of the Parties (COP26) and beyond.

(b) The United States will reconvene the Major Economies Forum on Energy and Climate, beginning with the Leaders' Climate Summit. In cooperation with the members of that Forum, as well as with other partners as appropriate, the United States will pursue green recovery efforts, initiatives to advance the clean energy transition, sectoral decarbonization, and alignment of financial flows with the objectives of the Paris Agreement, including with respect to coal financing, nature-based solutions, and solutions to other climate-related challenges.

(c) I have created a new Presidentially appointed position, the Special Presidential Envoy for Climate, to elevate the issue of climate change and underscore the commitment my Administration will make toward addressing it.

(d) Recognizing that climate change affects a wide range of subjects, it will be a United States priority to press for enhanced climate ambition and integration of climate considerations across a wide range of international fora, including the Group of Seven (G7), the Group of Twenty (G20), and fora that address clean energy, aviation, shipping, the Arctic, the ocean, sustainable development, migration, and other relevant topics. The Special Presidential Envoy for Climate and others, as appropriate, are encouraged to promote innovative approaches, including international multi-stakeholder initiatives. In addition, my Administration will work in partnership with States, localities, Tribes, territories, and other United States stakeholders to advance United States climate diplomacy.

(e) The United States will immediately begin the process of developing its nationally determined contribution under the Paris Agreement. The process will include analysis and input from relevant executive departments and agencies (agencies), as well as appropriate outreach to domestic stakeholders. The United States will aim to submit its nationally determined contribution in advance of the Leaders' Climate Summit.

(f) The United States will also immediately begin to develop a climate finance plan, making strategic use of multilateral and bilateral channels and institutions, to assist developing countries in implementing ambitious emissions reduction measures, protecting critical ecosystems, building resilience against the impacts of climate change, and promoting the flow of capital toward climate-aligned investments and away from high-carbon investments. The Secretary of State and the Secretary of the Treasury, in coordination with the Special Presidential Envoy for Climate, shall lead a process to develop this plan, with the participation of the Administrator of the United States Agency for International Development (USAID), the Chief Executive Officer of the United States International Development Finance Corporation (DFC), the Chief Executive Officer of the Millennium Challenge Corporation, the Director of the United States Trade and Development Agency, the Director of the Office of Management and Budget, and the head of any other agency providing foreign assistance and development financing, as appropriate. The Secretary of State and the Secretary of the Treasury shall submit the plan to the President, through the Assistant to the President for National Security Affairs and the Assistant to the President for Economic Policy, within 90 days of the date of this order [Jan. 27, 2021].

(g) The Secretary of the Treasury shall:

(i) ensure that the United States is present and engaged in relevant international fora and institutions that are working on the management of climate-related financial risks;

(ii) develop a strategy for how the voice and vote of the United States can be used in international financial institutions, including the World Bank Group and the International Monetary Fund, to promote financing programs, economic stimulus packages, and debt relief initiatives that are aligned with and support the goals of the Paris Agreement; and

(iii) develop, in collaboration with the Secretary of State, the Administrator of USAID, and the Chief Executive Officer of the DFC, a plan for promoting the protection of the Amazon rainforest and other critical ecosystems that serve as global carbon sinks, including through market-based mechanisms.

(h) The Secretary of State, the Secretary of the Treasury, and the Secretary of Energy shall work together and with the Export-Import Bank of the United States, the Chief Executive Officer of the DFC, and the heads of other agencies and partners, as appropriate, to identify steps through which the United States can promote ending international financing of carbon-intensive fossil fuel-based energy while simultaneously advancing sustainable development and a green recovery, in consultation with the Assistant to the President for National Security Affairs.

(i) The Secretary of Energy, in cooperation with the Secretary of State and the heads of other agencies, as appropriate, shall identify steps through which the United States can intensify international collaborations to drive innovation and deployment of clean energy technologies, which are critical for climate protection.

(j) The Secretary of State shall prepare, within 60 days of the date of this order [Jan. 27, 2021], a transmittal package seeking the Senate's advice and consent to ratification of the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, regarding the phasedown of the production and consumption of hydrofluorocarbons.

*SEC. 103. Prioritizing Climate in Foreign Policy and National Security.* To ensure that climate change considerations are central to United States foreign policy and national security:

(a) Agencies that engage in extensive international work shall develop, in coordination with the Special Presidential Envoy for Climate, and submit to the President, through the Assistant to the President for National Security Affairs, within 90 days of the date of this order, strategies and implementation plans for integrating climate considerations into their international work, as appropriate and consistent with applicable law. These strategies and plans should include an assessment of:

(i) climate impacts relevant to broad agency strategies in particular countries or regions;

(ii) climate impacts on their agency-managed infrastructure abroad (e.g., embassies, military installations), without prejudice to existing requirements regarding assessment of such infrastructure;

(iii) how the agency intends to manage such impacts or incorporate risk mitigation into its installation master plans; and

(iv) how the agency's international work, including partner engagement, can contribute to addressing the climate crisis.

(b) The Director of National Intelligence shall prepare, within 120 days of the date of this order, a National Intelligence Estimate on the national and economic security impacts of climate change.

(c) The Secretary of Defense, in coordination with the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, the Chair of the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of National Intelligence, the Director of the Office of Science and Technology Policy, the Administrator of the National Aeronautics and Space Administration, and the heads of other agencies as appropriate, shall develop and submit to the President, within 120 days of the date of this order, an analysis of the security implications of climate change (Climate Risk Analysis) that can be incorporated into modeling, simulation, war-gaming, and other analyses.

(d) The Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall consider the security implications of climate change, including any relevant information from the Climate Risk Analysis described in subsection (c) of this section, in developing the National Defense Strategy, Defense Planning Guidance, Chairman's Risk Assessment, and other relevant strategy, planning, and programming documents and processes. Starting in January 2022, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall provide an annual update, through the National Security Council, on the progress made in incorporating the security implications of climate change into these documents and processes.

(e) The Secretary of Homeland Security shall consider the implications of climate change in the Arctic, along our Nation's borders, and to National Critical Functions, including any relevant information from the Climate Risk Analysis described in subsection (c) of this section, in developing relevant strategy, planning, and programming documents and processes. Starting in January 2022, the Secretary of Homeland Security shall provide an annual update, through the National Security Council, on the progress made in incorporating the homeland security implications of climate change into these documents and processes.



SEC. 104. *Reinstatement.* The Presidential Memorandum of September 21, 2016 (Climate Change and National Security), is hereby reinstated.

PART II—TAKING A GOVERNMENT-WIDE APPROACH TO THE CLIMATE CRISIS

SEC. 201. *Policy.* Even as our Nation emerges from profound public health and economic crises borne of a pandemic, we face a climate crisis that threatens our people and communities, public health and economy, and, starkly, our ability to live on planet Earth. Despite the peril that is already evident, there is promise in the solutions—opportunities to create well-paying union jobs to build a modern and sustainable infrastructure, deliver an equitable, clean energy future, and put the United States on a path to achieve net-zero emissions, economy-wide, by no later than 2050.

We must listen to science—and act. We must strengthen our clean air and water protections. We must hold polluters accountable for their actions. We must deliver environmental justice in communities all across America. The Federal Government must drive assessment, disclosure, and mitigation of climate pollution and climate-related risks in every sector of our economy, marshaling the creativity, courage, and capital necessary to make our Nation resilient in the face of this threat. Together, we must combat the climate crisis with bold, progressive action that combines the full capacity of the Federal Government with efforts from every corner of our Nation, every level of government, and every sector of our economy.

It is the policy of my Administration to organize and deploy the full capacity of its agencies to combat the climate crisis to implement a Government-wide approach that reduces climate pollution in every sector of the economy; increases resilience to the impacts of climate change; protects public health; conserves our lands, waters, and biodiversity; delivers environmental justice; and spurs well-paying union jobs and economic growth, especially through innovation, commercialization, and deployment of clean energy technologies and infrastructure. Successfully meeting these challenges will require the Federal Government to pursue such a coordinated approach from planning to implementation, coupled with substantive engagement by stakeholders, including State, local, and Tribal governments.

SEC. 202. *White House Office of Domestic Climate Policy.* There is hereby established the White House Office of Domestic Climate Policy (Climate Policy Office) within the Executive Office of the President, which shall coordinate the policy-making process with respect to domestic climate-policy issues; coordinate domestic climate-policy advice to the President; ensure that domestic climate-policy decisions and programs are consistent with the President's stated goals and that those goals are being effectively pursued; and monitor implementation of the President's domestic climate-policy agenda. The Climate Policy Office shall have a staff headed by the Assistant to the President and National Climate Advisor (National Climate Advisor) and shall include the Deputy Assistant to the President and Deputy National Climate Advisor. The Climate Policy Office shall have such staff and other assistance as may be necessary to carry out the provisions of this order, subject to the availability of appropriations, and may work with established or ad hoc committees or interagency groups. All agencies shall cooperate with the Climate Policy Office and provide such information, support, and assistance to the Climate Policy Office as it may request, as appropriate and consistent with applicable law.

SEC. 203. *National Climate Task Force.* There is hereby established a National Climate Task Force (Task Force). The Task Force shall be chaired by the National Climate Advisor.

(a) Membership. The Task Force shall consist of the following additional members:

- (i) the Secretary of the Treasury;
- (ii) the Secretary of Defense;
- (iii) the Attorney General;
- (iv) the Secretary of the Interior;
- (v) the Secretary of Agriculture;
- (vi) the Secretary of Commerce;
- (vii) the Secretary of Labor;
- (viii) the Secretary of Health and Human Services;
- (ix) the Secretary of Housing and Urban Development;
- (x) the Secretary of Transportation;
- (xi) the Secretary of Energy;
- (xii) the Secretary of Homeland Security;
- (xiii) the Administrator of General Services;
- (xiv) the Chair of the Council on Environmental Quality;
- (xv) the Administrator of the Environmental Protection Agency;
- (xvi) the Director of the Office of Management and Budget;
- (xvii) the Director of the Office of Science and Technology Policy;
- (xviii) the Assistant to the President for Domestic Policy;
- (xix) the Assistant to the President for National Security Affairs;
- (xx) the Assistant to the President for Homeland Security and Counterterrorism; and
- (xxi) the Assistant to the President for Economic Policy.

(b) **Mission and Work.** The Task Force shall facilitate the organization and deployment of a Government-wide approach to combat the climate crisis. This Task Force shall facilitate planning and implementation of key Federal actions to reduce climate pollution; increase resilience to the impacts of climate change; protect public health; conserve our lands, waters, oceans, and biodiversity; deliver environmental justice; and spur well-paying union jobs and economic growth. As necessary and appropriate, members of the Task Force will engage on these matters with State, local, Tribal, and territorial governments; workers and communities; and leaders across the various sectors of our economy.

(c) **Prioritizing Actions.** To the extent permitted by law, Task Force members shall prioritize action on climate change in their policy-making and budget processes, in their contracting and procurement, and in their engagement with State, local, Tribal, and territorial governments; workers and communities; and leaders across all the sectors of our economy.

#### USE OF THE FEDERAL GOVERNMENT'S BUYING POWER AND REAL PROPERTY AND ASSET MANAGEMENT

**SEC. 204. Policy.** It is the policy of my Administration to lead the Nation's effort to combat the climate crisis by example—specifically, by aligning the management of Federal procurement and real property, public lands and waters, and financial programs to support robust climate action. By providing an immediate, clear, and stable source of product demand, increased transparency and data, and robust standards for the market, my Administration will help to catalyze private sector investment into, and accelerate the advancement of America's industrial capacity to supply, domestic clean energy, buildings, vehicles, and other necessary products and materials.

**SEC. 205. Federal Clean Electricity and Vehicle Procurement Strategy.** (a) The Chair of the Council on Environmental Quality, the Administrator of General Services, and the Director of the Office and Management and Budget, in coordination with the Secretary of Commerce, the Secretary of Labor, the Secretary of Energy, and the heads of other relevant agencies, shall assist the National Climate Advisor, through the Task Force established in section 203 of this order, in developing a comprehensive plan to create good jobs and stimulate clean energy industries by revitalizing the Federal Government's sustainability efforts.

(b) The plan shall aim to use, as appropriate and consistent with applicable law, all available procurement authorities to achieve or facilitate:

- (i) a carbon pollution-free electricity sector no later than 2035; and
- (ii) clean and zero-emission vehicles for Federal, State, local, and Tribal government fleets, including vehicles of the United States Postal Service.

(c) If necessary, the plan shall recommend any additional legislation needed to accomplish these objectives.

(d) The plan shall also aim to ensure that the United States retains the union jobs integral to and involved in running and maintaining clean and zero-emission fleets, while spurring the creation of union jobs in the manufacture of those new vehicles. The plan shall be submitted to the Task Force within 90 days of the date of this order [Jan. 27, 2021].

**SEC. 206. Procurement Standards.** Consistent with the Executive Order of January 25, 2021, entitled, "Ensuring the Future Is Made in All of America by All of America's Workers," [Ex. Ord. No. 14005, 41 U.S.C. 8301 note] agencies shall adhere to the requirements of the Made in America Laws in making clean energy, energy efficiency, and clean energy procurement decisions. Agencies shall, consistent with applicable law, apply and enforce the Davis-Bacon Act [see 40 U.S.C. 3141–3144, 3146, and 3147] and prevailing wage and benefit requirements. The Secretary of Labor shall take steps to update prevailing wage requirements. The Chair of the Council on Environmental Quality shall consider additional administrative steps and guidance to assist the Federal Acquisition Regulatory Council in developing regulatory amendments to promote increased contractor attention on reduced carbon emission and Federal sustainability.

**SEC. 207. Renewable Energy on Public Lands and in Offshore Waters.** The Secretary of the Interior shall review siting and permitting processes on public lands and in offshore waters to identify to the Task Force steps that can be taken, consistent with applicable law, to increase renewable energy production on those lands and in those waters, with the goal of doubling offshore wind by 2030 while ensuring robust protection for our lands, waters, and biodiversity and creating good jobs. In conducting this review, the Secretary of the Interior shall consult, as appropriate, with the heads of relevant agencies, including the Secretary of Defense, the Secretary of Agriculture, the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, the Secretary of Energy, the Chair of the Council on Environmental Quality, State and Tribal authorities, project developers, and other interested parties. The Secretary of the Interior shall engage with Tribal authorities regarding the development and management of renewable and conventional energy resources on Tribal lands.

*SEC. 208. Oil and Natural Gas Development on Public Lands and in Offshore Waters.* To the extent consistent with applicable law, the Secretary of the Interior shall pause new oil and natural gas leases on public lands or in offshore waters pending completion of a comprehensive review and reconsideration of Federal oil and gas permitting and leasing practices in light of the Secretary of the Interior's broad stewardship responsibilities over the public lands and in offshore waters, including potential climate and other impacts associated with oil and gas activities on public lands or in offshore waters. The Secretary of the Interior shall complete that review in consultation with the Secretary of Agriculture, the Secretary of Commerce, through the National Oceanic and Atmospheric Administration, and the Secretary of Energy. In conducting this analysis, and to the extent consistent with applicable law, the Secretary of the Interior shall consider whether to adjust royalties associated with coal, oil, and gas resources extracted from public lands and offshore waters, or take other appropriate action, to account for corresponding climate costs.

*SEC. 209. Fossil Fuel Subsidies.* The heads of agencies shall identify for the Director of the Office of Management and Budget and the National Climate Advisor any fossil fuel subsidies provided by their respective agencies, and then take steps to ensure that, to the extent consistent with applicable law, Federal funding is not directly subsidizing fossil fuels. The Director of the Office of Management and Budget shall seek, in coordination with the heads of agencies and the National Climate Advisor, to eliminate fossil fuel subsidies from the budget request for Fiscal Year 2022 and thereafter.

*SEC. 210. Clean Energy in Financial Management.* The heads of agencies shall identify opportunities for Federal funding to spur innovation, commercialization, and deployment of clean energy technologies and infrastructure for the Director of the Office of Management and Budget and the National Climate Advisor, and then take steps to ensure that, to the extent consistent with applicable law, Federal funding is used to spur innovation, commercialization, and deployment of clean energy technologies and infrastructure. The Director of the Office of Management and Budget, in coordination with agency heads and the National Climate Advisor, shall seek to prioritize such investments in the President's budget request for Fiscal Year 2022 and thereafter.

*SEC. 211. Climate Action Plans and Data and Information Products to Improve Adaptation and Increase Resilience.*  
(a) The head of each agency shall submit a draft action plan to the Task Force and the Federal Chief Sustainability Officer within 120 days of the date of this order that describes steps the agency can take with regard to its facilities and operations to bolster adaptation and increase resilience to the impacts of climate change. Action plans should, among other things, describe the agency's climate vulnerabilities and describe the agency's plan to use the power of procurement to increase the energy and water efficiency of United States Government installations, buildings, and facilities and ensure they are climate-ready. Agencies shall consider the feasibility of using the purchasing power of the Federal Government to drive innovation, and shall seek to increase the Federal Government's resilience against supply chain disruptions. Such disruptions put the Nation's manufacturing sector at risk, as well as consumer access to critical goods and services. Agencies shall make their action plans public, and post them on the agency website, to the extent consistent with applicable law.

(b) Within 30 days of an agency's submission of an action plan, the Federal Chief Sustainability Officer, in coordination with the Director of the Office of Management and Budget, shall review the plan to assess its consistency with the policy set forth in section 204 of this order and the priorities issued by the Office of Management and Budget.

(c) After submitting an initial action plan, the head of each agency shall submit to the Task Force and Federal Chief Sustainability Officer progress reports annually on the status of implementation efforts. Agencies shall make progress reports public and post them on the agency website, to the extent consistent with applicable law. The heads of agencies shall assign their respective agency Chief Sustainability Officer the authority to perform duties relating to implementation of this order within the agency, to the extent consistent with applicable law.

(d) To assist agencies and State, local, Tribal, and territorial governments, communities, and businesses in preparing for and adapting to the impacts of climate change, the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, the Secretary of Homeland Security, through the Administrator of the Federal Emergency Management Agency, and the Director of the Office of Science and Technology Policy, in coordination with the heads of other agencies, as appropriate, shall provide to the Task Force a report on ways to expand and improve climate forecast capabilities and information products for the public. In addition, the Secretary of the Interior and the Deputy Director for Management of the Office of Management and Budget, in their capacities as the Chair and Vice-Chair of the Federal Geographic Data Committee, shall assess and provide to the Task Force a report on the potential development of a consolidated Federal geographic mapping service that can facilitate public access to climate-related information that will assist Federal, State, local, and Tribal governments in climate planning and resilience activities.

## EMPOWERING WORKERS THROUGH REBUILDING OUR INFRASTRUCTURE FOR A SUSTAINABLE ECONOMY

SEC. 212. *Policy.* This Nation needs millions of construction, manufacturing, engineering, and skilled-trades workers to build a new American infrastructure and clean energy economy. These jobs will create opportunities for young people and for older workers shifting to new professions, and for people from all backgrounds and communities. Such jobs will bring opportunity to communities too often left behind—places that have suffered as a result of economic shifts and places that have suffered the most from persistent pollution, including low-income rural and urban communities, communities of color, and Native communities.

SEC. 213. *Sustainable Infrastructure.* (a) The Chair of the Council on Environmental Quality and the Director of the Office of Management and Budget shall take steps, consistent with applicable law, to ensure that Federal infrastructure investment reduces climate pollution, and to require that Federal permitting decisions consider the effects of greenhouse gas emissions and climate change. In addition, they shall review, and report to the National Climate Advisor on, siting and permitting processes, including those in progress under the auspices of the Federal Permitting Improvement Steering Council, and identify steps that can be taken, consistent with applicable law, to accelerate the deployment of clean energy and transmission projects in an environmentally stable manner.

(b) Agency heads conducting infrastructure reviews shall, as appropriate, consult from an early stage with State, local, and Tribal officials involved in permitting or authorizing proposed infrastructure projects to develop efficient timelines for decision-making that are appropriate given the complexities of proposed projects.

## EMPOWERING WORKERS BY ADVANCING CONSERVATION, AGRICULTURE, AND REFORESTATION

SEC. 214. *Policy.* It is the policy of my Administration to put a new generation of Americans to work conserving our public lands and waters. The Federal Government must protect America's natural treasures, increase reforestation, improve access to recreation, and increase resilience to wildfires and storms, while creating well-paying union jobs for more Americans, including more opportunities for women and people of color in occupations where they are underrepresented. America's farmers, ranchers, and forest landowners have an important role to play in combating the climate crisis and reducing greenhouse gas emissions, by sequestering carbon in soils, grasses, trees, and other vegetation and sourcing sustainable bioproducts and fuels. Coastal communities have an essential role to play in mitigating climate change and strengthening resilience by protecting and restoring coastal ecosystems, such as wetlands, seagrasses, coral and oyster reefs, and mangrove and kelp forests, to protect vulnerable coastlines, sequester carbon, and support biodiversity and fisheries.

SEC. 215. *Civilian Climate Corps.* In furtherance of the policy set forth in section 214 of this order, the Secretary of the Interior, in collaboration with the Secretary of Agriculture and the heads of other relevant agencies, shall submit a strategy to the Task Force within 90 days of the date of this order for creating a Civilian Climate Corps Initiative, within existing appropriations, to mobilize the next generation of conservation and resilience workers and maximize the creation of accessible training opportunities and good jobs. The initiative shall aim to conserve and restore public lands and waters, bolster community resilience, increase reforestation, increase carbon sequestration in the agricultural sector, protect biodiversity, improve access to recreation, and address the changing climate.

SEC. 216. *Conserving Our Nation's Lands and Waters.* (a) The Secretary of the Interior, in consultation with the Secretary of Agriculture, the Secretary of Commerce, the Chair of the Council on Environmental Quality, and the heads of other relevant agencies, shall submit a report to the Task Force within 90 days of the date of this order recommending steps that the United States should take, working with State, local, Tribal, and territorial governments, agricultural and forest landowners, fishermen, and other key stakeholders, to achieve the goal of conserving at least 30 percent of our lands and waters by 2030.

(i) The Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, and the Chair of the Council on Environmental Quality shall, as appropriate, solicit input from State, local, Tribal, and territorial officials, agricultural and forest landowners, fishermen, and other key stakeholders in identifying strategies that will encourage broad participation in the goal of conserving 30 percent of our lands and waters by 2030.

(ii) The report shall propose guidelines for determining whether lands and waters qualify for conservation, and it also shall establish mechanisms to measure progress toward the 30-percent goal. The Secretary of the Interior shall subsequently submit annual reports to the Task Force to monitor progress.

(b) The Secretary of Agriculture shall:

(i) initiate efforts in the first 60 days from the date of this order to collect input from Tribes, farmers, ranchers, forest owners, conservation groups, firefighters, and other stakeholders on how to best use Department of Agriculture programs, funding and financing capacities, and other authorities, and how to

encourage the voluntary adoption of climate-smart agricultural and forestry practices that decrease wildfire risk fueled by climate change and result in additional, measurable, and verifiable carbon reductions and sequestration and that source sustainable bioproducts and fuels; and

(ii) submit to the Task Force within 90 days of the date of this order a report making recommendations for an agricultural and forestry climate strategy.

(c) The Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, shall initiate efforts in the first 60 days from the date of this order to collect input from fishermen, regional ocean councils, fishery management councils, scientists, and other stakeholders on how to make fisheries and protected resources more resilient to climate change, including changes in management and conservation measures, and improvements in science, monitoring, and cooperative research.

#### EMPOWERING WORKERS THROUGH REVITALIZING ENERGY COMMUNITIES

*SEC. 217. Policy.* It is the policy of my Administration to improve air and water quality and to create well-paying union jobs and more opportunities for women and people of color in hard-hit communities, including rural communities, while reducing methane emissions, oil and brine leaks, and other environmental harms from tens of thousands of former mining and well sites. Mining and power plant workers drove the industrial revolution and the economic growth that followed, and have been essential to the growth of the United States. As the Nation shifts to a clean energy economy, Federal leadership is essential to foster economic revitalization of and investment in these communities, ensure the creation of good jobs that provide a choice to join a union, and secure the benefits that have been earned by workers.

Such work should include projects that reduce emissions of toxic substances and greenhouse gases from existing and abandoned infrastructure and that prevent environmental damage that harms communities and poses a risk to public health and safety. Plugging leaks in oil and gas wells and reclaiming abandoned mine land can create well-paying union jobs in coal, oil, and gas communities while restoring natural assets, revitalizing recreation economies, and curbing methane emissions. In addition, such work should include efforts to turn properties idled in these communities, such as brownfields, into new hubs for the growth of our economy. Federal agencies should therefore coordinate investments and other efforts to assist coal, oil and gas, and power plant communities, and achieve substantial reductions of methane emissions from the oil and gas sector as quickly as possible.

*SEC. 218. Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization.* There is hereby established an Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization (Interagency Working Group). The National Climate Advisor and the Assistant to the President for Economic Policy shall serve as Co-Chairs of the Interagency Working Group.

(a) Membership. The Interagency Working Group shall consist of the following additional members:

(i) the Secretary of the Treasury;

(ii) the Secretary of the Interior;

(iii) the Secretary of Agriculture;

(iv) the Secretary of Commerce;

(v) the Secretary of Labor;

(vi) the Secretary of Health and Human Services;

(vii) the Secretary of Transportation;

(viii) the Secretary of Energy;

(ix) the Secretary of Education;

(x) the Administrator of the Environmental Protection Agency;

(xi) the Director of the Office of Management and Budget;

(xii) the Assistant to the President for Domestic Policy and Director of the Domestic Policy Council; and

(xiii) the Federal Co-Chair of the Appalachian Regional Commission.

(b) Mission and Work.

(i) The Interagency Working Group shall coordinate the identification and delivery of Federal resources to revitalize the economies of coal, oil and gas, and power plant communities; develop strategies to implement the policy set forth in section 217 of this order and for economic and social recovery; assess opportunities to ensure benefits and protections for coal and power plant workers; and submit reports to the National Climate Advisor and the Assistant to the President for Economic Policy on a regular basis on the progress of the revitalization effort.

(ii) As part of this effort, within 60 days of the date of this order, the Interagency Working Group shall submit a report to the President describing all mechanisms, consistent with applicable law, to prioritize grantmaking, Federal loan programs, technical assistance, financing, procurement, or other existing programs to support and revitalize the economies of coal and power plant communities, and providing recommendations for action consistent with the goals of the Interagency Working Group.

(c) Consultation. Consistent with the objectives set out in this order and in accordance with applicable law, the Interagency Working Group shall seek the views of State, local, and Tribal officials; unions; environmental justice organizations; community groups; and other persons it identifies who may have perspectives on the mission of the Interagency Working Group.

(d) Administration. The Interagency Working Group shall be housed within the Department of Energy. The Chairs shall convene regular meetings of the Interagency Working Group, determine its agenda, and direct its work. The Secretary of Energy, in consultation with the Chairs, shall designate an Executive Director of the Interagency Working Group, who shall coordinate the work of the Interagency Working Group and head any staff assigned to the Interagency Working Group.

(e) Officers. To facilitate the work of the Interagency Working Group, the head of each agency listed in subsection (a) of this section shall assign a designated official within the agency the authority to represent the agency on the Interagency Working Group and perform such other duties relating to the implementation of this order within the agency as the head of the agency deems appropriate.

#### SECURING ENVIRONMENTAL JUSTICE AND SPURRING ECONOMIC OPPORTUNITY

SEC. 219. *Policy.* To secure an equitable economic future, the United States must ensure that environmental and economic justice are key considerations in how we govern. That means investing and building a clean energy economy that creates well-paying union jobs, turning disadvantaged communities—historically marginalized and overburdened—into healthy, thriving communities, and undertaking robust actions to mitigate climate change while preparing for the impacts of climate change across rural, urban, and Tribal areas. Agencies shall make achieving environmental justice part of their missions by developing programs, policies, and activities to address the disproportionately high and adverse human health, environmental, climate-related and other cumulative impacts on disadvantaged communities, as well as the accompanying economic challenges of such impacts. It is therefore the policy of my Administration to secure environmental justice and spur economic opportunity for disadvantaged communities that have been historically marginalized and overburdened by pollution and underinvestment in housing, transportation, water and wastewater infrastructure, and health care.

SEC. 220. *White House Environmental Justice Interagency Council.* (a) [Amended Ex. Ord. No. 12898, set out above.]

(b) The Interagency Council shall, within 120 days of the date of this order, submit to the President, through the National Climate Advisor, a set of recommendations for further updating Executive Order 12898.

SEC. 221. *White House Environmental Justice Advisory Council.* There is hereby established, within the Environmental Protection Agency, the White House Environmental Justice Advisory Council (Advisory Council), which shall advise the Interagency Council and the Chair of the Council on Environmental Quality.

(a) Membership. Members shall be appointed by the President, shall be drawn from across the political spectrum, and may include those with knowledge about or experience in environmental justice, climate change, disaster preparedness, racial inequity, or any other area determined by the President to be of value to the Advisory Council.

(b) Mission and Work. The Advisory Council shall be solely advisory. It shall provide recommendations to the White House Environmental Justice Interagency Council established in section 220 of this order on how to increase the Federal Government's efforts to address current and historic environmental injustice, including recommendations for updating Executive Order 12898.

(c) Administration. The Environmental Protection Agency shall provide funding and administrative support for the Advisory Council to the extent permitted by law and within existing appropriations. Members of the Advisory Council shall serve without either compensation or reimbursement of expenses.

(d) Federal Advisory Committee Act. Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.), may apply to the Advisory Council, any functions of the President under the Act, except for those in section 6 of the Act, shall be performed by the Administrator of the Environmental Protection Agency in accordance with the guidelines that have been issued by the Administrator of General Services.

SEC. 222. *Agency Responsibilities.* In furtherance of the policy set forth in section 219:

(a) The Chair of the Council on Environmental Quality shall, within 6 months of the date of this order, create a geospatial Climate and Economic Justice Screening Tool and shall annually publish interactive maps highlighting disadvantaged communities.

(b) The Administrator of the Environmental Protection Agency shall, within existing appropriations and consistent with applicable law:

(i) strengthen enforcement of environmental violations with disproportionate impact on underserved communities through the Office of Enforcement and Compliance Assurance; and

(ii) create a community notification program to monitor and provide real-time data to the public on current environmental pollution, including emissions, criteria pollutants, and toxins, in frontline and

fenceline communities—places with the most significant exposure to such pollution.

(c) The Attorney General shall, within existing appropriations and consistent with applicable law:

(i) consider renaming the Environment and Natural Resources Division the Environmental Justice and Natural Resources Division;

(ii) direct that division to coordinate with the Administrator of the Environmental Protection Agency, through the Office of Enforcement and Compliance Assurance, as well as with other client agencies as appropriate, to develop a comprehensive environmental justice enforcement strategy, which shall seek to provide timely remedies for systemic environmental violations and contaminations, and injury to natural resources; and

(iii) ensure comprehensive attention to environmental justice throughout the Department of Justice, including by considering creating an Office of Environmental Justice within the Department to coordinate environmental justice activities among Department of Justice components and United States Attorneys' Offices nationwide.

(d) The Secretary of Health and Human Services shall, consistent with applicable law and within existing appropriations:

(i) establish an Office of Climate Change and Health Equity to address the impact of climate change on the health of the American people; and

(ii) establish an Interagency Working Group to Decrease Risk of Climate Change to Children, the Elderly, People with Disabilities, and the Vulnerable as well as a biennial Health Care System Readiness Advisory Council, both of which shall report their progress and findings regularly to the Task Force.

(e) The Director of the Office of Science and Technology Policy shall, in consultation with the National Climate Advisor, within existing appropriations, and within 100 days of the date of this order, publish a report identifying the climate strategies and technologies that will result in the most air and water quality improvements, which shall be made public to the maximum extent possible and published on the Office's website.

*SEC. 223. Justice40 Initiative.* (a) Within 120 days of the date of this order, the Chair of the Council on Environmental Quality, the Director of the Office of Management and Budget, and the National Climate Advisor, in consultation with the Advisory Council, shall jointly publish recommendations on how certain Federal investments might be made toward a goal that 40 percent of the overall benefits flow to disadvantaged communities. The recommendations shall focus on investments in the areas of clean energy and energy efficiency; clean transit; affordable and sustainable housing; training and workforce development; the remediation and reduction of legacy pollution; and the development of critical clean water infrastructure. The recommendations shall reflect existing authorities the agencies may possess for achieving the 40-percent goal as well as recommendations on any legislation needed to achieve the 40-percent goal.

(b) In developing the recommendations, the Chair of the Council on Environmental Quality, the Director of the Office of Management and Budget, and the National Climate Advisor shall consult with affected disadvantaged communities.

(c) Within 60 days of the recommendations described in subsection (a) of this section, agency heads shall identify applicable program investment funds based on the recommendations and consider interim investment guidance to relevant program staff, as appropriate and consistent with applicable law.

(d) By February 2022, the Director of the Office of Management and Budget, in coordination with the Chair of the Council on Environmental Quality, the Administrator of the United States Digital Service, and other relevant agency heads, shall, to the extent consistent with applicable law, publish on a public website an annual Environmental Justice Scorecard detailing agency environmental justice performance measures.

### **PART III—GENERAL PROVISIONS**

*SEC. 301. General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget, relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

## **EXTENSION OF TERM OF WHITE HOUSE ENVIRONMENTAL JUSTICE ADVISORY COUNCIL**

Term of White House Environmental Justice Advisory Council extended until Sept. 30, 2023, by Ex. Ord. No. 14048, Sept. 30, 2021, 86 F.R. 55465, set out as a note under section 14 of the Federal

## **EX. ORD. NO. 14057. CATALYZING CLEAN ENERGY INDUSTRIES AND JOBS THROUGH FEDERAL SUSTAINABILITY**

Ex. Ord. No. 14057, Dec. 8, 2021, 86 F.R. 70935, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to reestablish the Federal Government as a leader in sustainability, it is hereby ordered as follows:

**SECTION 101. *Policy.*** The Federal Government faces broad exposure to the mounting risks and costs already posed by the climate crisis. In responding to this crisis, we have a once-in-a-generation economic opportunity to create and sustain jobs, including well-paying union jobs; support a just transition to a more sustainable economy for American workers; strengthen America's communities; protect public health; and advance environmental justice. As the single largest land owner, energy consumer, and employer in the Nation, the Federal Government can catalyze private sector investment and expand the economy and American industry by transforming how we build, buy, and manage electricity, vehicles, buildings, and other operations to be clean and sustainable.

We also must build on past progress and pursue new strategies to improve the Nation's preparedness and resilience to the effects of a changing climate, including advancing the Federal Government's strategic planning, governance, financial management, and procurement to ensure climate resilient operations.

It is therefore the policy of my Administration for the Federal Government to lead by example in order to achieve a carbon pollution-free electricity sector by 2035 and net-zero emissions economy-wide by no later than 2050. Through a whole-of-government approach, we will demonstrate how innovation and environmental stewardship can protect our planet, safeguard Federal investments against the effects of climate change, respond to the needs of all of America's communities, and expand American technologies, industries, and jobs.

**SEC. 102. *Government-wide Goals.*** (a) Leading the Nation on a firm path to net-zero emissions by 2050 and achieving the policy set forth in section 101 of this order will require bold action to transform Federal procurement and operations and secure a transition to clean, zero-emission technologies. Through a coordinated whole-of-government approach, the Federal Government shall use its scale and procurement power to achieve:

(i) 100 percent carbon pollution-free electricity on a net annual basis by 2030, including 50 percent 24/7 carbon pollution-free electricity, as defined in section 603(a) of this order;

(ii) 100 percent zero-emission vehicle acquisitions by 2035, including 100 percent zero-emission light-duty vehicle acquisitions by 2027;

(iii) a net-zero emissions building portfolio by 2045, including a 50 percent emissions reduction by 2032;

(iv) a 65 percent reduction in scope 1 and 2 greenhouse gas emissions, as defined by the Federal Greenhouse Gas Accounting and Reporting Guidance, from Federal operations by 2030 from 2008 levels;

(v) net-zero emissions from Federal procurement, including a Buy Clean policy to promote use of construction materials with lower embodied emissions;

(vi) climate resilient infrastructure and operations; and

(vii) a climate- and sustainability-focused Federal workforce.

(b) The actions and investment required to achieve these goals will protect the environment, drive innovation, spur private sector investment, improve public infrastructure, and create new economic opportunity. Pursuant to section 511 of this order, agencies shall implement this order in accordance with my Administration's policies to combat the climate crisis; help American businesses compete in strategic industries; create and sustain well-paying union jobs that allow workers to thrive; maximize the use of American goods, products, materials, and services; and promote a secure, just, and equitable future for all Americans.

**SEC. 201. *Agency Goals and Targets.*** (a) In implementing the policy set forth in section 101 of this order and to support the achievement of the government-wide goals of section 102 of this order, the head of each agency shall propose targets, including annual progress targets as applicable, to meet the requirements of sections 202 through 206 of this order.

(b) The Chair of the Council on Environmental Quality (CEQ) and the Director of the Office of Management and Budget (OMB) shall review the targets, and agencies shall incorporate such targets into the performance management systems described under section 503 of this order, as appropriate.

**SEC. 202. *Reducing Agency Greenhouse Gas Emissions.*** Each agency shall reduce its scope 1, 2, and 3 greenhouse gas emissions, as defined by the Federal Greenhouse Gas Accounting and Reporting



Guidance, by setting and meeting targets for fiscal year 2030 measured from a fiscal year 2008 baseline.

**SEC. 203. *Transitioning to 100 Percent Carbon Pollution-Free Electricity.*** Each agency shall increase its percentage use of carbon pollution-free electricity, so that it constitutes 100 percent of facility electrical energy use on an annual basis, and seek to match use on an hourly basis to achieve 50 percent 24/7 carbon pollution-free electricity, by fiscal year 2030. In addition, agencies shall facilitate new carbon pollution-free electricity generation and energy storage capacity by authorizing use of their real property assets, such as rooftops, parking structures, and adjoining land, for the development of new carbon pollution-free electricity generation and energy storage through leases, grants, permits, or other mechanisms, to the extent permitted by law.

**SEC. 204. *Transitioning to a Zero-Emission Fleet.*** Each agency's light-duty vehicle acquisitions shall be zero-emission vehicles by the end of fiscal year 2027. Each agency with a fleet comprising at least 20 vehicles shall develop and annually update a zero-emission fleet strategy that shall include optimizing fleet size and composition; deploying zero-emission vehicle re-fueling infrastructure; and maximizing acquisition and deployment of zero-emission light-, medium-, and heavy-duty vehicles where the General Services Administration (GSA) offers one or more zero-emission vehicle options for that vehicle class.

**SEC. 205. *Achieving Net-Zero Emissions Buildings, Campuses, and Installations.*** (a) Each agency shall achieve net-zero emissions across its portfolio of buildings, campuses, and installations by 2045 and reduce greenhouse gas emissions by 50 percent from buildings, campuses, and installations by 2032 from 2008 levels, prioritizing improvement of energy efficiency and the elimination of onsite fossil fuel use.

(b) To prioritize reductions in scope 1 greenhouse gas emissions, as defined by the Federal Greenhouse Gas Accounting and Reporting Guidance, agencies should use the Federal building performance standards issued pursuant to section 510 of this order.

(c) To reduce scope 1 and 2 greenhouse gas emissions, as defined by the Federal Greenhouse Gas Accounting and Reporting Guidance, to achieve net-zero emissions buildings, agencies shall:

(i) pursue building electrification strategies in conjunction with carbon pollution-free energy use, deep-energy retrofits, whole-building commissioning, energy and water conservation measures, and space reduction and consolidation;

(ii) design new construction and modernization projects greater than 25,000 gross square feet to be net-zero emissions by 2030;

(iii) implement CEQ's Guiding Principles for Sustainable Federal Buildings in building design, construction, and operation of all new Federal buildings and renovated existing buildings; and

(iv) use performance contracting, in accordance with the provisions of section 1002 of the Energy Act of 2020 (Public Law 116–133 [116–260], division Z) [amending sections 8253, 8258, 8259, 8287, 8287a, and 8287c of this title], to improve efficiency and resilience of Federal facilities, deploy clean and innovative technologies, and reduce greenhouse gas emissions from building operations.

**SEC. 206. *Increasing Energy and Water Efficiency.*** Each agency shall increase facility energy efficiency and water efficiency and shall establish targets for fiscal year 2030 for agency-wide facility energy use intensity and potable water use intensity, with consideration of performance benchmarks for categories of building types (e.g., hospitals, office buildings) and the composition of the agency's building portfolio.

**SEC. 207. *Reducing Waste and Pollution.*** Each agency shall minimize waste, including the generation of wastes requiring treatment and disposal; advance pollution prevention; support markets for recycled products; and promote a transition to a circular economy, as defined in section 2 of the Save Our Seas 2.0 Act (Public Law 116–224) [33 U.S.C. 4201], by annually diverting from landfills at least 50 percent of non-hazardous solid waste, including food and compostable material, and construction and demolition waste and debris by fiscal year 2025; and 75 percent by fiscal year 2030.

**SEC. 208. *Sustainable Acquisition and Procurement.*** (a) Agencies shall reduce emissions, promote environmental stewardship, support resilient supply chains, drive innovation, and incentivize markets for sustainable products and services by prioritizing products that can be reused, refurbished, or recycled; maximizing environmental benefits and cost savings through use of full lifecycle cost methodologies; purchasing products that contain recycled content, are biobased, or are energy and water efficient, in accordance with relevant statutory requirements; and, to the maximum extent practicable, purchasing sustainable products and services identified or recommended by the Environmental Protection Agency (EPA).

(b) The Chair of CEQ shall consider establishing Federal food procurement policies to reduce associated greenhouse gas emissions and drive sustainability in the Federal food supply chain.

**SEC. 209. *Adapting the Federal Government to the Impacts of Climate Change.*** Consistent with its mission, each agency shall:

(a) develop or revise policies and processes to promote climate resilient investment that advances adaptation to climate change and protects public health and the environment;

(b) conduct climate adaptation analysis and planning for climate-informed financial and management decisions and program implementation;

(c) reform agency policies and funding programs that are maladaptive to climate change and increase the vulnerability of communities, natural or built systems, economic sectors, and natural resources to climate impacts, or related risks; and

(d) develop and enhance tools that assess climate change impacts and support climate adaptation planning and implementation.

*SEC. 301. Federal Supply Chain Sustainability.* Federal supply chains should support a Government and economy that serves all Americans by creating and sustaining well-paying union jobs, protecting public health, advancing environmental justice, reducing greenhouse gas emissions, and building resilience to climate change. Consistent with applicable law, agencies shall pursue procurement strategies to reduce contractor emissions and embodied emissions in products acquired or used in Federal projects.

*SEC. 302. Supplier Emissions Tracking.* The Administrator of GSA shall track disclosure of greenhouse gas emissions, emissions reduction targets, climate risk, and other sustainability-related actions by major Federal suppliers, based on information and data collected through supplier disclosure pursuant to the requirements of section 5(b)(i) of Executive Order 14030 of May 20, 2021 (Climate-Related Financial Risk) [15 U.S.C. 2901 note], and shall assist the Chair of CEQ in assessing the results of efforts to reduce Federal supply chain emissions.

*SEC. 303. Buy Clean.* The Buy Clean Task Force established pursuant to section 508 of this order shall provide recommendations to the Chair of CEQ and the Director of OMB, through the Administrator of the Office of Federal Procurement Policy, on policies and procedures to expand consideration of embodied emissions and pollutants of construction materials in Federal procurement and federally funded projects, to include:

(a) identifying and prioritizing pollutants and materials, such as concrete and steel, to be covered under a Buy Clean policy, taking into account the availability of relevant data, including from environmental product declarations, and consistency with existing environmental reporting requirements;

(b) providing recommendations to increase transparency of embodied emissions, including supplier reporting; procedures for auditing environmental product declarations and verifying accuracy of reported emissions data; and recommendations for grants, loans, technical assistance, or alternative mechanisms to support domestic manufacturers in enhancing capabilities to report and reduce embodied emissions in priority materials they produce; and

(c) recommending pilot programs that incentivize Federal procurement of construction materials with lower embodied emissions.

*SEC. 401. Engaging, Educating, and Training the Federal Workforce.* Meeting the challenges of climate change and achieving the goals of this order requires an investment in the Federal Government's employees and a workforce with the knowledge and skills to effectively apply sustainability, climate adaptation, and environmental stewardship across disciplines and functions. Agencies shall foster a culture of sustainability and climate action; build employees' skills and knowledge through engagement, education, and training; and incorporate environmental stewardship values and, where appropriate, sustainability goals and objectives into performance plans of executives, managers, and staff. The Director of the Office of Personnel Management (OPM), within 90 days of the date of this order [Dec. 8, 2021], shall prepare a report for the Chair of CEQ that outlines opportunities for including or expanding environmental sustainability and climate adaptation training content in existing Federal training programs, including OPM leadership training programs, and strategies for incorporating sustainability into performance plans. In developing this report, the Director of OPM shall coordinate with the Secretary of Energy, the Administrator of the EPA, the Administrator of GSA, and, as appropriate, the heads of other agencies, as well as Federal employee unions.

*SEC. 402. Incorporating Environmental Justice.* Environmental justice can only be achieved by ensuring that all those affected by agency operations enjoy the same degree of protection from environmental and health hazards. Accordingly, it is critical that the Federal Government incorporate environmental justice considerations into sustainability and climate adaptation planning, programs, and operations. Consistent with applicable law, agencies shall consider incorporating recommendations of the Justice40 Initiative, required by section 223 of Executive Order 14008 of January 27, 2021 (Tackling the Climate Crisis at Home and Abroad) [set out above], on how Federal investments might be made toward a goal that 40 percent of the overall benefits flow to disadvantaged communities that have been historically marginalized and overburdened by pollution and underinvestment in housing, transportation, energy, water, wastewater infrastructure, and health care, into operational planning and decision-making regarding Federal facilities, fleets, and operations. Agencies shall address actions taken to advance environmental justice as part of sustainable operations within the annual Sustainability Plans and Climate Adaptation and Resilience Plans required under section 503 of this order.

*SEC. 403. Accelerating Progress Through Public, Private, and Non-profit Sector Engagement.* (a) Through strong partnerships with the public, private, and non-profit sectors and labor unions and worker organizations, we can more effectively catalyze the growth of clean energy industries and jobs. The Federal Chief

Sustainability Officer, reestablished in section 501 of this order, and the heads of agencies shall seek to engage with stakeholders and partners in achieving the goals of this order.

(b) In coordination with the Chair of CEQ and the heads of other agencies, as appropriate, the Director of OPM shall facilitate establishment of a Presidential Sustainability Executives Program to place senior leaders from the private and non-profit sectors into term-limited appointments to bring innovative perspectives and expertise to Federal Government and assist agencies in efforts related to climate action and sustainability.

*SEC. 501. Establishment of the Office of the Federal Chief Sustainability Officer.* The Office of the Federal Chief Sustainability Officer is reestablished within CEQ. The EPA shall provide funding and administrative support for the Office.

(a) The Office shall be headed by a Federal Chief Sustainability Officer, who shall be appointed by the President. The Federal Chief Sustainability Officer shall lead the development of policies, programs, and partnerships to achieve the policies set forth in this order, advance sustainability and climate resilient Federal operations, and ensure the Federal Government leads by example in combating the climate crisis.

(b) The heads of all agencies shall cooperate with the Federal Chief Sustainability Officer and provide such information, support, and assistance as the Federal Chief Sustainability Officer may request, as appropriate and consistent with applicable law.

*SEC. 502. Designation and Duties of Agency Chief Sustainability Officers.* Within 30 days of the date of this order or 30 days of an Agency Chief Sustainability Officer leaving that position, heads of agencies shall designate an Agency Chief Sustainability Officer, and assign to the designated official the responsibility for leading agency planning, implementation, and related actions, to include establishment of internal metrics and performance management systems, to achieve the policy in section 101 and the goals set forth in and targets established under sections 201–209 of this order. Agency Chief Sustainability Officers shall provide to the Director of OMB, the Chair of CEQ, and the Federal Chief Sustainability Officer any information and assistance necessary to implement this order, consistent with applicable law.

*SEC. 503. Agency Planning and Performance Management.* (a) The heads of principal agencies shall develop and implement annual Sustainability Plans, based on annual guidance provided by CEQ, describing actions and progress toward the goals and requirements of this order.

(b) The heads of principal agencies shall develop, implement, and update Climate Adaptation and Resilience Plans that build on the agency's plan submitted pursuant to section 211 of Executive Order 14008.

(c) The Chair of CEQ and the Director of OMB shall conduct management reviews with each principal agency, at least annually or more frequently as appropriate, to assess implementation and progress on agency plans developed pursuant to this order, the goals set forth in this order, and targets established under this order.

(d) The heads of agencies other than principal agencies are encouraged to develop, implement, or update plans and participate in management reviews under this section.

*SEC. 504. Duties of the Chair of the Council on Environmental Quality.* In coordination with the Director of OMB, the Chair of CEQ shall:

(a) issue guidance, including the guidance required by section 510(b) of this order, or revise existing guidance, as necessary, for agency implementation of this order,

(b) establish a Chief Sustainability Officer Council that shall advise the Director of OMB and the Chair of CEQ on the performance of agency responsibilities under this order. The Federal Chief Sustainability Officer shall chair the Council. Members of the Council shall include those Agency Chief Sustainability Officers invited by the Chair of CEQ, as well as representatives designated by the heads of other agencies at the invitation of CEQ, including representatives from OMB, the Federal Energy Management Program within the Department of Energy, the Office of Federal High-Performance Green Buildings within GSA, and a Federal expert on environmental justice. [sic]

(c) establish, as appropriate and consistent with applicable law, committees, interagency groups, or task forces to provide information, recommendations, and assistance to CEQ and OMB in implementing this order.

*SEC. 505. Duties of the Director of OMB.* The Director of OMB shall coordinate with the Chair of CEQ on implementation of the duties contained in section 504 of this order and, after consultation with the Chair of CEQ and the National Climate Advisor, issue instructions to the heads of agencies concerning periodic performance evaluation of agency implementation of this order and prepare scorecards providing periodic evaluation of principal agency performance in implementing this order.

*SEC. 506. Duties of the National Climate Advisor.* The National Climate Advisor shall monitor and evaluate progress toward the government-wide goals set forth in section 102 of this order in coordination with the National Climate Task Force established pursuant to section 203 of Executive Order 14008.

SEC. 507. *Duties of Heads of Agencies.* (a) To ensure successful implementation of the policy established in section 101 of this order and the goals set forth in section 102 of this order, the head of each agency shall:

(i) develop an agency-wide strategic process that coordinates appropriate agency functions and programs to ensure that those functions and programs consider and address the goals of this order; and  
(ii) issue or revise existing agency policies, directives, and guidance, as appropriate.

(b) To support a whole-of-government approach to achieve the policy in section 101 of this order, independent agencies are encouraged to implement the policy, goals, and provisions of this order, consistent with applicable law.

SEC. 508. *Establishment of Federal Leaders Working Groups.* The following Federal Leaders working groups are hereby established, to be housed within CEQ: 100 Percent 24/7 Carbon Pollution-Free Electricity; Zero-Emission Vehicle Fleets; Net-Zero Emissions Buildings; Net-Zero Emissions Procurement, including a Buy Clean Task Force; and Climate Adaptation and Resilience. The Chair of CEQ shall designate the chair or co-chairs for each working group and provide guidance on their membership and responsibilities. The working groups shall provide semiannual reports to the National Climate Task Force on actions, findings, and progress toward government-wide goals.

SEC. 509. *Government-wide Support and Collaboration.* Achieving the government-wide goals of section 102 and the agency goals of sections 201 through 209 of this order requires transforming how we build, buy, and manage across the Federal Government. To support a whole-of-government approach:

(a) Consistent with applicable law, the Secretary of Defense, the Secretary of Energy, and the Administrator of GSA shall use the scale of the Federal Government's electricity use to aggregate and accelerate new carbon pollution-free electricity generation capacity to meet Federal energy needs.

(b) The Secretary of Transportation and the Administrator of GSA shall coordinate with States, Tribes, and local governments to facilitate wider adoption of zero-emission vehicles and, where appropriate, use the Federal Government's acquisition programs for non-Federal Government purchasers.

(c) In coordination with the Chair of CEQ and the Director of OMB, the Secretary of Energy shall provide tools and technical support to agencies to develop targets for greenhouse gas emissions, zero-emission vehicle fleets, energy, and water required under section 201 of this order; and shall collect, analyze, and report agency data for the purposes of monitoring and evaluating performance toward the goals of this order.

SEC. 510. *Additional Guidance and Instructions for Agencies.* (a) The Director of OMB, in coordination with the Chair of CEQ and the National Climate Advisor, shall issue a memorandum for agencies that provides direction on immediate actions and further requirements to meet the policies and goals of this order.

(b) To assist agencies in complying with this order, the Chair of CEQ, in consultation with the Director of OMB, shall:

(i) within 120 days of the date of this order, issue and, as needed, update implementing guidance for agencies that provide directions, strategies, and recommended actions to meet the policies and goals of this order;

(ii) issue building performance standards to support achievement of net-zero emissions in the Federal building portfolio under section 205 of this order; and

(iii) consider issuing guidance for agencies to promote sustainable locations for Federal facilities and strengthen the vitality and livability of the communities in which Federal facilities are located.

SEC. 511. *Coordination of Administration Priorities.* The heads of agencies shall implement this order consistent with my Administration's policies to spur growth of domestic industry and well-paying union jobs, address the climate crisis, and deliver equity and environmental justice. These policies include those contained in Executive Order 13990 of January 20, 2021 (Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis) [set out above], Executive Order 14008, and Executive Order 14030, which have placed our public health, the environment, and the climate crisis at the forefront of national policy and planning, along with environmental justice, expanding the economy, and the creation of the well-paying union jobs critical to delivering on those goals; Executive Order 14005 of January 25, 2021 (Ensuring the Future Is Made in All of America by All of America's Workers) [41 U.S.C. 8301 note], which establishes that Federal agencies shall maximize the use of goods, products, and materials that are made in America; Executive Order 13985 of January 20, 2021 (Advancing Racial Equity and Support for Underserved Communities Through the Federal Government) [5 U.S.C. 601 note], which directs action with the goal of making Government contracting and procurement opportunities available on an equal basis; and Executive Order 14017 of February 24, 2021 (America's Supply Chains) [86 F.R. 11849], which establishes the policy to strengthen the resilience of America's supply chains to fight climate change, create well-paying jobs, and secure our economic prosperity and national security.

SEC. 601. *Limitations.* (a) This order applies to an agency's activities, personnel, resources, and facilities located within the United States. The head of an agency may apply this order, in whole or in part, to the

activities, personnel, resources, and facilities of the agency located outside the United States if the head of the agency determines that such application is in the interest of the United States.

(b) To the extent the head of an agency does not apply this order to activities, personnel, resources, and facilities outside of the United States, the head of the agency shall manage, to the extent practicable, such activities, personnel, resources, and facilities in a manner consistent with the policy set forth in section 101 of this order.

**SEC. 602. Exemption Authority.** (a) The head of an agency may exempt particular agency activities and related personnel, resources, and facilities from the provisions of this order when it is in the interest of national security, to protect intelligence sources and methods from unauthorized disclosure, or where necessary to protect undercover law enforcement operations from unauthorized disclosure. If the head of an agency issues an exemption under this section, the agency shall notify the Chair of CEQ in writing within 30 days of issuance of the exemption under this section. To the maximum extent practicable and without compromising national security, each agency shall strive to comply with the purposes, goals, and implementation steps in this order.

(b) The head of an agency may exempt from the provisions of this order any vehicle, vessel, aircraft, or non-road equipment that is used in combat support, combat service support, military tactical or relief operations, or training for such operations or spaceflight vehicles, including associated ground-support equipment.

(c) The head of an agency may submit to the President, through the Chair of CEQ, a request for an exemption of an agency activity and related personnel, resources, and facilities from this order for any reason not otherwise addressed by subsections (a) and (b) of this section.

**SEC. 603. Definitions.** As used in this order:

(a) "24/7 carbon pollution-free electricity" means carbon pollution-free electricity procured to match actual electricity consumption on an hourly basis and produced within the same regional grid where the energy is consumed;

(b) "Agency" means an executive agency as defined in section 105 of title 5, United States Code, excluding the Government Accountability Office and independent regulatory agencies, as defined in 44 U.S.C. 3502(5);

(c) "Buy clean" means a policy to promote purchase of construction materials with lower embodied emissions, taking into account the life-cycle emissions associated with the production of those materials;

(d) "Carbon pollution-free electricity" means electrical energy produced from resources that generate no carbon emissions, including marine energy, solar, wind, hydrokinetic (including tidal, wave, current, and thermal), geothermal, hydroelectric, nuclear, renewably sourced hydrogen, and electrical energy generation from fossil resources to the extent there is active capture and storage of carbon dioxide emissions that meets EPA requirements;

(e) "Embodied emissions" means the quantity of emissions, accounting for all stages of production including upstream processing and extraction of fuels and feedstocks, emitted to the atmosphere due to the production of a product per unit of such product;

(f) "Federal Leaders working group" means a working group, composed of Deputy Secretaries or equivalents, that provides recommendations to the Federal Chief Sustainability Officer and National Climate Task Force on implementation and reports on actions and progress toward the goals of this order;

(g) "National Climate Task Force" means the National Climate Task Force established pursuant to section 203 of Executive Order 14008;

(h) "Principal agencies" means the Departments of State, the Treasury, Defense (including the United States Army Corps of Engineers), Justice, the Interior, Agriculture, Commerce, Labor, Health and Human Services, Housing and Urban Development, Transportation, Energy, Education, Veterans Affairs, and Homeland Security; the Environmental Protection Agency; the Small Business Administration; the Social Security Administration; the National Aeronautics and Space Administration; the Office of Personnel Management; the General Services Administration; and the National Archives and Records Administration.

**SEC. 604. Revocation.** Executive Order 13834 of May 17, 2018 (Efficient Federal Operations) [formerly set out above], is revoked.

**SEC. 605. Determination.** Pursuant to section 742(b) of Public Law 111-117 [set out above], I have determined that this order will achieve equal or better environmental or energy efficiency results than Executive Order 13423 of January 24, 2007 (Strengthening Federal Environmental, Energy, and Transportation Management) [formerly set out above].

**SEC. 606. General Provisions.** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

## SUBCHAPTER I—POLICIES AND GOALS

### §4331. Congressional declaration of national environmental policy

(a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

(Pub. L. 91–190, title I, §101, Jan. 1, 1970, 83 Stat. 852.)

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### COMMISSION ON POPULATION GROWTH AND THE AMERICAN FUTURE

Pub. L. 91–213, §§1–9, Mar. 16, 1970, 84 Stat. 67–69, established the Commission on Population Growth and the American Future to conduct and sponsor such studies and research and make such recommendations as might be necessary to provide information and education to all levels of government in the United States, and to our people regarding a broad range of problems associated with population growth and their implications for America's future; prescribed the composition of the Commission; provided for the appointment of its members, and the designation of a Chairman and Vice Chairman; required a majority of the members of the Commission to constitute a quorum, but allowed a lesser number to conduct hearings; prescribed the compensation of members of the Commission; required the Commission to conduct an inquiry into certain prescribed aspects of population growth in the United States and its foreseeable social consequences; provided for the appointment of an Executive Director and other personnel and prescribed their compensation; authorized the Commission to enter into contracts with public agencies, private firms, institutions, and individuals for the conduct of research and surveys, the preparation of reports, and other activities necessary to the discharge of its duties, and to request from any Federal department or agency any information and assistance it deems necessary to carry out its functions; required the General Services Administration to provide administrative services for the Commission on a reimbursable basis; required the Commission to submit an interim report to the President and the Congress one year after it was established and to submit its final report two years after

Mar. 16, 1970; terminated the Commission sixty days after the date of the submission of its final report; and authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as might be necessary to carry out the provisions of Pub. L. 91-213.

#### EXECUTIVE DOCUMENTS

### EXECUTIVE ORDER NO. 11507

Ex. Ord. No. 11507, eff. Feb. 4, 1970, 35 F.R. 2573, which related to prevention, control, and abatement of air and water pollution at federal facilities was superseded by Ex. Ord. No. 11752, eff. Dec. 17, 1973, 38 F.R. 34793, formerly set out below.

### EXECUTIVE ORDER NO. 11752

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, which related to the prevention, control, and abatement of environmental pollution at Federal facilities, was revoked by Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of this title.

## **§4332. Cooperation of agencies; reports; availability of information; recommendations; international and national coordination of efforts**

The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this chapter, and (2) all agencies of the Federal Government shall—

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by subchapter II of this chapter, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

- (i) the environmental impact of the proposed action,
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) alternatives to the proposed action,
- (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, and shall accompany the proposal through the existing agency review processes;

(D) Any detailed statement required under subparagraph (C) after January 1, 1970, for any major Federal action funded under a program of grants to States shall not be deemed to be legally insufficient solely by reason of having been prepared by a State agency or official, if:

- (i) the State agency or official has statewide jurisdiction and has the responsibility for such action,
- (ii) the responsible Federal official furnishes guidance and participates in such preparation,
- (iii) the responsible Federal official independently evaluates such statement prior to its approval and adoption, and
- (iv) after January 1, 1976, the responsible Federal official provides early notification to, and solicits the views of, any other State or any Federal land management entity of any action or any alternative thereto which may have significant impacts upon such State or affected Federal land management entity and, if there is any disagreement on such impacts, prepares a written assessment of such impacts and views for incorporation into such detailed statement.

The procedures in this subparagraph shall not relieve the Federal official of his responsibilities for the scope, objectivity, and content of the entire statement or of any other responsibility under this chapter; and further, this

subparagraph does not affect the legal sufficiency of statements prepared by State agencies with less than statewide jurisdiction.<sup>1</sup>

(E) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(F) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(G) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(H) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(I) assist the Council on Environmental Quality established by subchapter II of this chapter.

(Pub. L. 91–190, title I, §102, Jan. 1, 1970, 83 Stat. 853; Pub. L. 94–83, Aug. 9, 1975, 89 Stat. 424.)

#### EDITORIAL NOTES

#### AMENDMENTS

**1975**—Par. (2)(D) to (I). Pub. L. 94–83 added subpar. (D) and redesignated former subpars. (D) to (H) as (E) to (I), respectively.

#### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### CERTAIN COMMERCIAL SPACE LAUNCH ACTIVITIES

Pub. L. 104–88, title IV, §401, Dec. 29, 1995, 109 Stat. 955, provided that: "The licensing of a launch vehicle or launch site operator (including any amendment, extension, or renewal of the license) under [former] chapter 701 of title 49, United States Code [now chapter 509 (§50901 et seq.) of Title 51, National and Commercial Space Programs], shall not be considered a major Federal action for purposes of section 102(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)) if—

"(1) the Department of the Army has issued a permit for the activity; and

"(2) the Army Corps of Engineers has found that the activity has no significant impact."

#### EXECUTIVE DOCUMENTS

#### EX. ORD. NO. 13352. FACILITATION OF COOPERATIVE CONSERVATION

Ex. Ord. No. 13352, Aug. 26, 2004, 69 F.R. 52989, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**SECTION 1. Purpose.** The purpose of this order is to ensure that the Departments of the Interior, Agriculture, Commerce, and Defense and the Environmental Protection Agency implement laws relating to the environment and natural resources in a manner that promotes cooperative conservation, with an emphasis on appropriate inclusion of local participation in Federal decisionmaking, in accordance with their respective agency missions, policies, and regulations.

**SEC. 2. Definition.** As used in this order, the term "cooperative conservation" means actions that relate to use, enhancement, and enjoyment of natural resources, protection of the environment, or both, and that involve collaborative activity among Federal, State, local, and tribal governments, private for-profit and nonprofit institutions, other nongovernmental entities and individuals.

**SEC. 3. Federal Activities.** To carry out the purpose of this order, the Secretaries of the Interior, Agriculture, Commerce, and Defense and the Administrator of the Environmental Protection Agency shall, to the extent permitted by law and subject to the availability of appropriations and in coordination with each other as appropriate:

(a) carry out the programs, projects, and activities of the agency that they respectively head that implement laws relating to the environment and natural resources in a manner that:

(i) facilitates cooperative conservation;

(ii) takes appropriate account of and respects the interests of persons with ownership or other legally recognized interests in land and other natural resources;

(iii) properly accommodates local participation in Federal decisionmaking; and

(iv) provides that the programs, projects, and activities are consistent with protecting public health and safety;



(b) report annually to the Chairman of the Council on Environmental Quality on actions taken to implement this order; and

(c) provide funding to the Office of Environmental Quality Management Fund (42 U.S.C. 4375) for the Conference for which section 4 of this order provides.

SEC. 4. *White House Conference on Cooperative Conservation.* The Chairman of the Council on Environmental Quality shall, to the extent permitted by law and subject to the availability of appropriations:

(a) convene not later than 1 year after the date of this order, and thereafter at such times as the Chairman deems appropriate, a White House Conference on Cooperative Conservation (Conference) to facilitate the exchange of information and advice relating to (i) cooperative conservation and (ii) means for achievement of the purpose of this order; and

(b) ensure that the Conference obtains information in a manner that seeks from Conference participants their individual advice and does not involve collective judgment or consensus advice or deliberation.

SEC. 5. *General Provision.* This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities or entities, its officers, employees or agents, or any other person.

GEORGE W. BUSH.

<sup>1</sup> So in original. The period probably should be a semicolon.

### **§4332a. Repealed.** Pub. L. 114–94, div. A, title I, §1304(j)(2), Dec. 4, 2015, 129 Stat. 1386

Section, Pub. L. 112–141, div. A, title I, §1319, July 6, 2012, 126 Stat. 551, related to accelerated decisionmaking in environmental reviews.

## **STATUTORY NOTES AND RELATED SUBSIDIARIES**

### **EFFECTIVE DATE OF REPEAL**

Repeal effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

### **§4333. Conformity of administrative procedures to national environmental policy**

All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this chapter and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this chapter.

(Pub. L. 91–190, title I, §103, Jan. 1, 1970, 83 Stat. 854.)

### **§4334. Other statutory obligations of agencies**

Nothing in section 4332 or 4333 of this title shall in any way affect the specific statutory obligations of any Federal agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other Federal or State agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency.

(Pub. L. 91–190, title I, §104, Jan. 1, 1970, 83 Stat. 854.)

### **§4335. Efforts supplemental to existing authorizations**

The policies and goals set forth in this chapter are supplementary to those set forth in existing authorizations of Federal agencies.

(Pub. L. 91–190, title I, §105, Jan. 1, 1970, 83 Stat. 854.)

## §4341. Omitted

### EDITORIAL NOTES

### CODIFICATION

Section, Pub. L. 91–190, title II, §201, Jan. 1, 1970, 83 Stat. 854, which required the President to transmit to Congress annually an Environmental Quality Report, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 1 on page 41 of House Document No. 103–7.

## §4342. Establishment; membership; Chairman; appointments

There is created in the Executive Office of the President a Council on Environmental Quality (hereinafter referred to as the "Council"). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. The President shall designate one of the members of the Council to serve as Chairman. Each member shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the Federal Government in the light of the policy set forth in subchapter I of this chapter; to be conscious of and responsive to the scientific, economic, social, esthetic, and cultural needs and interests of the Nation; and to formulate and recommend national policies to promote the improvement of the quality of the environment.

(Pub. L. 91–190, title II, §202, Jan. 1, 1970, 83 Stat. 854.)

### STATUTORY NOTES AND RELATED SUBSIDIARIES

### COUNCIL ON ENVIRONMENTAL QUALITY; REDUCTION OF MEMBERS

Provisions stating that notwithstanding this section, the Council was to consist of one member, appointed by the President, by and with the advice and consent of the Senate, serving as chairman and exercising all powers, functions, and duties of the Council, were contained in the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006, Pub. L. 109–54, title III, Aug. 2, 2005, 119 Stat. 543, and were repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were also contained in the following prior appropriations acts:

Pub. L. 108–447, div. I, title III, Dec. 8, 2004, 118 Stat. 3332.

Pub. L. 108–199, div. G, title III, Jan. 23, 2004, 118 Stat. 408.

Pub. L. 108–7, div. K, title III, Feb. 20, 2003, 117 Stat. 514.

Pub. L. 107–73, title III, Nov. 26, 2001, 115 Stat. 686.

Pub. L. 106–377, §1(a)(1) [title III], Oct. 27, 2000, 114 Stat. 1441, 1441A-45.

Pub. L. 106–74, title III, Oct. 20, 1999, 113 Stat. 1084.

Pub. L. 105–276, title III, Oct. 21, 1998, 112 Stat. 2500.

Pub. L. 105–65, title III, Oct. 27, 1997, 111 Stat. 1375.

## §4343. Employment of personnel, experts and consultants

(a) The Council may employ such officers and employees as may be necessary to carry out its functions under this chapter. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this chapter, in accordance with section 3109 of title 5 (but without regard to the last sentence thereof).

(b) Notwithstanding section 1342 of title 31, the Council may accept and employ voluntary and uncompensated services in furtherance of the purposes of the Council.

(Pub. L. 91–190, title II, §203, Jan. 1, 1970, 83 Stat. 855; Pub. L. 94–52, §2, July 3, 1975, 89 Stat. 258.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

The last sentence of section 3109 of title 5, referred to in subsec. (a), probably means the last sentence of section 3109(b) of title 5, which was the last sentence of that section when the reference was enacted. Since then, section 3109 of title 5 has been amended to add subsecs. (c) to (e) at the end.

### **CODIFICATION**

In subsec. (b), "section 1342 of title 31" substituted for "section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))" on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

### **AMENDMENTS**

1975—Pub. L. 94-52 designated existing provisions as subsec. (a) and added subsec. (b).

## **§4344. Duties and functions**

It shall be the duty and function of the Council—

(1) to assist and advise the President in the preparation of the Environmental Quality Report required by section 4341 <sup>1</sup> of this title;

(2) to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in subchapter I of this chapter, and to compile and submit to the President studies relating to such conditions and trends;

(3) to review and appraise the various programs and activities of the Federal Government in the light of the policy set forth in subchapter I of this chapter for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto;

(4) to develop and recommend to the President national policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation;

(5) to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;

(6) to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(7) to report at least once each year to the President on the state and condition of the environment; and

(8) to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

(Pub. L. 91-190, title II, §204, Jan. 1, 1970, 83 Stat. 855.)

### **EDITORIAL NOTES**

### **REFERENCES IN TEXT**

Section 4341 of this title, referred to in par. (1), was omitted from the Code.

### **EXECUTIVE DOCUMENTS**

### **TRANSFER OF FUNCTIONS**

So much of functions of Council on Environmental Quality under par. (5) of this section as pertains to ecological systems transferred to Administrator of Environmental Protection Agency by Reorg. Plan No. 3 of 1970, §2(a)(5), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086, set out under section 4321 of this title.

<sup>1</sup> See References in Text note below.

## **§4345. Consultation with Citizens' Advisory Committee on Environmental Quality and other representatives**

In exercising its powers, functions, and duties under this chapter, the Council shall—

(1) consult with the Citizens' Advisory Committee on Environmental Quality established by Executive Order numbered 11472, dated May 29, 1969, and with such representatives of science, industry, agriculture, labor, conservation organizations, State and local governments and other groups, as it deems advisable; and

(2) utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.

(Pub. L. 91-190, title II, §205, Jan. 1, 1970, 83 Stat. 855.)

#### EDITORIAL NOTES

### REFERENCES IN TEXT

Executive Order numbered 11472, dated May 29, 1969, referred to in par. (1), is set out as a note under section 4321 of this title.

#### EXECUTIVE DOCUMENTS

### CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

For provisions relating to termination of Citizens' Advisory Committee on Environmental Quality, see Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

### §4346. Tenure and compensation of members

Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for Level IV or <sup>1</sup>/<sub>1</sub> the Executive Schedule Pay Rates (5 U.S.C. 5315).

(Pub. L. 91-190, title II, §206, Jan. 1, 1970, 83 Stat. 856.)

<sup>1</sup> So in original. Probably should be "of".

### §4346a. Travel reimbursement by private organizations and Federal, State, and local governments

The Council may accept reimbursements from any private nonprofit organization or from any department, agency, or instrumentality of the Federal Government, any State, or local government, for the reasonable travel expenses incurred by an officer or employee of the Council in connection with his attendance at any conference, seminar, or similar meeting conducted for the benefit of the Council.

(Pub. L. 91-190, title II, §207, as added Pub. L. 94-52, §3, July 3, 1975, 89 Stat. 258.)

### §4346b. Expenditures in support of international activities

The Council may make expenditures in support of its international activities, including expenditures for: (1) international travel; (2) activities in implementation of international agreements; and (3) the support of international exchange programs in the United States and in foreign countries.

(Pub. L. 91-190, title II, §208, as added Pub. L. 94-52, §3, July 3, 1975, 89 Stat. 258.)

### §4347. Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this chapter not to exceed \$300,000 for fiscal year 1970, \$700,000 for fiscal year 1971, and \$1,000,000 for each fiscal year thereafter.

(Pub. L. 91-190, title II, §209, formerly §207, Jan. 1, 1970, 83 Stat. 856, renumbered §209, Pub. L. 94-52, §3, July 3, 1975, 89 Stat. 258.)

## SUBCHAPTER III—MISCELLANEOUS PROVISIONS

### **§§4361, 4361a. Repealed.** Pub. L. 104–66, title II, §2021(k)(1), (2), Dec. 21, 1995, 109 Stat. 728

Section 4361, Pub. L. 94–475, §5, Oct. 11, 1976, 90 Stat. 2071, related to 5-year plan for research, development, and demonstration.

Section 4361a, Pub. L. 95–155, §4, Nov. 8, 1977, 91 Stat. 1258, related to budget projections in annual revisions of the plan for research, development, and demonstration.

### **§4361b. Implementation by Administrator of Environmental Protection Agency of recommendations of "CHESS" Investigative Report; waiver; inclusion of status of implementation requirements in annual revisions of plan for research, development, and demonstration**

The Administrator of the Environmental Protection Agency shall implement the recommendations of the report prepared for the House Committee on Science and Technology entitled "The Environmental Protection Agency Research Program with primary emphasis on the Community Health and Environmental Surveillance System (CHESS): An Investigative Report", unless for any specific recommendation he determines (1) that such recommendation has been implemented, (2) that implementation of such recommendation would not enhance the quality of the research, or (3) that implementation of such recommendation will require funding which is not available. Where such funding is not available, the Administrator shall request the required authorization or appropriation for such implementation. The Administrator shall report the status of such implementation in each annual revision of the five-year plan transmitted to the Congress under section 4361 <sup>1</sup> of this title.

(Pub. L. 95–155, §10, Nov. 8, 1977, 91 Stat. 1262.)

#### EDITORIAL NOTES

#### REFERENCES IN TEXT

Section 4361 of this title, referred to in text, was repealed by Pub. L. 104–66, title II, §2021(k)(1), Dec. 21, 1995, 109 Stat. 728.

#### CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

#### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### CHANGE OF NAME

Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

<sup>1</sup> See References in Text note below.

### **§4361c. Staff management**

#### **(a) Appointments for educational programs**

(1) The Administrator is authorized to select and appoint up to 75 full-time permanent staff members in the Office of Research and Development to pursue full-time educational programs for the purpose of (A) securing an advanced degree or (B) securing academic training, for the purpose of making a career change in order to better carry out the Agency's research mission.

(2) The Administrator shall select and appoint staff members for these assignments according to rules and criteria promulgated by him. The Agency may continue to pay the salary and benefits of the appointees as well as reasonable and appropriate relocation expenses and tuition.

(3) The term of each appointment shall be for up to one year, with a single renewal of up to one year in appropriate cases at the discretion of the Administrator.

(4) Staff members appointed to this program shall not count against any Agency personnel ceiling during the term of their appointment.

**(b) Post-doctoral research fellows**

(1) The Administrator is authorized to appoint up to 25 Post-doctoral Research Fellows in accordance with the provisions of section 213.3102(aa) of title 5 of the Code of Federal Regulations.

(2) Persons holding these appointments shall not count against any personnel ceiling of the Agency.

**(c) Non-Government research associates**

(1) The Administrator is authorized and encouraged to utilize research associates from outside the Federal Government in conducting the research, development, and demonstration programs of the Agency.

(2) These persons shall be selected and shall serve according to rules and criteria promulgated by the Administrator.

**(d) Women and minority groups**

For all programs in this section, the Administrator shall place special emphasis on providing opportunities for education and training of women and minority groups.

(Pub. L. 95-477, §6, Oct. 18, 1978, 92 Stat. 1510.)

**EDITORIAL NOTES**

**CODIFICATION**

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1979, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**CONTRACTS BY OFFICE OF RESEARCH AND DEVELOPMENT OF THE ENVIRONMENTAL PROTECTION AGENCY**

Pub. L. 108-7, div. K, title III, Feb. 20, 2003, 117 Stat. 509, provided in part: "That the Office of Research and Development of the Environmental Protection Agency may hereafter contract directly with individuals or indirectly with institutions or nonprofit organizations, without regard to 41 U.S.C. 5 [see 41 U.S.C. 6101], for the temporary or intermittent personal services of students or recent graduates, who shall be considered employees for the purposes of chapters 57 and 81 of title 5, United States Code, relating to compensation for travel and work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, but shall not be considered to be Federal employees for any other purposes."

**§4362. Interagency cooperation on prevention of environmental cancer and heart and lung disease**

(a) Not later than three months after August 7, 1977, there shall be established a Task Force on Environmental Cancer and Heart and Lung Disease (hereinafter referred to as the "Task Force"). The Task Force shall include representatives of the Environmental Protection Agency, the National Cancer Institute, the National Heart, Lung, and Blood Institute, the National Institute of Occupational Safety and Health, and the National Institute on Environmental Health Sciences, and shall be chaired by the Administrator (or his delegate).

(b) The Task Force shall—

(1) recommend a comprehensive research program to determine and quantify the relationship between environmental pollution and human cancer and heart and lung disease;

(2) recommend comprehensive strategies to reduce or eliminate the risks of cancer or such other diseases associated with environmental pollution;

(3) recommend research and such other measures as may be appropriate to prevent or reduce the incidence of environmentally related cancer and heart and lung diseases;

(4) coordinate research by, and stimulate cooperation between, the Environmental Protection Agency, the Department of Health and Human Services, and such other agencies as may be appropriate to prevent environmentally related cancer and heart and lung diseases; and

(5) report to Congress, not later than one year after August 7, 1977, and annually thereafter, on the problems and progress in carrying out this section.

(Pub. L. 95-95, title IV, §402, Aug. 7, 1977, 91 Stat. 791; Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

#### EDITORIAL NOTES

#### CODIFICATION

Section was enacted as part of the Clean Air Act Amendments of 1977, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

#### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### CHANGE OF NAME

"Department of Health and Human Services" substituted for "Department of Health, Education, and Welfare" in subsec. (b)(4) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

#### EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95–95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b)(5) of this section relating to annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and item 18 on page 164 of House Document No. 103–7.

### **§4362a. Membership of Task Force on Environmental Cancer and Heart and Lung Disease**

The Director of the National Center for Health Statistics and the head of the Center for Disease Control (or the successor to such entity) shall each serve as members of the Task Force on Environmental Cancer and Heart and Lung Disease established under section 4362 of this title.

(Pub. L. 95–623, §9, Nov. 9, 1978, 92 Stat. 3455.)

#### EDITORIAL NOTES

#### CODIFICATION

Section was enacted as part of the Health Services Research, Health Statistics, and Health Care Technology Act of 1978, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

#### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, §312, Oct. 27, 1992, 106 Stat. 3504.

### **§4363. Continuing and long-term environmental research and development**

The Administrator of the Environmental Protection Agency shall establish a separately identified program of continuing, long-term environmental research and development for each activity listed in section 2(a) of this Act. Unless otherwise specified by law, at least 15 per centum of funds appropriated to the Administrator for environmental research and development for each activity listed in section 2(a) of this Act shall be obligated and expended for such long-term environmental research and development under this section.

(Pub. L. 96–569, §2(f), Dec. 22, 1980, 94 Stat. 3337.)

#### EDITORIAL NOTES

## REFERENCES IN TEXT

Section 2(a) of this Act, referred to in text, is section 2(a) of Pub. L. 96–569, Dec. 22, 1980, 94 Stat. 3335, which is not classified to the Code.

## CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1981, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior authorization acts:

**1980**—Pub. L. 96–229, §2(e), Apr. 7, 1980, 94 Stat. 327.

**1977**—Pub. L. 95–155, §6, Nov. 8, 1977, 91 Stat. 1259.

### §4363a. Pollution control technologies demonstrations

(1) The Administrator shall continue to be responsible for conducting and shall continue to conduct full-scale demonstrations of energy-related pollution control technologies as necessary in his judgment to fulfill the provisions of the Clean Air Act as amended [42 U.S.C. 7401 et seq.], the Federal Water Pollution Control Act as amended [33 U.S.C. 1251 et seq.], and other pertinent pollution control statutes.

(2) Energy-related environmental protection projects authorized to be administered by the Environmental Protection Agency under this Act shall not be transferred administratively to the Department of Energy or reduced through budget amendment. No action shall be taken through administrative or budgetary means to diminish the ability of the Environmental Protection Agency to initiate such projects.

(Pub. L. 96–229, §2(d), Apr. 7, 1980, 94 Stat. 327.)

## EDITORIAL NOTES

## REFERENCES IN TEXT

The Clean Air Act as amended, referred to in par. (1), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

The Federal Water Pollution Control Act as amended, referred to in par. (1), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

This Act, referred to in par. (2), is Pub. L. 96–229, Apr. 7, 1980, 94 Stat. 325, known as the Environmental, Research, Development, and Demonstration Authorization Act of 1980, which enacted sections 4363, 4363a, 4369a, and 4370 of this title. For complete classification of this Act to the Code, see Tables.

## CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1980, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior authorization act:

**1979**—Pub. L. 95–477, §2(d), Oct. 18, 1978, 92 Stat. 1508.

### §4364. Expenditure of funds for research and development related to regulatory program activities

#### (a) Coordination, etc., with research needs and priorities of program offices and Environmental Protection Agency

The Administrator of the Environmental Protection Agency shall assure that the expenditure of any funds appropriated pursuant to this Act or any other provision of law for environmental research and development related to regulatory program activities shall be coordinated with and reflect the research needs and priorities of the program



offices, as well as the overall research needs and priorities of the Agency, including those defined in the five-year research plan.

**(b) Program offices subject to coverage**

For purposes of subsection (a), the appropriate program offices are—

- (1) the Office of Air and Waste Management, for air quality activities;
- (2) the Office of Water and Hazardous Materials, for water quality activities and water supply activities;
- (3) the Office of Pesticides, for environmental effects of pesticides;
- (4) the Office of Solid Waste, for solid waste activities;
- (5) the Office of Toxic Substances, for toxic substance activities;
- (6) the Office of Radiation Programs, for radiation activities; and
- (7) the Office of Noise Abatement and Control, for noise activities.

**(c) Report to Congress; contents**

The Administrator shall submit to the President and the Congress a report concerning the most appropriate means of assuring, on a continuing basis, that the research efforts of the Agency reflect the needs and priorities of the regulatory program offices, while maintaining a high level of scientific quality. Such report shall be submitted on or before March 31, 1978.

(Pub. L. 95–155, §7, Nov. 8, 1977, 91 Stat. 1259.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

This Act, referred to in subsec. (a), is Pub. L. 95–155, Nov. 8, 1977, 91 Stat. 1257, as amended, known as the Environmental Research, Development, and Demonstration Authorization Act of 1978, which to the extent classified to the Code enacted sections 300j–3a, 4361a, 4361b, and 4363 to 4367 of this title. For complete classification of this Act to the Code, see Tables.

**CODIFICATION**

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

**§4365. Science Advisory Board**

**(a) Establishment; requests for advice by Administrator of Environmental Protection Agency and Congressional committees**

The Administrator of the Environmental Protection Agency shall establish a Science Advisory Board which shall provide such scientific advice as may be requested by the Administrator, the Committee on Environment and Public Works of the United States Senate, or the Committee on Science, Space, and Technology, on Energy and Commerce, or on Public Works and Transportation of the House of Representatives.

**(b) Membership; Chairman; meetings; qualifications of members**

Such Board shall be composed of at least nine members, one of whom shall be designated Chairman, and shall meet at such times and places as may be designated by the Chairman of the Board in consultation with the Administrator. Each member of the Board shall be qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board under this section.

**(c) Proposed environmental criteria document, standard, limitation, or regulation; functions respecting in conjunction with Administrator**

(1) The Administrator, at the time any proposed criteria document, standard, limitation, or regulation under the Clean Air Act [42 U.S.C. 7401 et seq.], the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.], the Resource Conservation and Recovery Act of 1976 [42 U.S.C. 6901 et seq.], the Noise Control Act [42 U.S.C. 4901 et seq.], the Toxic Substances Control Act [15 U.S.C. 2601 et seq.], or the Safe Drinking Water Act [42 U.S.C. 300f et seq.], or under any other authority of the Administrator, is provided to any other Federal agency for formal review and comment, shall make available to the Board such proposed criteria document, standard, limitation, or regulation, together with relevant scientific and technical information in the possession of the Environmental Protection Agency on which the proposed action is based.

(2) The Board may make available to the Administrator, within the time specified by the Administrator, its advice and comments on the adequacy of the scientific and technical basis of the proposed criteria document, standard, limitation, or regulation, together with any pertinent information in the Board's possession.

**(d) Utilization of technical and scientific capabilities of Federal agencies and national environmental laboratories for determining adequacy of scientific and technical basis of proposed criteria document, etc.**

In preparing such advice and comments, the Board shall avail itself of the technical and scientific capabilities of any Federal agency, including the Environmental Protection Agency and any national environmental laboratories.

**(e) Committees**

**(1) Member committees**

**(A) In general**

The Board is authorized to establish such member committees and investigative panels as the Administrator and the Board determine to be necessary to carry out this section.

**(B) Chairmanship**

Each member committee or investigative panel established under this subsection shall be chaired by a member of the Board.

**(2) Agriculture-related committees**

**(A) In general**

The Administrator and the Board—

(i) shall establish a standing agriculture-related committee; and

(ii) may establish such additional agriculture-related committees and investigative panels as the Administrator and the Board determines to be necessary to carry out the duties under subparagraph (C).

**(B) Membership**

The standing committee and each agriculture-related committee or investigative panel established under subparagraph (A) shall be—

(i) composed of—

(I) such quantity of members as the Administrator and the Board determines to be necessary; and

(II) individuals who are not members of the Board on the date of appointment to the committee or investigative panel; and

(ii) appointed by the Administrator and the Board, in consultation with the Secretary of Agriculture.

**(C) Duties**

The agriculture-related standing committee and each additional committee and investigative panel established under subparagraph (A) shall provide scientific and technical advice to the Board relating to matters referred to the Board that the Administrator and the Board determines, in consultation with the Secretary of Agriculture, to have a significant direct impact on enterprises that are engaged in the business of the production of food and fiber, ranching and raising livestock, aquaculture, and all other farming- and agriculture-related industries.

**(f) Appointment and compensation of secretary and other personnel; compensation of members**

(1) Upon the recommendation of the Board, the Administrator shall appoint a secretary, and such other employees as deemed necessary to exercise and fulfill the Board's powers and responsibilities. The compensation of all employees appointed under this paragraph shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5.

(2) Members of the Board may be compensated at a rate to be fixed by the President but not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5.

**(g) Consultation and coordination with Scientific Advisory Panel**

In carrying out the functions assigned by this section, the Board shall consult and coordinate its activities with the Scientific Advisory Panel established by the Administrator pursuant to section 136w(d) of title 7.

**(h) Public participation and transparency**

The Board shall make every effort, consistent with applicable law, including section 552 of title 5 (commonly known as the "Freedom of Information Act") and section 552a of title 5 (commonly known as the "Privacy Act"), to maximize public participation and transparency, including making the scientific and technical advice of the Board and any committees or investigative panels of the Board publically available in electronic form on the website of the Environmental Protection Agency.

**(i) Report to Congress**

The Administrator shall annually report to the Committees on Environment and Public Works and Agriculture of the Senate and the Committees on Transportation and Infrastructure, Energy and Commerce, and Agriculture of the House of Representatives regarding the membership and activities of the standing agriculture-related committee established pursuant to subsection (e)(2)(A)(i).

(Pub. L. 95-155, §8, Nov. 8, 1977, 91 Stat. 1260; Pub. L. 96-569, §3, Dec. 22, 1980, 94 Stat. 3337; Pub. L. 103-437, §15(o), Nov. 2, 1994, 108 Stat. 4593; Pub. L. 104-66, title II, §2021(k)(3), Dec. 21, 1995, 109 Stat. 728; Pub. L. 113-79, title XII, §12307, Feb. 7, 2014, 128 Stat. 989.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (c)(1), is act [July 14, 1955, ch. 360](#), 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

The Federal Water Pollution Control Act, referred to in subsec. (c)(1), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, [§2, Oct. 18, 1972](#), 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Resource Conservation and Recovery Act of 1976, referred to in subsec. (c)(1), is Pub. L. 94–580, [Oct. 21, 1976](#), 90 Stat. 2796, as amended, which is classified generally to chapter 82 (§6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 6901 of this title and Tables.

The Noise Control Act, referred to in subsec. (c)(1), probably means the Noise Control Act of 1972, Pub. L. 92–574, [Oct. 27, 1972](#), 86 Stat. 1234, as amended, which is classified principally to chapter 65 (§4901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4901 of this title and Tables.

The Toxic Substances Control Act, referred to in subsec. (c)(1), is Pub. L. 94–469, [Oct. 11, 1976](#), 90 Stat. 2003, as amended, which is classified generally to chapter 53 (§2601 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 15 and Tables.

The Safe Drinking Water Act, referred to in subsec. (c)(1), is title XIV of act July 1, 1944, as added Dec. 16, 1974, Pub. L. 93–523, [§2\(a\)](#), 88 Stat. 1660, as amended, which is classified generally to subchapter XII (§300f et seq.) of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

### CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### AMENDMENTS

**2014**—Subsec. (e). Pub. L. 113–79, §12307(1), added subsec. (e) and struck out former subsec. (e). Text read as follows: "The Board is authorized to constitute such member committees and investigative panels as the Administrator and the Board find necessary to carry out this section. Each such member committee or investigative panel shall be chaired by a member of the Board."

Subsecs. (h), (i). Pub. L. 113–79, §12307(2), added subsecs. (h) and (i).

**1995**—Subsecs. (c) to (i). Pub. L. 104–66 redesignated subsecs. (e) to (i) as (c) to (g), respectively, and struck out former subsec. (c) which read as follows: "In addition to providing scientific advice when requested by the Administrator under subsection (a) of this section, the Board shall review and comment on the Administration's five-year plan for environmental research, development, and demonstration provided for by section 4361 of this title and on each annual revision thereof. Such review and comment shall be transmitted to the Congress by the Administrator, together with his comments thereon, at the time of the transmission to the Congress of the annual revision involved."

**1994**—Subsec. (a). Pub. L. 103–437, §15(o)(1), substituted "Committee on Science, Space, and Technology, on Energy and Commerce, or on" for "Committees on Science and Technology, Interstate and Foreign Commerce, or".

Subsec. (d). Pub. L. 103–437, §15(o)(2), struck out subsec. (d) which related to review and report to Administrator, President, and Congress on health effects research.

**1980**—Subsec. (a). Pub. L. 96–569 inserted provisions relating to requests by the enumerated Congressional committees.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding

section 21 of Title 2. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2.

### **TERMINATION OF ADVISORY BOARDS**

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

### **REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES**

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

## **§4366. Identification and coordination of research, development, and demonstration activities**

### **(a) Consultation and cooperation of Administrator of Environmental Protection Agency with heads of Federal agencies; inclusion of activities in annual revisions of plan for research, etc.**

The Administrator of the Environmental Protection Agency, in consultation and cooperation with the heads of other Federal agencies, shall take such actions on a continuing basis as may be necessary or appropriate—

(1) to identify environmental research, development, and demonstration activities, within and outside the Federal Government, which may need to be more effectively coordinated in order to minimize unnecessary duplication of programs, projects, and research facilities;

(2) to determine the steps which might be taken under existing law, by him and by the heads of such other agencies, to accomplish or promote such coordination, and to provide for or encourage the taking of such steps; and

(3) to determine the additional legislative actions which would be needed to assure such coordination to the maximum extent possible.

The Administrator shall include in each annual revision of the five-year plan provided for by section 4361 <sup>1</sup> of this title a full and complete report on the actions taken and determinations made during the preceding year under this subsection, and may submit interim reports on such actions and determinations at such other times as he deems appropriate.

### **(b) Coordination of programs by Administrator**

The Administrator of the Environmental Protection Agency shall coordinate environmental research, development, and demonstration programs of such Agency with the heads of other Federal agencies in order to minimize unnecessary duplication of programs, projects, and research facilities.

### **(c) Joint study by Council on Environmental Quality in consultation with Office of Science and Technology Policy for coordination of activities; report to President and Congress; report by President to Congress on implementation of joint study and report**

(1) In order to promote the coordination of environmental research and development activities, and to assure that the action taken and methods used (under subsection (a) and otherwise) to bring about such coordination will be as effective as possible for that purpose, the Council on Environmental Quality in consultation with the Office of Science and Technology Policy shall promptly undertake and carry out a joint study of all aspects of the coordination of environmental research and development. The Chairman of the Council shall prepare a report on the results of such study, together with such recommendations (including legislative recommendations) as he deems appropriate, and shall submit such report to the President and the Congress not later than May 31, 1978.

(2) Not later than September 30, 1978, the President shall report to the Congress on steps he has taken to implement the recommendations included in the report under paragraph (1), including any recommendations he may have for legislation.

(Pub. L. 95-155, §9, Nov. 8, 1977, 91 Stat. 1261.)

#### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 4361 of this title, referred to in subsec. (a), was repealed by Pub. L. 104–66, title II, §2021(k)(1), Dec. 21, 1995, 109 Stat. 728.

### CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

#### STATUTORY NOTES AND RELATED SUBSIDIARIES

### COORDINATION OF ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION EFFORTS; STUDY AND REPORT

Pub. L. 95–477, §3(c), Oct. 18, 1978, 92 Stat. 1509, authorized to be appropriated to the Environmental Protection Agency for the fiscal year 1979, \$1,000,000, and for the fiscal year 1980, \$1,000,000, for a study and report, under a contract let by the Administrator, to be conducted outside the Federal Government, on coordination of the Federal Government's efforts in environmental research, development, and demonstration, and the application of the results of such efforts to environmental problems, with the report on the study submitted to the President, the Administrator, and the Congress within two years after Oct. 18, 1978, accompanied by recommendations for action by the President, the Administrator, other agencies, or the Congress, as may be appropriate.

<sup>1</sup> See References in Text note below.

## §4366a. Omitted

#### EDITORIAL NOTES

### CODIFICATION

Section, Pub. L. 101–617, §4, Nov. 16, 1990, 104 Stat. 3287, which related to development of data base of environmental research articles indexed by geographic location, expired 10 years after Nov. 16, 1990, pursuant to section 6 of Pub. L. 101–617, formerly set out as a Termination Date note under this section.

#### STATUTORY NOTES AND RELATED SUBSIDIARIES

### TERMINATION DATE

Pub. L. 101–617, §6, Nov. 16, 1990, 104 Stat. 3287, provided that Pub. L. 101–617, which enacted this section and provisions formerly set out under this section, was to expire 10 years after Nov. 16, 1990.

### SHORT TITLE; FINDINGS; PURPOSE; AUTHORIZATION

Pub. L. 101–617, §§1–3, 5, Nov. 16, 1990, 104 Stat. 3287, which provided that Pub. L. 101–617, which enacted this section and provisions formerly set out under this section, could be cited as the "Environmental Research Geographic Location Information Act", and further provided for findings, purpose to develop data base of environmental research articles indexed by geographic location, and authorization of appropriations, expired 10 years after Nov. 16, 1990, pursuant to section 6 of Pub. L. 101–617, formerly set out as a note under this section.

## §4367. Reporting requirements of financial interests of officers and employees of Environmental Protection Agency

(a) Covered officers and employees

Each officer or employee of the Environmental Protection Agency who—

- (1) performs any function or duty under this Act; and
- (2) has any known financial interest in any person who applies for or receives grants, contracts, or other forms of financial assistance under this Act,

shall, beginning on February 1, 1978, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

**(b) Implementation of requirements by Administrator**

The Administrator shall—

- (1) act within ninety days after November 8, 1977—
  - (A) to define the term "known financial interest" for purposes of subsection (a) of this section; and
  - (B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provision for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and
- (2) Omitted.

**(c) Exemption of positions by Administrator**

In the rules prescribed under subsection (b) of this section, the Administrator may identify specific positions of a nonpolicymaking nature within the Administration and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

**(d) Violations; penalties**

Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than \$2,500 or imprisoned not more than one year, or both.

(Pub. L. 95–155, §12, Nov. 8, 1977, 91 Stat. 1263.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

This Act, referred to in subsec. (a)(1), (2), is Pub. L. 95–155, Nov. 8, 1977, 91 Stat. 1257, as amended, known as the Environmental Research, Development, and Demonstration Authorization Act of 1978, which to the extent classified to the Code enacted sections 300j–3a, 4361a, 4361b, and 4363 to 4367 of this title. For complete classification of this Act to the Code, see Tables.

**CODIFICATION**

Subsec. (b)(2) of this section, which required the Administrator to report to Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 9 on page 164 of House Document No. 103–7.

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

**§4368. Grants to qualified citizens groups**

(1) There is authorized to be appropriated to the Environmental Protection Agency, for grants to qualified citizens groups in States and regions, \$3,000,000.

(2) Grants under this section may be made for the purpose of supporting and encouraging participation by qualified citizens groups in determining how scientific, technological, and social trends and changes affect the future environment and quality of life of an area, and for setting goals and identifying measures for improvement.

(3) The term "qualified citizens group" shall mean a nonprofit organization of citizens having an area based focus, which is not single-issue oriented and which can demonstrate a prior record of interest and involvement in goal-setting and research concerned with improving the quality of life, including plans to identify, protect and enhance significant natural and cultural resources and the environment.

(4) A citizens group shall be eligible for assistance only if certified by the Governor in consultation with the State legislature as a bonafide organization entitled to receive Federal assistance to pursue the aims of this program. The group shall further demonstrate its capacity to employ usefully the funds for the purposes of this program and its broad-based representative nature.

(5) After an initial application for assistance under this section has been approved, the Administrator may make grants on an annual basis, on condition that the Governor recertify the group and that the applicant submits to the Administrator annually—

- (A) an evaluation of the progress made during the previous year in meeting the objectives for which the grant was made;
- (B) a description of any changes in the objectives of the activities; and
- (C) a description of the proposed activities for the succeeding one year period.

(6) A grant made under this program shall not exceed 75 per centum of the estimated cost of the project or program for which the grant is made, and no group shall receive more than \$50,000 in any one year.

(7) No financial assistance provided under this section shall be used to support lobbying or litigation by any recipient group.

(Pub. L. 95–477, §3(d), Oct. 18, 1978, 92 Stat. 1509.)

#### EDITORIAL NOTES

### REFERENCES IN TEXT

This section, referred to in par. (5), means section 3 of Pub. L. 95–477, in its entirety, subsec. (d) of which enacted this section, subsecs. (a) and (b) of which were not classified to the Code, and subsec. (c) of which is set out as a note under section 4366 of this title.

### CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1979, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

## **§4368a. Utilization of talents of older Americans in projects of pollution prevention, abatement, and control**

### **(a) Technical assistance to environmental agencies**

Notwithstanding any other provision of law relating to Federal grants and cooperative agreements, the Administrator of the Environmental Protection Agency is authorized to make grants to, or enter into cooperative agreements with, private nonprofit organizations designated by the Secretary of Labor under title V of the Older Americans Act of 1965 [42 U.S.C. 3056 et seq.] to utilize the talents of older Americans in programs authorized by other provisions of law administered by the Administrator (and consistent with such provisions of law) in providing technical assistance to Federal, State, and local environmental agencies for projects of pollution prevention, abatement, and control. Funding for such grants or agreements may be made available from such programs or through title V of the Older Americans Act of 1965 and subtitle D of title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3221 et seq.].

### **(b) Pre-award certifications**

Prior to awarding any grant or agreement under subsection (a), the applicable Federal, State, or local environmental agency shall certify to the Administrator that such grants or agreements will not—

- (1) result in the displacement of individuals currently employed by the environmental agency concerned (including partial displacement through reduction of nonovertime hours, wages, or employment benefits);
- (2) result in the employment of any individual when any other person is in a layoff status from the same or substantially equivalent job within the jurisdiction of the environmental agency concerned; or
- (3) affect existing contracts for services.

### **(c) Prior appropriation Acts**

Grants or agreements awarded under this section shall be subject to prior appropriation Acts.

(Pub. L. 98–313, §2, June 12, 1984, 98 Stat. 235; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(35), (f)(27)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–426, 2681–434; Pub. L. 113–128, title V, §512(j), July 22, 2014, 128 Stat. 1709.)

#### EDITORIAL NOTES

### REFERENCES IN TEXT

The Older Americans Act of 1965, referred to in subsec. (a), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218. Title V of the Act, known as the "Community Service Senior Opportunities Act", is classified generally to subchapter IX (§3056 et seq.) of chapter 35 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Workforce Innovation and Opportunity Act, referred to in subsec. (a), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425. Subsection D of title I of the Act is classified generally to part D (§3221 et seq.) of subchapter I of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

## **CODIFICATION**

Section was enacted as part of the Environmental Programs Assistance Act of 1984, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

## **AMENDMENTS**

**2014**—Subsec. (a). Pub. L. 113–128 substituted "Funding for such grants or agreements may be made available from such programs or through title V of the Older Americans Act of 1965 and subtitle D of title I of the Workforce Innovation and Opportunity Act" for "Funding for such grants or agreements may be made available from such programs or through title V of the Older Americans Act of 1965 and subtitle D of title I of the Workforce Investment Act of 1998".

**1998**—Subsec. (a). Pub. L. 105–277, §101(f) [title VIII, §405(f)(27)], struck out "title IV of the Job Training Partnership Act or" after "title V of the Older Americans Act of 1965 and" in last sentence.

Pub. L. 105–277, §101(f) [title VIII, §405(d)(35)], substituted "and title IV of the Job Training Partnership Act or subtitle D of title I of the Workforce Investment Act of 1998" for "and title IV of the Job Training Partnership Act" in second sentence.

## **STATUTORY NOTES AND RELATED SUBSIDIARIES**

### **EFFECTIVE DATE OF 2014 AMENDMENT**

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

### **EFFECTIVE DATE OF 1998 AMENDMENT**

Amendment by section 101(f) [title VIII, §405(d)(35)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(27)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, §405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

## **SHORT TITLE**

Pub. L. 98–313, §1, June 12, 1984, 98 Stat. 235, provided that: "This Act [enacting this section] may be cited as the 'Environmental Programs Assistance Act of 1984'."

## **§4368b. General assistance program**

### **(a) Short title**

This section may be cited as the "Indian Environmental General Assistance Program Act of 1992".

### **(b) Purposes**

The purposes of this section are to—

(1) provide general assistance grants to Indian tribal governments and intertribal consortia to build capacity to administer environmental regulatory programs that may be delegated by the Environmental Protection Agency on Indian lands; and

(2) provide technical assistance from the Environmental Protection Agency to Indian tribal governments and intertribal consortia in the development of multimedia programs to address environmental issues on Indian lands.

### **(c) Definitions**

For purposes of this section:

(1) The term "Indian tribal government" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

(2) The term "intertribal consortia" or "intertribal consortium" means a partnership between two or more Indian tribal governments authorized by the governing bodies of those tribes to apply for and receive assistance pursuant to this section.



(3) The term "Administrator" means the Administrator of the Environmental Protection Agency.

**(d) General assistance program**

(1) The Administrator of the Environmental Protection Agency shall establish an Indian Environmental General Assistance Program that provides grants to eligible Indian tribal governments or intertribal consortia to cover the costs of planning, developing, and establishing environmental protection programs consistent with other applicable provisions of law providing for enforcement of such laws by Indian tribes on Indian lands.

(2) Each grant awarded for general assistance under this subsection for a fiscal year shall be no less than \$75,000, and no single grant may be awarded to an Indian tribal government or intertribal consortium for more than 10 percent of the funds appropriated under subsection (h) of this section.

(3) The term of any general assistance award made under this subsection may exceed one year. Any awards made pursuant to this section shall remain available until expended. An Indian tribal government or intertribal consortium may receive a general assistance grant for a period of up to four years in each specific media area.

**(e) No reduction in amounts**

In no case shall the award of a general assistance grant to an Indian tribal government or intertribal consortium under this section result in a reduction of Environmental Protection Agency grants for environmental programs to that tribal government or consortium. Nothing in this section shall preclude an Indian tribal government or intertribal consortium from receiving individual media grants or cooperative agreements. Funds provided by the Environmental Protection Agency through the general assistance program shall be used by an Indian tribal government or intertribal consortium to supplement other funds provided by the Environmental Protection Agency through individual media grants or cooperative agreements.

**(f) Expenditure of general assistance**

Any general assistance under this section shall be expended for the purpose of planning, developing, and establishing the capability to implement programs administered by the Environmental Protection Agency and specified in the assistance agreement. Purposes and programs authorized under this section shall include the development and implementation of solid and hazardous waste programs for Indian lands. An Indian tribal government or intertribal consortium receiving general assistance pursuant to this section shall utilize such funds for programs and purposes to be carried out in accordance with the terms of the assistance agreement. Such programs and general assistance shall be carried out in accordance with the purposes and requirements of applicable provisions of law, including the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

**(g) Procedures**

(1) Within 12 months following October 24, 1992, the Administrator shall promulgate regulations establishing procedures under which an Indian tribal government or intertribal consortium may apply for general assistance grants under this section.

(2) The Administrator shall publish regulations issued pursuant to this section in the Federal Register.

(3) The Administrator shall establish procedures for accounting, auditing, evaluating, and reviewing any programs or activities funded in whole or in part for a general assistance grant under this section.

**(h) Authorization**

There are authorized to be appropriated to carry out the provisions of this section, such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

**(i) Report to Congress**

The Administrator shall transmit an annual report to the appropriate Committees of the Congress with jurisdiction over the applicable environmental laws and Indian tribes describing which Indian tribes or intertribal consortia have been granted approval by the Administrator pursuant to law to enforce certain environmental laws and the effectiveness of any such enforcement.

(Pub. L. 95-134, title V, §502, as added Pub. L. 102-497, §11, Oct. 24, 1992, 106 Stat. 3258; amended Pub. L. 103-155, Nov. 24, 1993, 107 Stat. 1523; Pub. L. 104-233, §1, Oct. 2, 1996, 110 Stat. 3057.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Alaska Native Claims Settlement Act, referred to in subsec. (c)(1), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Solid Waste Disposal Act, referred to in subsec. (f), is title II of Pub. L. 89-272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94-580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

## CODIFICATION

Section was enacted as the Indian Environmental General Assistance Program Act of 1992 and as part of the Omnibus Territories Act of 1977, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

## AMENDMENTS

**1996**—Subsec. (h). Pub. L. 104–233 substituted "such sums as may be necessary" for "\$15,000,000".

**1993**—Subsec. (d)(1). Pub. L. 103–155, §3(a), inserted "consistent with other applicable provisions of law providing for enforcement of such laws by Indian tribes" after "programs".

Subsec. (f). Pub. L. 103–155, §3(b), inserted at end "Such programs and general assistance shall be carried out in accordance with the purposes and requirements of applicable provisions of law, including the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.)."

Subsec. (h). Pub. L. 103–155, §1, substituted ", 1994, 1995, 1996, 1997, and 1998" for "and 1994".

Subsec. (i). Pub. L. 103–155, §2, added subsec. (i).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### AVAILABILITY OF FUNDS FOR WASTE COLLECTION AND DISPOSAL

Pub. L. 115–141, *div. G, title II, Mar. 23, 2018*, 132 Stat. 668, provided in part: "That hereafter, notwithstanding other applicable provisions of law, the funds appropriated for the Indian Environmental General Assistance Program shall be available to federally recognized tribes for solid waste and recovered materials collection, transportation, backhaul, and disposal services."

## §4369. Miscellaneous reports

### (a) Availability to Congressional committees

All reports to or by the Administrator relevant to the Agency's program of research, development, and demonstration shall promptly be made available to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate, unless otherwise prohibited by law.

### (b) Transmittal of jurisdictional information

The Administrator shall keep the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate fully and currently informed with respect to matters falling within or related to the jurisdiction of the committees.

### (c) Comment by Government agencies and the public

The reports provided for in section 5910 <sup>1</sup> of this title shall be made available to the public for comment, and to the heads of affected agencies for comment and, in the case of recommendations for action, for response.

### (d) Transmittal of research information to the Department of Energy

For the purpose of assisting the Department of Energy in planning and assigning priorities in research development and demonstration activities related to environmental control technologies, the Administrator shall actively make available to the Department all information on research activities and results of research programs of the Environmental Protection Agency.

(Pub. L. 95–477, §5, *Oct. 18, 1978*, 92 Stat. 1510; Pub. L. 103–437, §15(c)(6), *Nov. 2, 1994*, 108 Stat. 4592.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 5910 of this title, referred to in subsec. (c), was repealed by Pub. L. 104–66, *title II, §2021(i), Dec. 21, 1995*, 109 Stat. 727.

## CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1979, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

## AMENDMENTS

1994—Subsecs. (a), (b). Pub. L. 103–437 substituted "Science, Space, and Technology" for "Science and Technology".

<sup>1</sup> *See References in Text note below.*

## **§4369a. Reports on environmental research and development activities of Agency**

### **(a) Reports to keep Congressional committees fully and currently informed**

The Administrator shall keep the appropriate committees of the House and the Senate fully and currently informed about all aspects of the environmental research and development activities of the Environmental Protection Agency.

### **(b) Omitted**

(Pub. L. 96–229, §4, Apr. 7, 1980, 94 Stat. 328.)

#### **EDITORIAL NOTES**

#### **CODIFICATION**

Subsec. (b) of this section, which required the Administrator to annually make available to the appropriate committees of Congress sufficient copies of a report fully describing funds requested and the environmental research and development activities to be carried out with these funds, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 24 on page 163 of House Document No. 103–7.

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1980, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

## **§4370. Reimbursement for use of facilities**

### **(a) Authority to allow outside groups or individuals to use research and test facilities; reimbursement**

The Administrator is authorized to allow appropriate use of special Environmental Protection Agency research and test facilities by outside groups or individuals and to receive reimbursement or fees for costs incurred thereby when he finds this to be in the public interest. Such reimbursement or fees are to be used by the Agency to defray the costs of use by outside groups or individuals.

### **(b) Rules and regulations**

The Administrator may promulgate regulations to cover such use of Agency facilities in accordance with generally accepted accounting, safety, and laboratory practices.

### **(c) Waiver of reimbursement by Administrator**

When he finds it is in the public interest the Administrator may waive reimbursement or fees for outside use of Agency facilities by nonprofit private or public entities.

(Pub. L. 96–229, §5, Apr. 7, 1980, 94 Stat. 328.)

#### **EDITORIAL NOTES**

#### **CODIFICATION**

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1980, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

## **§4370a. Assistant Administrators of Environmental Protection Agency; appointment; duties**

(a) The President, by and with the advice and consent of the Senate, may appoint three Assistant Administrators of the Environmental Protection Agency in addition to—

(1) the five Assistant Administrators provided for in section 1(d) of Reorganization Plan Numbered 3 of 1970 (5 U.S.C. Appendix);

(2) the Assistant Administrator provided by section 2625(g) of title 15; and

(3) the Assistant Administrator provided by section 6911a of this title.

(b) Each Assistant Administrator appointed under subsection (a) shall perform such duties as the Administrator of the Environmental Protection Agency may prescribe.

(Pub. L. 98–80, §1, Aug. 23, 1983, 97 Stat. 485.)

#### EDITORIAL NOTES

#### REFERENCES IN TEXT

Reorganization Plan Numbered 3 of 1970, referred to in subsec. (a)(1), is set out under section 4321 of this title.

#### CODIFICATION

Section was not enacted as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### §4370b. Availability of fees and charges to carry out Agency programs

Notwithstanding any other provision of law, after September 30, 1990, amounts deposited in the Licensing and Other Services Fund from fees and charges assessed and collected by the Administrator for services and activities carried out pursuant to the statutes administered by the Environmental Protection Agency shall thereafter be available to carry out the Agency's activities in the programs for which the fees or charges are made.

(Pub. L. 101–144, title III, Nov. 9, 1989, 103 Stat. 858.)

#### EDITORIAL NOTES

#### CODIFICATION

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### §4370c. Environmental Protection Agency fees

#### (a) Assessment and collection

The Administrator of the Environmental Protection Agency shall, by regulation, assess and collect fees and charges for services and activities carried out pursuant to laws administered by the Environmental Protection Agency.

#### (b) Amount of fees and charges

Fees and charges assessed pursuant to this section shall be in such amounts as may be necessary to ensure that the aggregate amount of fees and charges collected pursuant to this section, in excess of the amount of fees and charges collected under current law—

(1) in fiscal year 1991, is not less than \$28,000,000; and

(2) in each of fiscal years 1992, 1993, 1994, and 1995, is not less than \$38,000,000.

#### (c) Limitation on fees and charges

(1) The maximum aggregate amount of fees and charges in excess of the amounts being collected under current law which may be assessed and collected pursuant to this section in a fiscal year—

(A) for services and activities carried out pursuant to <sup>1</sup> the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.] is \$10,000,000; and

(B) for services and activities in programs within the jurisdiction of the House Committee on Energy and Commerce and administered by the Environmental Protection Agency through the Administrator, shall be limited to such sums collected as of November 5, 1990, pursuant to sections 2625(b) and 2665(e)(2) <sup>2</sup> of title 15, and such sums specifically authorized by the Clean Air Act Amendments of 1990.

(2) Any remaining amounts required to be collected under this section shall be collected from services and programs administered by the Environmental Protection Agency other than those specified in subparagraphs (A) and (B) of paragraph (1).

**(d) Rule of construction**

Nothing in this section increases or diminishes the authority of the Administrator to promulgate regulations pursuant to section 9701 of title 31.

**(e) Uses of fees**

Fees and charges collected pursuant to this section shall be deposited into a special account for environmental services in the Treasury of the United States. Subject to appropriation Acts, such funds shall be available to the Environmental Protection Agency to carry out the activities for which such fees and charges are collected. Such funds shall remain available until expended.

(Pub. L. 101–508, title VI, §6501, Nov. 5, 1990, 104 Stat. 1388–320.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Federal Water Pollution Control Act, referred to in subsec. (c)(1)(A), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

Section 2665(e)(2) of title 15, referred to in subsec. (c)(1)(B), was redesignated section 2665(d)(2) of Title 15, Commerce and Trade, by Pub. L. 104–66, title II, §2021(l)(2), Dec. 21, 1995, 109 Stat. 728.

The Clean Air Act Amendments of 1990, referred to in subsec. (c)(1)(B), means Pub. L. 101–549, Nov. 15, 1990, 104 Stat. 2399. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 7401 of this title and Tables.

**CODIFICATION**

In subsec. (d), "section 9701 of title 31" was in the original "the Independent Office Appropriations Act (31 U.S.C. 9701)" and substitution was made as if it read for "title V of the Independent Offices Appropriation Act of 1952" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was enacted as part of the Omnibus Budget Reconciliation Act of 1990, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**CHANGE OF NAME**

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

<sup>1</sup> So in original. Probably should be "to".

<sup>2</sup> See References in Text note below.

**§4370d. Percentage of Federal funding for organizations owned by socially and economically disadvantaged individuals**

The Administrator of the Environmental Protection Agency shall, on and after October 6, 1992, to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including grants, loans, and contracts for wastewater treatment and leaking underground storage tanks grants, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 637(a)(5) and (6) of title 15), including

historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

(Pub. L. 102–389, title III, Oct. 6, 1992, 106 Stat. 1602.)

#### EDITORIAL NOTES

#### CODIFICATION

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### §4370e. Working capital fund in Treasury

There is hereby established in the Treasury a "Working capital fund", to be available without fiscal year limitation for expenses and equipment necessary for the maintenance and operation of such administrative services as the Administrator determines may be performed more advantageously as central services: *Provided*, That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made hereafter for the purpose of providing capital, shall be used to capitalize such fund: *Provided further*, That such fund shall be paid in advance or reimbursed from funds available to the Agency and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of automated data processing (ADP) software and systems (either acquired or donated), and an amount necessary to maintain a reasonable operating reserve, as determined by the Administrator: *Provided further*, That such fund shall provide services on a competitive basis: *Provided further*, That an amount not to exceed four percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment and for the improvement and implementation of Agency financial management, ADP, and other support systems: *Provided further*, That no later than thirty days after the end of each fiscal year amounts in excess of this reserve limitation shall be transferred to the Treasury.

(Pub. L. 104–204, title III, Sept. 26, 1996, 110 Stat. 2912; Pub. L. 105–65, title III, Oct. 27, 1997, 111 Stat. 1374; Pub. L. 105–276, title III, Oct. 21, 1998, 112 Stat. 2499.)

#### EDITORIAL NOTES

#### CODIFICATION

Section was formerly set out as a note under section 501 of Title 31, Money and Finance.

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

#### AMENDMENTS

**1998**—Pub. L. 105–276, which directed the insertion of "or reimbursed" after "that such fund shall be paid in advance", was executed by making the insertion after "That such fund shall be paid in advance", to reflect the probable intent of Congress.

**1997**—Pub. L. 105–65 substituted "a 'Working capital fund' to be available without fiscal year limitation for expenses and equipment" for "a franchise fund pilot to be known as the 'Working capital fund', as authorized by section 403 of Public Law 103–356, to be available as provided in such section for expenses and equipment" and struck out proviso at end which read ": *Provided further*, That such franchise fund pilot shall terminate pursuant to section 403(f) of Public Law 103–356".

### §4370f. Availability of funds after expiration of period for liquidating obligations

For fiscal year 2001 and thereafter, the obligated balances of sums available in multiple-year appropriations accounts shall remain available through the seventh fiscal year after their period of availability has expired for liquidating obligations made during the period of availability.

(Pub. L. 106–377, §1(a)(1) [title III], Oct. 27, 2000, 114 Stat. 1441, 1441A-44.)

## EDITORIAL NOTES

### CODIFICATION

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

#### **§4370g. Availability of funds for uniforms and certain services**

For fiscal year 2009 and thereafter, the Science and Technology and Environmental Programs and Management Accounts are available for uniforms, or allowances therefore, <sup>1</sup> as authorized by sections 5901 and 5902 of title 5 and for services as authorized by section 3109 of title 5, but at rates for individuals not to exceed the daily equivalent of the rate paid for level IV of the Executive Schedule.

(Pub. L. 111–8, div. E, title II, Mar. 11, 2009, 123 Stat. 728.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in text, is set out under section 5315 of Title 5, Government Organization and Employees.

### CODIFICATION

Section was enacted as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2009, and also as part of the Omnibus Appropriations Act, 2009, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

<sup>1</sup> *So in original. Probably should be "therefor."*

#### **§4370h. Availability of funds for facilities**

For fiscal year 2009 and thereafter, the Science and Technology, Environmental Programs and Management, Office of Inspector General, Hazardous Substance Superfund, and Leaking Underground Storage Tank Trust Fund Program Accounts, are available for the construction, alteration, repair, rehabilitation, and renovation of facilities provided that the cost does not exceed \$85,000 per project.

(Pub. L. 111–8, div. E, title II, Mar. 11, 2009, 123 Stat. 729.)

## EDITORIAL NOTES

### CODIFICATION

Section was enacted as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2009, and also as part of the Omnibus Appropriations Act, 2009, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

#### **§4370i. Regional liaisons for minority, tribal, and low-income communities**

##### **(a) In general**

The Administrator of the Environmental Protection Agency (referred to in this section as the "Administrator") shall assign at least one employee in each regional office of the Environmental Protection Agency to serve as a liaison to minority, Tribal, and low-income communities in the relevant region.

##### **(b) Public identification**

The Administrator shall identify each regional liaison assigned under subsection (a) on the internet website of—

- (1) the relevant regional office of the Environmental Protection Agency; and
- (2) the Office of Environmental Justice of the Environmental Protection Agency.

(Pub. L. 115–270, title IV, §4305, Oct. 23, 2018, 132 Stat. 3883.)

## EDITORIAL NOTES

### CODIFICATION

Section was enacted as part of the America's Water Infrastructure Act of 2018, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

## §4370j. Municipal Ombudsman

### (a) Establishment

There is established within the Office of the Administrator an Office of the Municipal Ombudsman, to be headed by a Municipal Ombudsman.

### (b) General duties

The duties of the Municipal Ombudsman shall include the provision of—

(1) technical assistance to municipalities seeking to comply with the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.]; and

(2) information to the Administrator to help the Administrator ensure that agency policies are implemented by all offices of the Environmental Protection Agency, including regional offices.

### (c) Actions required

The Municipal Ombudsman shall work with appropriate offices at the headquarters and regional offices of the Environmental Protection Agency to ensure that a municipality seeking assistance is provided information regarding—

(1) available Federal financial assistance for which the municipality is eligible;

(2) flexibility available under the Federal Water Pollution Control Act; and

(3) the opportunity to develop an integrated plan under section 402(s) of the Federal Water Pollution Control Act [33 U.S.C. 1342(s)].

### (d) Information sharing

The Municipal Ombudsman shall publish on the website of the Environmental Protection Agency—

(1) general information relating to—

(A) the technical assistance referred to in subsection (b)(1);

(B) the financial assistance referred to in subsection (c)(1);

(C) the flexibility referred to in subsection (c)(2); and

(D) any resources developed by the Administrator related to integrated plans under section 402(s) of the Federal Water Pollution Control Act [33 U.S.C. 1342(s)]; and

(2) a copy of each permit, order, or judicial consent decree that implements or incorporates such an integrated plan.

(Pub. L. 115–436, §4, Jan. 14, 2019, 132 Stat. 5560.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsec. (b)(1), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

### CODIFICATION

Section was enacted as part of the Water Infrastructure Improvement Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEFINITIONS

Pub. L. 115–436, §2, Jan. 14, 2019, 132 Stat. 5558, provided that: "In this Act [see Short Title of 2019 Amendment note set out under section 1251 of Title 33, Navigation and Navigable Waters]:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.



"(2) MUNICIPALITY.—The term 'municipality' has the meaning given that term in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362)."

## SUBCHAPTER IV—FEDERAL PERMITTING IMPROVEMENT

### §4370m. Definitions

In this subchapter:

#### (1) Agency

The term "agency" has the meaning given the term in section 551 of title 5.

#### (2) Agency CERPO

The term "agency CERPO" means the chief environmental review and permitting officer of an agency, as designated by the head of the agency under section 4370m–1(b)(2)(A)(iii)(I) of this title.

#### (3) Authorization

The term "authorization" means any license, permit, approval, finding, determination, or other administrative decision issued by an agency and any interagency consultation that is required or authorized under Federal law in order to site, construct, reconstruct, or commence operations of a covered project administered by a Federal agency or, in the case of a State that chooses to participate in the environmental review and authorization process in accordance with section 4370m–2(c)(3)(A) of this title, a State agency.

#### (4) Cooperating agency

The term "cooperating agency" has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or successor regulations).

#### (5) Council

The term "Council" means the Federal Permitting Improvement Steering Council established under section 4370m–1(a) of this title.

#### (6) Covered project

##### (A) In general

The term "covered project" means any activity in the United States that requires authorization or environmental review by a Federal agency involving construction of infrastructure for renewable or conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, manufacturing, semiconductors, artificial intelligence and machine learning, high-performance computing and advanced computer hardware and software, quantum information science and technology, data storage and data management, cybersecurity, carbon capture, or any other sector as determined by a majority vote of the Council that—

(i)(I) is subject to NEPA;

(II) is likely to require a total investment of more than \$200,000,000; and

(III) does not qualify for abbreviated authorization or environmental review processes under any applicable law;

(ii) is covered by a programmatic plan or environmental review developed for the primary purpose of facilitating development of carbon dioxide pipelines;

(iii) is—

(I) subject to NEPA;

(II) sponsored by an Indian Tribe (as defined in section 5304 of title 25), an Alaska Native Corporation, a Native Hawaiian organization (as defined in section 7517 of title 20), the Department of Hawaiian Home Lands, or the Office of Hawaiian Affairs; and

(III) located on land owned or under the jurisdiction of the entity that sponsors the activity under subclause (II); or

(iv) is subject to NEPA and the size and complexity of which, in the opinion of the Council, make the project likely to benefit from enhanced oversight and coordination, including a project likely to require—

(I) authorization from or environmental review involving more than 2 Federal agencies; or

(II) the preparation of an environmental impact statement under NEPA.

##### (B) Exclusion

The term "covered project" does not include—

(i) any project subject to section 139 of title 23; or

(ii) any project subject to section 2348 of title 33.

##### (C) Inclusion

For purposes of subparagraph (A), construction of infrastructure for carbon capture includes construction of—  
(i) any facility, technology, or system that captures, utilizes, or sequesters carbon dioxide emissions, including projects for direct air capture (as defined in paragraph (6)(B)(i) of section 7403(g) of this title); and  
(ii) carbon dioxide pipelines.

**(7) Dashboard**

The term "Dashboard" means the Permitting Dashboard required under section 4370m–2(b) of this title.

**(8) Environmental assessment**

The term "environmental assessment" has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or successor regulations).

**(9) Environmental document**

**(A) In general**

The term "environmental document" means an environmental assessment, finding of no significant impact, notice of intent, environmental impact statement, or record of decision.

**(B) Inclusions**

The term "environmental document" includes—

- (i) any document that is a supplement to a document described in subparagraph (A); and
- (ii) a document prepared pursuant to a court order.

**(10) Environmental impact statement**

The term "environmental impact statement" means the detailed written statement required under section 102(2)(C) of NEPA [42 U.S.C. 4332(2)(C)].

**(11) Environmental review**

The term "environmental review" means the agency procedures and processes for applying a categorical exclusion or for preparing an environmental assessment, an environmental impact statement, or other document required under NEPA.

**(12) Executive Director**

The term "Executive Director" means the Executive Director appointed by the President under section 4370m–1(b) (1)(A) of this title.

**(13) Facilitating agency**

The term "facilitating agency" means the agency that receives the initial notification from the project sponsor required under section 4370m–2(a) of this title.

**(14) Inventory**

The term "inventory" means the inventory of covered projects established by the Executive Director under section 4370m–1(c)(1)(A) of this title.

**(15) Lead agency**

The term "lead agency" means the agency with principal responsibility for an environmental review of a covered project under NEPA and parts 1500 through 1508 of title 40, Code of Federal Regulations (or successor regulations).

**(16) NEPA**

The term "NEPA" means the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

**(17) Participating agency**

The term "participating agency" means an agency participating in an environmental review or authorization for a covered project in accordance with section 4370m–2 of this title.

**(18) Project sponsor**

The term "project sponsor" means an entity, including any private, public, or public-private entity, seeking an authorization for a covered project.

(Pub. L. 114–94, div. D, title XLI, §41001, Dec. 4, 2015, 129 Stat. 1741; Pub. L. 116–260, div. S, §102(d)(1), Dec. 27, 2020, 134 Stat. 2250; Pub. L. 117–58, div. G, title VIII, §70801(a), Nov. 15, 2021, 135 Stat. 1287; Pub. L. 117–173, §1, Aug. 16, 2022, 136 Stat. 2103.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The National Environmental Policy Act of 1969 or NEPA, referred to in pars. (6)(A), (11), and (15) and defined in (16), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to this chapter.

For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

## CODIFICATION

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

## AMENDMENTS

**2022**—Par. (6)(A). Pub. L. 117–173 inserted "semiconductors, artificial intelligence and machine learning, high-performance computing and advanced computer hardware and software, quantum information science and technology, data storage and data management, cybersecurity," after "manufacturing," in introductory provisions.

**2021**—Par. (3). Pub. L. 117–58, §70801(a)(1), inserted "and any interagency consultation" after "issued by an agency".

Par. (4). Pub. L. 117–58, §70801(a)(2), substituted "has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or successor regulations)." for "means any agency with—" and struck out subpars. (A) and (B) which read as follows:

"(A) jurisdiction under Federal law; or

"(B) special expertise as described in section 1501.6 of title 40, Code of Federal Regulations (as in effect on December 4, 2015)."

Par. (5). Pub. L. 117–58, §70801(a)(3), substituted "Federal Permitting Improvement Steering Council" for "Federal Infrastructure Permitting Improvement Steering Council".

Par. (6)(A)(iii), (iv). Pub. L. 117–58, §70801(a)(4), added cl. (iii) and redesignated former cl. (iii) as (iv).

Par. (8). Pub. L. 117–58, §70801(a)(5), substituted "has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or successor regulations)." for "means a concise public document for which a Federal agency is responsible under section 1508.9 of title 40, Code of Federal Regulations (or successor regulations)."

**2020**—Par. (6)(A). Pub. L. 116–260, §102(d)(1)(A)(i), inserted "carbon capture," after "manufacturing," in introductory provisions.

Par. (6)(A)(ii), (iii). Pub. L. 116–260, §102(d)(1)(A)(ii)–(iv), added cl. (ii) and redesignated former cl. (ii) as (iii).

Par. (6)(C). Pub. L. 116–260, §102(d)(1)(B), added subpar. (C).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### SAVINGS CLAUSE

Pub. L. 114–94, div. A, title XI, §11503(b), Dec. 4, 2015, 129 Stat. 1692, provided that: "Except as expressly provided in section 41003(f) [42 U.S.C. 4370m–2(f)] and subsection (o) of section 139 of title 23, United States Code, the requirements and other provisions of title 41 of this Act [probably means title XLI of div. D of Pub. L. 114–94, 42 U.S.C. 4370m et seq.] shall not apply to—

"(1) programs administered now and in the future by the Department of Transportation or its operating administrations under title 23, 46, or 49, United States Code, including direct loan and loan guarantee programs, or other Federal statutes or programs or projects administered by an agency pursuant to their authority under title 49, United States Code; or

"(2) any project subject to section 2045 of the Water Resources Development Act of 2007 (33 U.S.C. 2348)."

### DEVELOPMENT OF CARBON CAPTURE, UTILIZATION, AND SEQUESTRATION REPORT, PERMITTING GUIDANCE, AND REGIONAL PERMITTING TASK FORCE

Pub. L. 116–260, div. S, §102(d)(2), Dec. 27, 2020, 134 Stat. 2250, provided that:

"(A) DEFINITIONS.—In this paragraph:

"(i) CARBON CAPTURE, UTILIZATION, AND SEQUESTRATION PROJECTS.—The term 'carbon capture, utilization, and sequestration projects' includes projects for direct air capture (as defined in paragraph (6)(B)(i) of section 103(g) of the Clean Air Act (42 U.S.C. 7403(g))).

"(ii) EFFICIENT, ORDERLY, AND RESPONSIBLE.—The term 'efficient, orderly, and responsible' means, with respect to development or the permitting process for carbon capture, utilization, and sequestration projects and carbon dioxide pipelines, a process that promotes environmental, health, and safety protections while maintaining a process that is completed in an expeditious manner.

"(B) REPORT.—

"(i) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Dec. 27, 2020], the Chair of the Council on Environmental Quality (referred to in this section as the 'Chair'), in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of the Interior, the Secretary of Transportation, the Executive Director of the Federal Permitting Improvement Council, and the head of any other relevant Federal agency (as determined by the President), shall prepare a report that—

"(I) compiles all existing relevant Federal permitting and review information and resources for project applicants, agencies, and other stakeholders interested in the deployment and impact of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines, including—

"(aa) the appropriate points of interaction with Federal agencies;

"(bb) clarification of the permitting responsibilities and authorities among Federal agencies; and

"(cc) best practices and templates for permitting in an efficient, orderly, and responsible manner, including through improved staff capacity and training at Federal permitting agencies;

"(II) inventories current or emerging activities that transform captured carbon dioxide into a product of commercial value, or as an input to products of commercial value;

"(III) inventories existing initiatives and recent publications that analyze or identify priority carbon dioxide pipelines needed to enable efficient, orderly, and responsible development of carbon capture, utilization, and sequestration projects at increased scale;

"(IV) identifies gaps in the current Federal regulatory framework for the deployment of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines;

"(V) identifies Federal financing mechanisms available to project developers; and

"(VI) identifies public engagement opportunities through existing laws, including under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(ii) SUBMISSION; PUBLICATION.—The Chair shall—

"(I) submit the report under clause (i) to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce, the Committee on Natural Resources, and the Committee on Transportation and Infrastructure of the House of Representatives; and

"(II) as soon as practicable, make the report publicly available.

"(C) GUIDANCE.—

"(i) IN GENERAL.—After submission of the report under subparagraph (B)(ii), but not later than 1 year after the date of enactment of this Act [Dec. 27, 2020], the Chair shall submit guidance consistent with that report to all relevant Federal agencies that—

"(I) facilitates reviews associated with the deployment of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines; and

"(II) supports the efficient, orderly, and responsible development of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines.

"(ii) REQUIREMENTS.—

"(I) IN GENERAL.—The guidance under clause (i) shall address applicable requirements under—

"(aa) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(bb) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

"(cc) the Clean Air Act (42 U.S.C. 7401 et seq.);

"(dd) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

"(ee) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(ff) division A of subtitle III of title 54, United States Code (formerly known as the 'National Historic Preservation Act');

"(gg) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

"(hh) the Act of June 8, 1940 (16 U.S.C. 668 et seq.) (commonly known as the 'Bald and Golden Eagle Protection Act');

"(ii) chapter 601 of title 49, United States Code (including those provisions formerly cited as the Natural Gas Pipeline Safety Act of 1968 (Public Law 90–481; 82 Stat. 720) and the Hazardous Liquid Pipeline Safety Act of 1979 (Public Law 96–129; 93 Stat. 1003)); and

"(jj) any other Federal law that the Chair determines to be appropriate.

"(II) ENVIRONMENTAL REVIEWS.—The guidance under clause (i) shall include direction to States and other interested parties for the development of programmatic environmental reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for carbon capture, utilization, and sequestration projects and carbon dioxide pipelines.

"(III) PUBLIC INVOLVEMENT.—The guidance under clause (i) shall be subject to the public notice, comment, and solicitation of information procedures under section 1506.6 of title 40, Code of Federal Regulations (or a successor regulation).

"(iii) SUBMISSION; PUBLICATION.—The Chair shall—

"(I) submit the guidance under clause (i) to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce, the Committee on Natural Resources, and the Committee on Transportation and Infrastructure of the House of Representatives; and

"(II) as soon as practicable, make the guidance publicly available.

"(iv) EVALUATION.—The Chair shall—

"(I) periodically evaluate the reports of the task forces under subparagraph (D)(v) and, as necessary, revise the guidance under clause (i); and

"(II) each year, submit to the Committee on Environment and Public Works of the Senate, the Committee on Energy and Commerce, the Committee on Natural Resources, and the Committee on Transportation and Infrastructure of the House of Representatives, and relevant Federal agencies a report that describes any recommendations for rules, revisions to rules, or other policies that would address the issues identified by the task forces under subparagraph (D)(v).

"(D) TASK FORCES.—

"(i) ESTABLISHMENT.—Not later than 18 months after the date of enactment of this Act [Dec. 27, 2020], the Chair shall establish not less than 2 task forces, which shall each cover a different geographical area with differing demographic, land use, or geological issues—

"(I) to identify permitting and other challenges and successes that permitting authorities and project developers and operators face in permitting projects in an efficient, orderly, and responsible manner; and

"(II) to improve the performance of the permitting process and regional coordination for the purpose of promoting the efficient, orderly, and responsible development of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines.

"(ii) MEMBERS AND SELECTION.—

"(I) IN GENERAL.—The Chair shall—

"(aa) develop criteria for the selection of members to each task force; and

"(bb) select members for each task force in accordance with item (aa) and subclause (II).

"(II) MEMBERS.—Each task force—

"(aa) shall include not less than 1 representative of each of—

"(AA) the Environmental Protection Agency;

"(BB) the Department of Energy;

"(CC) the Department of the Interior;

"(DD) the Pipeline and Hazardous Materials Safety Administration;

"(EE) any other Federal agency the Chair determines to be appropriate;

"(FF) any State that requests participation in the geographical area covered by the task force;

"(GG) developers or operators of carbon capture, utilization, and sequestration projects or carbon dioxide pipelines; and

"(HH) nongovernmental membership organizations, the primary mission of which concerns protection of the environment;

"(bb) at the request of a Tribal or local government, may include a representative of—

"(AA) not less than 1 local government in the geographical area covered by the task force; and

"(BB) not less than 1 Tribal government in the geographical area covered by the task force; and

"(cc) shall include 1 expert in each of the following fields—

"(AA) health and environmental effects, including exposure evaluation; and

"(BB) pipeline safety.

"(iii) MEETINGS.—

"(I) IN GENERAL.—Each task force shall meet not less than twice each year.

"(II) JOINT MEETING.—To the maximum extent practicable, the task forces shall meet collectively not less than once each year.

"(iv) DUTIES.—Each task force shall—

"(I) inventory existing or potential Federal and State approaches to facilitate reviews associated with the deployment of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines, including best practices that—

"(aa) avoid duplicative reviews to the extent permitted by law;

"(bb) engage stakeholders early in the permitting process; and

"(cc) make the permitting process efficient, orderly, and responsible;

"(II) develop common models for State-level carbon dioxide pipeline regulation and oversight guidelines that can be shared with States in the geographical area covered by the task force;

"(III) provide technical assistance to States in the geographical area covered by the task force in implementing regulatory requirements and any models developed under subclause (II);

"(IV) inventory current or emerging activities that transform captured carbon dioxide into a product of commercial value, or as an input to products of commercial value;

"(V) identify any priority carbon dioxide pipelines needed to enable efficient, orderly, and responsible development of carbon capture, utilization, and sequestration projects at increased scale;

"(VI) identify gaps in the current Federal and State regulatory framework and in existing data for the deployment of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines;

"(VII) identify Federal and State financing mechanisms available to project developers; and

"(VIII) develop recommendations for relevant Federal agencies on how to develop and research technologies that—

"(aa) can capture carbon dioxide; and

"(bb) would be able to be deployed within the region covered by the task force, including any projects that have received technical or financial assistance for research under paragraph (6) of section 103(g) of the Clean Air Act (42 U.S.C. 7403(g)).

"(v) REPORT.—Each year, each task force shall prepare and submit to the Chair and to the other task forces a report that includes—

"(I) any recommendations for improvements in efficient, orderly, and responsible issuance or administration of Federal permits and other Federal authorizations required under a law described in subparagraph (C)(ii)(I); and

"(II) any other nationally relevant information that the task force has collected in carrying out the duties under clause (iv).

"(vi) EVALUATION.—Not later than 5 years after the date of enactment of this Act [Dec. 27, 2020], the Chair shall—

"(I) reevaluate the need for the task forces; and

"(II) submit to Congress a recommendation as to whether the task forces should continue."

## **PLACEMENT IN UNITED STATES CODE**

Pub. L. 114–94, div. D, title XLI, §41014, Dec. 4, 2015, 129 Stat. 1762, provided that: "The Office of the Law Revision Counsel is directed to place sections 41001 through 41013 of this title in chapter 55 of title 42, United States Code, as subchapter IV."

## **EXECUTIVE DOCUMENTS**

### **EXECUTIVE ORDER NO. 13766**

Ex. Ord. No. 13766, Jan. 24, 2017, 82 F.R. 8657, which related to expediting environmental reviews and approvals for high priority infrastructure projects, was revoked by Ex. Ord. No. 13990, §7(a), Jan. 20, 2021, 86 F.R. 7041, set out in a note under section 4321 of this title.

### **EXECUTIVE ORDER NO. 13807**

Ex. Ord. No. 13807, Aug. 15, 2017, 82 F.R. 40463, which related to environmental review and permitting process for infrastructure projects, was revoked by Ex. Ord. No. 13990, §7(b), Jan. 20, 2021, 86 F.R. 7042, set out in a note under section 4321 of this title.

## **§4370m–1. Federal Permitting Improvement Steering Council**

### **(a) Establishment**

There is established the Federal Permitting Improvement Steering Council.

### **(b) Composition**

#### **(1) Chair**

The Executive Director shall—

- (A) be appointed by the President; and
- (B) serve as Chair of the Council.

#### **(2) Council members**

##### **(A) In general**

##### **(i) Designation by head of agency**

##### **(I) In general**

Each individual listed in subparagraph (B) shall designate a member of the agency in which the individual serves to serve on the Council.

## **(II) Redesignation**

If an individual listed in subparagraph (B) designates a different member to serve on the Council than the member designated under subclause (I), the individual shall notify the Executive Director of the designation by not later than 30 days after the date on which the designation is made.

### **(ii) Qualifications**

A councilmember described in clause (i) shall hold a position in the agency of deputy secretary (or the equivalent) or higher.

### **(iii) Support**

#### **(I) In general**

Consistent with guidance provided by the Director of the Office of Management and Budget, each individual listed in subparagraph (B) shall designate 1 or more appropriate members of the agency in which the individual serves to serve as an agency CERPO.

#### **(II) Reporting**

In carrying out the duties of the agency CERPO under this subchapter, an agency CERPO shall report directly to the applicable agency councilmember.

## **(B) Heads of agencies**

The individuals that shall each designate a councilmember under this subparagraph are as follows:

- (i) The Secretary of Agriculture.
- (ii) The Secretary of the Army.
- (iii) The Secretary of Commerce.
- (iv) The Secretary of the Interior.
- (v) The Secretary of Energy.
- (vi) The Secretary of Transportation.
- (vii) The Secretary of Defense.
- (viii) The Administrator of the Environmental Protection Agency.
- (ix) The Chairman of the Federal Energy Regulatory Commission.
- (x) The Chairman of the Nuclear Regulatory Commission.
- (xi) The Secretary of Homeland Security.
- (xii) The Secretary of Housing and Urban Development.
- (xiii) The Chairman of the Advisory Council on Historic Preservation.
- (xiv) Any other head of a Federal agency that the Executive Director may invite to participate as a member of the Council.

## **(3) Additional members**

In addition to the members listed in paragraphs (1) and (2), the Chairman of the Council on Environmental Quality and the Director of the Office of Management and Budget shall also be members of the Council.

## **(c) Duties**

### **(1) Executive Director**

#### **(A) Inventory development**

The Executive Director, in consultation with the Council, shall—

- (i) not later than 180 days after December 4, 2015, establish an inventory of covered projects that are pending the environmental review or authorization of the head of any Federal agency;
  - (ii)(I) categorize the projects in the inventory as appropriate, based on sector and project type; and  
(II) for each category, identify the types of environmental reviews and authorizations most commonly involved;
- and
- (iii) add a covered project to the inventory after receiving a notice described in section 4370m–2(a)(1) of this title.

#### **(B) Facilitating agency designation**

The Executive Director, in consultation with the Council, shall—

- (i) designate a facilitating agency for each category of covered projects described in subparagraph (A)(ii); and
- (ii) publish the list of designated facilitating agencies for each category of projects in the inventory on the Dashboard in an easily accessible format.

#### **(C) Performance schedules**

##### **(i) In general**

Not later than 1 year after December 4, 2015, the Executive Director, in consultation with the Council, shall develop recommended performance schedules, including intermediate and final completion dates, for

environmental reviews and authorizations most commonly required for each category of covered projects described in subparagraph (A)(ii).

**(ii) Requirements**

**(I) In general**

The performance schedules shall reflect employment of the most sound and efficient applicable processes, including the alignment of Federal reviews of projects, reduction of permitting and project delivery time, and consideration of the best practices for public participation.

**(II) Goal**

**(aa) In general**

To the maximum extent practicable, and consistent with applicable Federal law, the Executive Director, in consultation with the Council, shall aim to develop recommended performance schedules under clause (i) of not more than 2 years.

**(bb) Exception**

If a recommended performance schedule developed under clause (i) exceeds 2 years, the relevant agencies, in consultation with the Executive Director and the Council, shall explain in that recommended performance schedule the factors that cause the environmental reviews and authorizations in that category of covered projects to take longer than 2 years.

**(III) Limit**

**(aa) In general**

The final completion dates in any performance schedule for the completion of an environmental review or authorization under clause (i) shall not exceed the average time to complete an environmental review or authorization for a project within that category.

**(bb) Calculation of average time**

The average time referred to in item (aa) shall be calculated based on relevant historical data, as determined by the Executive Director, and shall run from the period beginning on the date on which the Executive Director must make a specific entry for the project on the Dashboard under section 4370m–2(b) (2) of this title (except that, for projects initiated before that duty takes effect, the period beginning on the date of filing of a completed application), and ending on the date of the issuance of a record of decision or other final agency action on the review or authorization.

**(cc) Completion date**

Each performance schedule shall specify that any decision by an agency on an environmental review or authorization must be issued not later than 180 days after the date on which all information needed to complete the review or authorization (including any hearing that an agency holds on the matter) is in the possession of the agency.

**(iii) Review and revision**

Not later than 2 years after the date on which the performance schedules are established under this subparagraph, and not less frequently than once every 2 years thereafter, the Executive Director, in consultation with the Council, shall review and revise the performance schedules.

**(D) Guidance**

The Executive Director, in consultation with the Council, may recommend to the Director of the Office of Management and Budget or to the Council on Environmental Quality, as appropriate, that guidance be issued as necessary for agencies—

- (i) to carry out responsibilities under this subchapter; and
- (ii) to effectuate the adoption by agencies of the best practices and recommendations of the Council described in paragraph (2).

**(2) Council**

**(A) Recommendations**

**(i) In general**

The Council shall make recommendations to the Executive Director with respect to the designations under paragraph (1)(B) and the performance schedules under paragraph (1)(C).

**(ii) Update**

The Council may update the recommendations described in clause (i).

**(B) Best practices**

Not less frequently than annually, the Council shall issue recommendations on the best practices for improving the Federal permitting process for covered projects, which may include—



- (i) enhancing early stakeholder engagement, including—
  - (I) engaging with Native American stakeholders to ensure that project sponsors and agencies identify potential natural, archeological, and cultural resources and locations of historic and religious significance in the area of a covered project; and
  - (II) fully considering and, as appropriate, incorporating recommendations provided in public comments on any proposed covered project;
- (ii) ensuring timely decisions regarding environmental reviews and authorizations, including through the development of performance metrics;
- (iii) improving coordination between Federal and non-Federal governmental entities, including through the development of common data standards and terminology across agencies;
- (iv) increasing transparency;
- (v) reducing information collection requirements and other administrative burdens on agencies, project sponsors, and other interested parties;
- (vi) developing and making available to applicants appropriate geographic information systems and other tools;
- (vii) creating and distributing training materials useful to Federal, State, tribal, and local permitting officials;
- (viii) in coordination with the Executive Director, improving preliminary engagement with project sponsors in developing coordinated project plans;
- (ix) using programmatic assessments, templates, and other tools based on the best available science and data; and
- (x) addressing other aspects of infrastructure permitting, as determined by the Council.

### **(C) Meetings**

The Council shall meet not less frequently than annually with groups or individuals representing State, tribal, and local governments that are engaged in the infrastructure permitting process.

### **(3) Agency CERPOs**

An agency CERPO shall—

- (A) advise the respective agency councilmember on matters related to environmental reviews and authorizations, including agency compliance with intermediate and final completion dates described in coordinated project plans;
- (B) provide technical support, when requested to facilitate efficient and timely processes for environmental reviews and authorizations for covered projects under the jurisdictional responsibility of the agency, including supporting timely identification and resolution of potential disputes within the agency or between the agency and other Federal agencies;
- (C) analyze agency environmental review and authorization processes, policies, and authorities and make recommendations to the respective agency councilmember for ways to standardize, simplify, and improve the efficiency of the processes, policies, and authorities, including by implementing guidance issued under paragraph (1)(D) and other best practices, including the use of information technology and geographic information system tools within the agency and across agencies, to the extent consistent with existing law; and
- (D) review and develop training programs for agency staff that support and conduct environmental reviews or authorizations.

(Pub. L. 114–94, div. D, title XLI, §41002, Dec. 4, 2015, 129 Stat. 1743; Pub. L. 117–58, div. G, title VIII, §70801(b), (i), Nov. 15, 2021, 135 Stat. 1288, 1294.)

## **EDITORIAL NOTES**

## **CODIFICATION**

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

## **AMENDMENTS**

**2021**—Pub. L. 117–58, §70801(b)(1), substituted "Federal Permitting Improvement Steering Council" for "Federal Permitting Improvement Council" in section catchline.

Subsec. (b)(2)(A)(i). Pub. L. 117–58, §70801(b)(2)(A), designated existing provisions as subcl. (I), inserted subcl. heading, and added subcl. (II).

Subsec. (b)(2)(A)(ii). Pub. L. 117–58, §70801(i), substituted "councilmember" for "councilmem-ber".

Subsec. (b)(2)(A)(iii)(II). Pub. L. 117–58, §70801(b)(2)(B), substituted "the applicable agency councilmember" for "a deputy secretary (or the equivalent) or higher".

Subsec. (c)(1)(C)(ii)(I). Pub. L. 117–58, §70801(b)(3)(A)(i), added subcl. (I) and struck out former subcl. (I). Prior to amendment, text read as follows: "The performance schedules shall reflect employment of the

use of the most efficient applicable processes, including the alignment of Federal reviews of projects and reduction of permitting and project delivery time."

Subsec. (c)(1)(C)(ii)(II), (III). Pub. L. 117–58, §70801(b)(3)(A)(ii), (iii), added subcl. (II) and redesignated former subcl. (II) as (III).

Subsec. (c)(1)(C)(ii)(III)(bb). Pub. L. 117–58, §70801(b)(3)(A)(iv), substituted "based on relevant historical data, as determined by the Executive Director," for "on the basis of data from the preceding 2 calendar years".

Subsec. (c)(2)(B). Pub. L. 117–58, §70801(b)(3)(B)(i), substituted "less frequently than annually, the Council shall issue recommendations on the best practices for improving the Federal permitting process for covered projects, which may include" for "later than 1 year after December 4, 2015, and not less frequently than annually thereafter, the Council shall issue recommendations on the best practices for" in introductory provisions.

Subsec. (c)(2)(B)(i). Pub. L. 117–58, §70801(b)(3)(B)(ii), substituted "stakeholder engagement, including —" for "stakeholder engagement, including", added subcl. (I), and inserted designation for subcl. (II) before "fully considering".

Subsec. (c)(2)(B)(viii) to (x). Pub. L. 117–58, §70801(b)(3)(B)(iii)–(v), added cls. (viii) and (ix) and redesignated former cl. (viii) as (x).

Subsec. (c)(3)(A). Pub. L. 117–58, §70801(b)(3)(C), inserted ", including agency compliance with intermediate and final completion dates described in coordinated project plans" after "authorizations".

Subsec. (d). Pub. L. 117–58, §70801(b)(4), struck out subsec. (d). Prior to amendment, text read as follows: "The Director of the Office of Management and Budget shall designate a Federal agency, other than an agency that carries out or provides support only for projects that are not covered projects, to provide administrative support for the Executive Director, and the designated agency shall, as reasonably necessary, provide support and staff to enable the Executive Director to fulfill the duties of the Executive Director under this subchapter."

## **§4370m–2. Permitting process improvement**

### **(a) Project initiation and designation of participating agencies**

#### **(1) Notice**

##### **(A) In general**

A project sponsor of a covered project shall submit to the Executive Director and the facilitating agency notice of the initiation of a proposed covered project.

##### **(B) Default designation**

If, at the time of submission of the notice under subparagraph (A), the Executive Director has not designated a facilitating agency under section 4370m–1(c)(1)(B) of this title for the categories of projects noticed, the agency that receives the notice under subparagraph (A) shall be designated as the facilitating agency.

##### **(C) Contents**

Each notice described in subparagraph (A) shall include—

- (i) a statement of the purposes and objectives of the proposed project;
- (ii) a concise description, including the general location of the proposed project and a summary of geospatial information, if available, illustrating the project area and the locations, if any, of environmental, cultural, and historic resources;
- (iii) a statement regarding the technical and financial ability of the project sponsor to construct the proposed project;
- (iv) a statement of any Federal financing, environmental reviews, and authorizations anticipated to be required to complete the proposed project; and
- (v) an assessment that the proposed project meets the definition of a covered project under section 4370m of this title and a statement of reasons supporting the assessment.

##### **(D) Confidentiality**

Any information relating to Native American natural, cultural, and historical resources submitted in a notice by a project sponsor under subparagraph (A) shall be—

- (i) kept confidential; and
- (ii) exempt from the disclosure requirements under section 552 of title 5 (commonly known as the "Freedom of Information Act") and the Federal Advisory Committee Act (5 U.S.C. App.).

#### **(2) Invitation**

##### **(A) In general**

Not later than 21 calendar days after the date on which the Executive Director must make a specific entry for the project on the Dashboard under subsection (b)(2)(A), the facilitating agency or lead agency, as applicable, shall—

- (i) identify all Federal and non-Federal agencies and governmental entities likely to have financing, environmental review, authorization, or other responsibilities with respect to the proposed project; and
- (ii) invite all Federal agencies identified under clause (i) to become a participating agency or a cooperating agency, as appropriate, in the environmental review and authorization management process described in section 4370m–4 of this title.

**(B) Deadlines**

Each invitation made under subparagraph (A) shall include a 14 calendar day deadline for a response to be submitted to the facilitating or lead agency, as applicable.

**(3) Participating and cooperating agencies**

**(A) In general**

An agency invited under paragraph (2) shall be designated as a participating or cooperating agency for a covered project, unless the agency informs the facilitating or lead agency, as applicable, and the Executive Director in writing before the deadline under paragraph (2)(B) that the agency—

- (i) has no jurisdiction or authority with respect to the proposed project; or
- (ii) does not intend to exercise authority related to, or submit comments on, the proposed project.

**(B) Changed circumstances**

On request and a showing of changed circumstances, the Executive Director may designate an agency that has opted out under subparagraph (A)(ii) to be a participating or cooperating agency, as appropriate.

**(4) Effect of designation**

The designation described in paragraph (3) shall not—

- (A) give the participating agency authority or jurisdiction over the covered project; or
- (B) expand any jurisdiction or authority a cooperating agency may have over the proposed project.

**(5) Lead agency designation**

**(A) In general**

On establishment of the lead agency, the lead agency shall assume the responsibilities of the facilitating agency under this subchapter.

**(B) Redesignation of facilitating agency**

If the lead agency assumes the responsibilities of the facilitating agency under subparagraph (A), the facilitating agency may be designated as a cooperative or participating agency.

**(6) Change of facilitating or lead agency**

**(A) In general**

On the request of a participating agency or project sponsor, the Executive Director may designate a different agency as the facilitating or lead agency, as applicable, for a covered project, if the facilitating or lead agency or the Executive Director receives new information regarding the scope or nature of a covered project that indicates that the project should be placed in a different category under section 4370m–1(c)(1)(B) of this title.

**(B) Resolution of dispute**

The Chairman of the Council on Environmental Quality shall resolve any dispute over designation of a facilitating or lead agency for a particular covered project.

**(b) Permitting dashboard**

**(1) Requirement to maintain**

**(A) In general**

The Executive Director, in coordination with the Administrator of General Services, shall maintain an online database to be known as the "Permitting Dashboard" to track the status of Federal environmental reviews and authorizations for any covered project in the inventory described in section 4370m–1(c)(1)(A) of this title.

**(B) Specific and searchable entry**

The Dashboard shall include a specific and searchable entry for each covered project.

**(2) Additions**

**(A) In general**

**(i) Existing projects**

Not later than 14 days after the date on which the Executive Director adds a project to the inventory under section 4370m–1(c)(1)(A) of this title, the Executive Director shall create a specific entry on the Dashboard for the covered project.

## **(ii) New projects**

Not later than 14 days after the date on which the Executive Director receives a notice under subsection (a) (1), the Executive Director shall create a specific entry on the Dashboard for the covered project, unless the Executive Director, facilitating agency, or lead agency, as applicable, determines that the project is not a covered project.

## **(iii) Projects other than covered projects**

### **(I) In general**

The Executive Director may direct a lead agency to create a specific entry on the Dashboard for a project that is not a covered project and is under review by the lead agency if the Executive Director determines that a Dashboard entry for that project is in the interest of transparency.

### **(II) Requirements**

Not later than 14 days after the date on which the Executive Director directs the lead agency to create a specific entry on the Dashboard for a project described in subclause (I), the lead agency shall create and maintain a specific entry on the Dashboard for the project that contains—

(aa) a comprehensive permitting timetable, as described in subsection (c)(2)(A);

(bb) the status of the compliance of each lead agency, cooperating agency, and participating agency with the permitting timetable required under item (aa);

(cc) any modifications of the permitting timetable required under item (aa), including an explanation as to why the permitting timetable was modified; and

(dd) information about project-related public meetings, public hearings, and public comment periods, which shall be presented in English and the predominant language of the community or communities most affected by the project, as that information becomes available.

### **(B) Explanation**

If the facilitating agency or lead agency, as applicable, determines that the project is not a covered project, the project sponsor may submit a further explanation as to why the project is a covered project not later than 14 days after the date of the determination under subparagraph (A).

### **(C) Final determination**

Not later than 14 days after receiving an explanation described in subparagraph (B), the Executive Director shall —

(i) make a final and conclusive determination as to whether the project is a covered project; and

(ii) if the Executive Director determines that the project is a covered project, create a specific entry on the Dashboard for the covered project.

## **(3) Postings by agencies**

### **(A) In general**

For each covered project added to the Dashboard under paragraph (2), the facilitating or lead agency, as applicable, and each cooperating and participating agency shall post to the Dashboard—

(i) a hyperlink that directs to a website that contains, to the extent consistent with applicable law—

(I) the notification submitted under subsection (a)(1);

(II)(aa) where practicable, the application and supporting documents, if applicable, that have been submitted by a project sponsor for any required environmental review or authorization; or

(bb) a notice explaining how the public may obtain access to such documents;

(III) a description of any Federal agency action taken or decision made that materially affects the status of a covered project;

(IV) any significant document that supports the action or decision described in subclause (III);

(V) information on the status of mitigation measures that were agreed to as part of the environmental review and permitting process, including whether and when the mitigation measures have been fully implemented; and

(VI) a description of the status of any litigation to which the agency is a party that is directly related to the project, including, if practicable, any judicial document made available on an electronic docket maintained by a Federal, State, or local court;

(ii) any document described in clause (i) that is not available by hyperlink on another website; and

(iii) information about project-related public meetings, public hearings, and public comment periods, which shall be presented in English and the predominant language of the community or communities most affected by the project, as that information becomes available.

### **(B) Deadline**

The information described in subparagraph (A) shall be posted to the website made available by hyperlink on the Dashboard not later than 5 business days after the date on which the Federal agency receives the information.

## **(4) Postings by the Executive Director**

The Executive Director shall publish to the Dashboard—

- (A) the permitting timetable established under subparagraph (A) or (C) of subsection (c)(2);
- (B) the status of the compliance of each agency with the permitting timetable;
- (C) any modifications of the permitting timetable;
- (D) an explanation of each modification described in subparagraph (C); and
- (E) any memorandum of understanding established under subsection (c)(3)(B).

## **(c) Coordination and timetables**

### **(1) Coordinated project plan**

#### **(A) In general**

Not later than 60 days after the date on which the Executive Director must make a specific entry for the project on the Dashboard under subsection (b)(2)(A), the facilitating or lead agency, as applicable, in consultation with each coordinating and participating agency, shall establish a concise plan for coordinating public and agency participation in, and completion of, any required Federal environmental review and authorization for the project.

#### **(B) Required information**

The Coordinated Project Plan shall include the following information and be updated by the facilitating or lead agency, as applicable, at least once per quarter:

- (i) A list of, and roles and responsibilities for, all entities with environmental review or authorization responsibility for the project.
- (ii) A permitting timetable, as described in paragraph (2), setting forth a comprehensive schedule of dates by which all environmental reviews and authorizations, and to the maximum extent practicable, State permits, reviews and approvals must be made.
- (iii) A discussion of potential avoidance, minimization, and mitigation strategies, if required by applicable law and known.
- (iv) Plans and a schedule for public and tribal outreach and coordination, to the extent required by applicable law.

#### **(C) Memorandum of understanding**

The coordinated project plan described in subparagraph (A) may be incorporated into a memorandum of understanding.

### **(2) Permitting timetable**

#### **(A) Establishment**

As part of the coordinated project plan under paragraph (1), the facilitating or lead agency, as applicable, in consultation with each cooperating and participating agency, the project sponsor, and any State in which the project is located, and, subject to subparagraph (C), with the concurrence of each cooperating agency, shall establish a permitting timetable that includes intermediate and final completion dates for action by each participating agency on any Federal environmental review or authorization required for the project.

#### **(B) Factors for consideration**

In establishing the permitting timetable under subparagraph (A), the facilitating or lead agency shall follow the performance schedules established under section 4370m–1(c)(1)(C) of this title, but may vary the timetable based on relevant factors, including—

- (i) the size and complexity of the covered project;
- (ii) the resources available to each participating agency;
- (iii) the regional or national economic significance of the project;
- (iv) the sensitivity of the natural or historic resources that may be affected by the project;
- (v) the financing plan for the project; and
- (vi) the extent to which similar projects in geographic proximity to the project were recently subject to environmental review or similar procedures under State law.

#### **(C) Dispute resolution**

##### **(i) In general**

The Executive Director, in consultation with appropriate agency CERPOs and the project sponsor, shall, as necessary, mediate any disputes regarding the permitting timetable referred to under subparagraph (A).

##### **(ii) Disputes**

If a dispute remains unresolved 30 days after the date on which the dispute was submitted to the Executive Director, the Director of the Office of Management and Budget, in consultation with the Chairman of the Council on Environmental Quality, shall facilitate a resolution of the dispute and direct the agencies party to the dispute to resolve the dispute by the end of the 60-day period beginning on the date of submission of the dispute to the Executive Director.

##### **(iii) Final resolution**

Any action taken by the Director of the Office of Management and Budget in the resolution of a dispute under clause (ii) shall—

- (I) be final and conclusive; and
- (II) not be subject to judicial review.

#### **(D) Modification after approval**

##### **(i) In general**

The facilitating or lead agency, as applicable, may modify a permitting timetable established under subparagraph (A) only if—

- (I) the facilitating or lead agency, as applicable, consults with the Executive Director regarding the potential modification not less than 15 days before engaging in the consultation under subclause (II);
- (II) the facilitating or lead agency, as applicable, and the affected cooperating agencies, after consultation with the participating agencies, the Executive Director, and the project sponsor, agree to a different completion date;
- (III) the facilitating agency or lead agency, as applicable, or the affected cooperating agency provides a written justification for the modification; and
- (IV) in the case of a modification that would necessitate an extension of a final completion date under a permitting timetable established under subparagraph (A) to a date more than 30 days after the final completion date originally established under subparagraph (A), the facilitating or lead agency submits a request to modify the permitting timetable to the Executive Director, who shall consult with the project sponsor and make a determination on the record, based on consideration of the relevant factors described under subparagraph (B), whether to grant the facilitating or lead agency, as applicable, authority to make such modification.

##### **(ii) Completion date**

A completion date in the permitting timetable may not be modified within 30 days of the completion date.

##### **(iii) Limitation on length of modifications**

###### **(I) In general**

Except as provided in subclause (II), the total length of all modifications to a permitting timetable authorized or made under this subparagraph, other than for reasons outside the control of Federal, State, local, or tribal governments, may not extend the permitting timetable for a period of time greater than half of the amount of time from the establishment of the permitting timetable under subparagraph (A) to the last final completion date originally established under subparagraph (A).

###### **(II) Additional extensions**

The Director of the Office of Management and Budget, after consultation with the project sponsor, may permit the Executive Director to authorize additional extensions of a permitting timetable beyond the limit prescribed by subclause (I). In such a case, the Director of the Office of Management and Budget shall transmit, not later than 5 days after making a determination to permit an authorization of extension under this subclause, a report to Congress explaining why such modification is required. Such report shall explain to Congress with specificity why the original permitting timetable and the modifications authorized by the Executive Director failed to be adequate. The lead or facilitating agency, as applicable, shall transmit to Congress, the Director of the Office of Management and Budget, and the Executive Director a supplemental report on progress toward the final completion date each year thereafter, until the permit review is completed or the project sponsor withdraws its notice or application or other request to which this subchapter applies under section 4370m-9 of this title.

##### **(iv) Limitation on judicial review**

The following shall not be subject to judicial review:

- (I) A determination by the Executive Director under clause (i)(III).
- (II) A determination under clause (iii)(II) by the Director of the Office of Management and Budget to permit the Executive Director to authorize extensions of a permitting timetable.

#### **(E) Consistency with other time periods**

A permitting timetable established under subparagraph (A) shall be consistent with any other relevant time periods established under Federal law and shall not prevent any cooperating or participating agency from discharging any obligation under Federal law in connection with the project.

#### **(F) Conforming to permitting timetables**

##### **(i) In general**

Each Federal agency shall conform to the intermediate and final completion dates set forth in the permitting timetable established under subparagraph (A), or with any intermediate or final completion date modified under subparagraph (D).

##### **(ii) Failure to conform**

If a Federal agency fails to conform with an intermediate or final completion date for agency action on a covered project or reasonably believes the agency will fail to conform with a completion date 30 days before such a completion date, the agency shall—

(I) promptly submit to the Executive Director for publication on the Dashboard an explanation of the specific reasons for failing or reasonably believing the agency will fail to conform to the completion date and a proposal for an alternative completion date;

(II) in consultation with the facilitating or lead agency, as applicable, establish an alternative completion date; and

(III) each month thereafter until the agency has taken final action on the delayed authorization or review, submit to the Executive Director for posting on the Dashboard a status report describing any agency activity related to the project.

### **(G) Abandonment of covered project**

#### **(i) In general**

If the facilitating or lead agency, as applicable, has a reasonable basis to doubt the continuing technical or financial ability of the project sponsor to construct the covered project, the facilitating or lead agency may request the project sponsor provide an updated statement regarding the ability of the project sponsor to complete the project.

#### **(ii) Failure to respond**

If the project sponsor fails to respond to a request described in clause (i) by the date that is 30 days after receiving the request, the lead or facilitating agency, as applicable, shall notify the Executive Director, who shall publish an appropriate notice on the Dashboard.

#### **(iii) Publication to Dashboard**

On publication of a notice under clause (ii), the completion dates in the permitting timetable shall be tolled and agencies shall be relieved of the obligation to comply with subparagraph (F) until such time as the project sponsor submits to the facilitating or lead agency, as applicable, an updated statement regarding the technical and financial ability of the project sponsor to construct the project.

### **(3) Cooperating State, local, or tribal governments**

#### **(A) State authority**

If the Federal environmental review is being implemented within the boundaries of a State, the State, consistent with State law, may choose to participate in the environmental review and authorization process under this subsection and to make subject to the process all State agencies that—

(i) have jurisdiction over the covered project;

(ii) are required to conduct or issue a review, analysis, opinion, or statement for the covered project; or

(iii) are required to make a determination on issuing a permit, license, or other approval or decision for the covered project.

#### **(B) Coordination**

To the maximum extent practicable under applicable law, the facilitating or lead agency, as applicable, shall coordinate the Federal environmental review and authorization processes under this subsection with any State, local, or tribal agency responsible for conducting any separate review or authorization of the covered project to ensure timely and efficient completion of environmental reviews and authorizations.

#### **(C) Memorandum of understanding**

##### **(i) In general**

Any coordination plan between the facilitating or lead agency, as applicable, and any State, local, or tribal agency shall, to the maximum extent practicable, be included in a memorandum of understanding.

##### **(ii) Submission to Executive Director**

The facilitating or lead agency, as applicable, shall submit to the Executive Director each memorandum of understanding described in clause (i).

#### **(D) Applicability**

The requirements under this subchapter shall only apply to a State or an authorization issued by a State if the State has chosen to participate in the environmental review and authorization process pursuant to this paragraph.

### **(d) Early consultation**

The facilitating or lead agency, as applicable, shall provide an expeditious process for project sponsors to confer with each cooperating and participating agency involved and, not later than 60 days after the date on which the project sponsor submits a request under this subsection, to have each such agency provide to the project sponsor information concerning—

(1) the availability of information and tools, including pre-application toolkits, to facilitate early planning efforts;

(2) key issues of concern to each agency and to the public; and

(3) issues that must be addressed before an environmental review or authorization can be completed.

**(e) Cooperating agency**

**(1) In general**

A lead agency may designate a participating agency as a cooperating agency in accordance with part 1501 of title 40, Code of Federal Regulations (or successor regulations).

**(2) Effect on other designation**

The designation described in paragraph (1) shall not affect any designation under subsection (a)(3).

**(3) Limitation on designation**

Any agency not designated as a participating agency under subsection (a)(3) shall not be designated as a cooperating agency under paragraph (1).

**(f) Reporting status of other projects on Dashboard**

**(1) In general**

On request of the Executive Director, the Secretary and the Secretary of the Army shall use best efforts to provide information for inclusion on the Dashboard on projects subject to section 139 of title 23 and section 2348 of title 33 likely to require—

- (A) a total investment of more than \$200,000,000; and
- (B) an environmental impact statement under NEPA.

**(2) Effect of inclusion on Dashboard**

Inclusion on the Dashboard of information regarding projects subject to section 139 of title 23 or section 2348 of title 33 shall not subject those projects to any requirements of this subchapter.

(Pub. L. 114–94, div. D, title XLI, §41003, Dec. 4, 2015, 129 Stat. 1747; Pub. L. 117–58, div. G, title VIII, §70801(c), Nov. 15, 2021, 135 Stat. 1289.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Federal Advisory Committee Act, referred to in subsec. (a)(1)(D)(ii), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

NEPA, referred to in subsec. (f)(1)(B), means the National Environmental Policy Act of 1969, Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to this chapter. See section 4370m(16) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

**CODIFICATION**

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

**AMENDMENTS**

**2021**—Subsec. (a)(1)(D). Pub. L. 117–58, §70801(c)(1)(A), added subpar. (D).

Subsec. (a)(2)(A). Pub. L. 117–58, §70801(c)(1)(B)(i), substituted "21 calendar days" for "45 days" in introductory provisions.

Subsec. (a)(2)(B). Pub. L. 117–58, §70801(c)(1)(B)(ii), inserted "14 calendar day" before "deadline".

Subsec. (a)(3)(A). Pub. L. 117–58, §70801(c)(1)(C), inserted "and the Executive Director" after "as applicable," in introductory provisions.

Subsec. (b)(2)(A)(iii). Pub. L. 117–58, §70801(c)(2)(A), added cl. (iii).

Subsec. (b)(3)(A)(i)(V), (VI). Pub. L. 117–58, §70801(c)(2)(B)(i), added subcl. (V), redesignated former subcl. (V) as (VI), and struck out "and" at end of subcl. (VI).

Subsec. (b)(3)(A)(iii). Pub. L. 117–58, §70801(c)(2)(B)(ii), (iii), added cl. (iii).

Subsec. (c)(2)(A). Pub. L. 117–58, §70801(c)(3)(A), substituted "coordinated" for "coordination".

Subsec. (c)(2)(D)(i). Pub. L. 117–58, §70801(c)(3)(B)(i), (ii), added subcl. (I) and redesignated former subcls. (I) to (III) as (II) to (IV), respectively.

Subsec. (c)(2)(D)(i)(II). Pub. L. 117–58, §70801(c)(3)(B)(iii), inserted ", the Executive Director," after "participating agencies".

Subsec. (c)(2)(F)(i). Pub. L. 117–58, §70801(c)(3)(C)(i), inserted "intermediate and final" before "completion dates" and "intermediate or final" before "completion date".

Subsec. (c)(2)(F)(ii). Pub. L. 117–58, §70801(c)(3)(C)(ii)(I), substituted "an intermediate or final completion date for agency action on a covered project or reasonably believes the agency will fail to



conform with a completion date 30 days before" for "a completion date for agency action on a covered project or is at significant risk of failing to conform with" in introductory provisions.

Subsec. (c)(2)(F)(ii)(I). Pub. L. 117–58, §70801(c)(3)(C)(ii)(II), substituted "reasonably believing the agency will fail to conform" for "significantly risking failing to conform".

### **§4370m–3. Interstate compacts**

#### **(a) In general**

The consent of Congress is given for 3 or more contiguous States to enter into an interstate compact establishing regional infrastructure development agencies to facilitate authorization and review of covered projects, under State law or in the exercise of delegated permitting authority described under section 4370m–5 of this title, that will advance infrastructure development, production, and generation within the States that are parties to the compact.

#### **(b) Regional infrastructure**

For the purpose of this subchapter, a regional infrastructure development agency referred to in subsection (a) shall have the same authorities and responsibilities of a State agency.

(Pub. L. 114–94, div. D, title XLI, §41004, Dec. 4, 2015, 129 Stat. 1755.)

#### **EDITORIAL NOTES**

#### **CODIFICATION**

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### **§4370m–4. Coordination of required reviews**

#### **(a) Concurrent reviews**

To integrate environmental reviews and authorizations, each agency shall, to the maximum extent practicable—

(1) carry out the obligations of the agency with respect to a covered project under any other applicable law concurrently, and in conjunction with, other environmental reviews and authorizations being conducted by other cooperating or participating agencies, including environmental reviews and authorizations required under NEPA, unless the agency determines that doing so would impair the ability of the agency to carry out the statutory obligations of the agency;

(2) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner; and

(3) where an environmental impact statement is required for a project, prepare a single, joint interagency environmental impact statement for the project unless the lead agency provides justification in the coordinated project plan that multiple environmental documents are more efficient for project review and authorization.

#### **(b) Adoption, incorporation by reference, and use of documents**

##### **(1) Use of existing documents**

###### **(A) In general**

On the request of a project sponsor, a lead agency shall consider and, as appropriate, adopt or incorporate by reference, the analysis and documentation that has been prepared for a covered project under the laws and procedures of a State or Indian Tribe (as defined in section 5130 of title 25) as the documentation, or part of the documentation, required to complete an environmental review for the covered project, if the analysis and documentation were, as determined by the lead agency in consultation with the Council on Environmental Quality, developed pursuant to laws and procedures of that State or Indian Tribe (as so defined) that are of equal or greater rigor to each applicable Federal law and procedure, and prepared under circumstances that allowed for opportunities for public participation and consideration of alternatives, environmental consequences, and other required analyses that are substantially equivalent to what would have been available had the documents and analysis been prepared by a Federal agency pursuant to NEPA.

###### **(B) Guidance by CEQ**

The Council on Environmental Quality may issue guidance to carry out this subsection.

##### **(2) NEPA obligations**

An environmental document adopted under paragraph (1) or a document that includes documentation incorporated under paragraph (1) may serve as the documentation required for an environmental review or a

supplemental environmental review required to be prepared by a lead agency under NEPA.

### **(3) Supplementation of State documents**

If the lead agency adopts or incorporates analysis and documentation described in paragraph (1), the lead agency shall prepare and publish a supplemental document if the lead agency determines that during the period after preparation of the analysis and documentation and before the adoption or incorporation—

(A) a significant change has been made to the covered project that is relevant for purposes of environmental review of the project; or

(B) there has been a significant circumstance or new information has emerged that is relevant to the environmental review for the covered project.

### **(4) Comments**

If a lead agency prepares and publishes a supplemental document under paragraph (3), the lead agency shall solicit comments from other agencies and the public on the supplemental document for a period of not more than 45 days, beginning on the date on which the supplemental document is published, unless—

(A) the lead agency, the project sponsor, and any cooperating agency agree to a longer deadline; or

(B) the lead agency extends the deadline for good cause.

### **(5) Notice of outcome of environmental review**

A lead agency shall issue a record of decision or finding of no significant impact, as appropriate, based on the document adopted under paragraph (1) and any supplemental document prepared under paragraph (3).

## **(c) Alternatives analysis**

### **(1) Participation**

#### **(A) In general**

As early as practicable during the environmental review, but not later than the commencement of scoping for a project requiring the preparation of an environmental impact statement, the lead agency shall engage the cooperating agencies and the public to determine the range of reasonable alternatives to be considered for a covered project.

#### **(B) Determination**

The determination under subparagraph (A) shall be completed not later than the completion of scoping.

### **(2) Range of alternatives**

#### **(A) In general**

Following participation under paragraph (1) and subject to subparagraph (B), the lead agency shall determine the range of reasonable alternatives for consideration in any document that the lead agency is responsible for preparing for the covered project.

#### **(B) Alternatives required by law**

In determining the range of alternatives under subparagraph (A), the lead agency shall include all alternatives required to be considered by law.

### **(3) Methodologies**

#### **(A) In general**

The lead agency shall determine, in collaboration with each cooperating agency at appropriate times during the environmental review, the methodologies to be used and the level of detail required in the analysis of each alternative for a covered project.

#### **(B) Environmental review**

A cooperating agency shall use the methodologies referred to in subparagraph (A) when conducting any required environmental review, to the extent consistent with existing law.

### **(4) Preferred alternative**

With the concurrence of the cooperating agencies with jurisdiction under Federal law and at the discretion of the lead agency, the preferred alternative for a project, after being identified, may be developed to a higher level of detail than other alternatives to facilitate the development of mitigation measures or concurrent compliance with other applicable laws if the lead agency determines that—

(A) the development of the higher level of detail will not prevent the lead agency from making an impartial decision as to whether to accept another alternative that is being considered in the environmental review; and

(B) the preferred and other alternatives are developed in sufficient detail to enable the public to comment on the alternatives.

## **(d) Environmental review comments**

### **(1) Comments on draft environmental impact statement**

For comments by an agency or the public on a draft environmental impact statement, the lead agency shall establish a comment period of not less than 45 days and not more than 60 days after the date on which a notice announcing availability of the environmental impact statement is published in the Federal Register, unless—

- (A) the lead agency, the project sponsor, and any cooperating agency agree to a longer deadline; or
- (B) the lead agency, in consultation with each cooperating agency, extends the deadline for good cause.

**(2) Other review and comment periods**

For all other review or comment periods in the environmental review process described in parts 1500 through 1508 of title 40, Code of Federal Regulations (or successor regulations), the lead agency shall establish a comment period of not more than 45 days after the date on which the materials on which comment is requested are made available, unless—

- (A) the lead agency, the project sponsor, and any cooperating agency agree to a longer deadline; or
- (B) the lead agency extends the deadline for good cause.

**(e) Issue identification and resolution**

**(1) Cooperation**

The lead agency and each cooperating and participating agency shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of an environmental review or an authorization required for the project under applicable law or result in the denial of any approval under applicable law.

**(2) Lead agency responsibilities**

**(A) In general**

The lead agency shall make information available to each cooperating and participating agency and project sponsor as early as practicable in the environmental review regarding the environmental, historic, and socioeconomic resources located within the project area and the general locations of the alternatives under consideration.

**(B) Sources of information**

The information described in subparagraph (A) may be based on existing data sources, including geographic information systems mapping.

**(3) Cooperating and participating agency responsibilities**

Each cooperating and participating agency shall—

- (A) identify, as early as practicable, any issues of concern regarding any potential environmental impacts of the covered project, including any issues that could substantially delay or prevent an agency from completing any environmental review or authorization required for the project; and
- (B) communicate any issues described in subparagraph (A) to the project sponsor.

**(f) Record of decision**

When an environmental impact statement is prepared, Federal agencies must, to the maximum extent practicable, issue a record of decision not later than 90 days after the date on which the final environmental impact statement is issued.

**(g) Categories of projects**

The authorities granted under this section may be exercised for an individual covered project or a category of covered projects.

(Pub. L. 114–94, div. D, title XLI, §41005, Dec. 4, 2015, 129 Stat. 1755; Pub. L. 117–58, div. G, title VIII, §70801(d), Nov. 15, 2021, 135 Stat. 1291.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

NEPA, referred to in subsecs. (a)(1) and (b)(1)(A), (2), means the National Environmental Policy Act of 1969, Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to this chapter. See section 4370m(16) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

**CODIFICATION**

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

**AMENDMENTS**

2021—Subsec. (a)(3). Pub. L. 117–58, §70801(d)(1), added par. (3).

Subsec. (b). Pub. L. 117–58, §70801(d)(2)(A), (B), struck out par. (1) designation and heading and redesignated subpars. (A) to (E) as pars. (1) to (5), respectively.

Subsec. (b)(1). Pub. L. 117–58, §70801(d)(2)(C)(i), redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, and realigned margins.

Subsec. (b)(1)(A). Pub. L. 117–58, §70801(d)(2)(C)(ii), substituted "the laws and procedures of a State or Indian Tribe (as defined in section 5130 of title 25)" for "State laws and procedures" and inserted "developed pursuant to laws and procedures of that State or Indian Tribe (as so defined) that are of equal or greater rigor to each applicable Federal law and procedure, and" after "Council on Environmental Quality,".

Subsec. (b)(2). Pub. L. 117–58, §70801(d)(2)(D), substituted "paragraph (1)" for "subparagraph (A)" in two places.

Subsec. (b)(3). Pub. L. 117–58, §70801(d)(2)(E), substituted "paragraph (1)" for "subparagraph (A)" in introductory provisions and redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, and realigned margins.

Subsec. (b)(4). Pub. L. 117–58, §70801(d)(2)(F), substituted "paragraph (3)" for "subparagraph (C)" in introductory provisions and redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, and realigned margins.

Subsec. (b)(5). Pub. L. 117–58, §70801(d)(2)(G), substituted "paragraph (1)" for "subparagraph (A)" and "paragraph (3)" for "subparagraph (C)".

Subsec. (c)(4). Pub. L. 117–58, §70801(d)(3)(A), substituted "determines that—" for "determines that the development of the higher level of detail will not prevent—" in introductory provisions.

Subsec. (c)(4)(A). Pub. L. 117–58, §70801(d)(3)(B), inserted "the development of the higher level of detail will not prevent" before "the lead agency".

Subsec. (c)(4)(B). Pub. L. 117–58, §70801(d)(3)(C), added subpar. (B) and struck out former subpar. (B) which read as follows: "the public from commenting on the preferred and other alternatives."

Subsecs. (f), (g). Pub. L. 117–58, §70801(d)(4), (5), added subsec. (f) and redesignated former subsec. (f) as (g).

## **§4370m–5. Delegated State permitting programs**

### **(a) In general**

If a Federal statute permits a Federal agency to delegate to or otherwise authorize a State to issue or otherwise administer a permit program in lieu of the Federal agency, the Federal agency with authority to carry out the statute shall—

(1) on publication by the Council of best practices under section 4370m–1(c)(2)(B) of this title, initiate a national process, with public participation, to determine whether and the extent to which any of the best practices are generally applicable on a delegation- or authorization-wide basis to permitting under the statute; and

(2) not later than 2 years after December 4, 2015, make model recommendations for State modifications of the applicable permit program to reflect the best practices described in section 4370m–1(c)(2)(B) of this title, as appropriate.

### **(b) Best practices**

Lead and cooperating agencies may share with State, tribal, and local authorities best practices involved in review of covered projects and invite input from State, tribal, and local authorities regarding best practices.

(Pub. L. 114–94, div. D, title XLI, §41006, Dec. 4, 2015, 129 Stat. 1758.)

## **EDITORIAL NOTES**

## **CODIFICATION**

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

## **§4370m–6. Litigation, judicial review, and savings provision**

### **(a) Limitations on claims**

#### **(1) In general**

Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of any authorization issued by a Federal agency for a covered project shall be barred unless—

(A) the claim is filed not later than 2 years after the date of publication in the Federal Register of notice of final agency action on the authorization, unless a shorter time is specified in the Federal law under which judicial review is allowed; and

(B) in the case of an action pertaining to an environmental review conducted under NEPA—

(i) the claim is filed by a party that submitted a comment during the environmental review; and

(ii) any commenter filed a sufficiently detailed comment so as to put the lead agency on notice of the issue on which the party seeks judicial review, or the lead agency did not provide a reasonable opportunity for such a comment on that issue.

## **(2) New information**

### **(A) In general**

The head of a lead agency or participating agency shall consider new information received after the close of a comment period if the information satisfies the requirements under regulations implementing NEPA.

### **(B) Separate action**

If Federal law requires the preparation of a supplemental environmental impact statement or other supplemental environmental document, the preparation of such document shall be considered a separate final agency action and the deadline for filing a claim for judicial review of the agency action shall be 2 years after the date on which a notice announcing the final agency action is published in the Federal Register, unless a shorter time is specified in the Federal law under which judicial review is allowed.

## **(3) Rule of construction**

Nothing in this subsection creates a right to judicial review or places any limit on filing a claim that a person has violated the terms of an authorization.

### **(b) Preliminary injunctive relief**

In addition to considering any other applicable equitable factors, in any action seeking a temporary restraining order or preliminary injunction against an agency or a project sponsor in connection with review or authorization of a covered project, the court shall—

(1) consider the potential effects on public health, safety, and the environment, and the potential for significant negative effects on jobs resulting from an order or injunction; and

(2) not presume that the harms described in paragraph (1) are reparable.

### **(c) Judicial review**

Except as provided in subsection (a), nothing in this subchapter affects the reviewability of any final Federal agency action in a court of competent jurisdiction.

### **(d) Savings clause**

Nothing in this subchapter—

(1) supersedes, amends, or modifies any Federal statute or affects the responsibility of any Federal officer to comply with or enforce any statute; or

(2) creates a presumption that a covered project will be approved or favorably reviewed by any agency.

### **(e) Limitations**

Nothing in this subchapter preempts, limits, or interferes with—

(1) any practice of seeking, considering, or responding to public comment; or

(2) any power, jurisdiction, responsibility, or authority that a Federal, State, or local governmental agency, metropolitan planning organization, Indian tribe, or project sponsor has with respect to carrying out a project or any other provisions of law applicable to any project, plan, or program.

(Pub. L. 114–94, div. D, title XLI, §41007, Dec. 4, 2015, 129 Stat. 1758; Pub. L. 117–58, div. G, title VIII, §70801(e), Nov. 15, 2021, 135 Stat. 1293.)

## **EDITORIAL NOTES**

### **REFERENCES IN TEXT**

NEPA, referred to in subsec. (a)(1)(B), (2)(A), means the National Environmental Policy Act of 1969, Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to this chapter. See section 4370m(16) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

## **CODIFICATION**

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

## **AMENDMENTS**

**2021**—Subsec. (a)(1)(A). Pub. L. 117–58, §70801(e)(1)(A), substituted "the claim" for "the action" and "of notice of final agency action on the authorization" for "of the final record of decision or approval or denial of a permit".

Subsec. (a)(1)(B)(i). Pub. L. 117–58, §70801(e)(1)(B), substituted "the claim" for "the action".

Subsec. (e). Pub. L. 117–58, §70801(e)(2), substituted "this subchapter" for "this section" in introductory provisions.

## **§4370m–7. Reports**

### **(a) Reports to Congress**

#### **(1) Executive Director annual report**

##### **(A) In general**

Not later than April 15 of each year for 10 years beginning on November 15, 2021, the Executive Director shall submit to Congress a report detailing the progress accomplished under this subchapter during the previous fiscal year.

##### **(B) Opportunity to include comments**

Each councilmember, with input from the respective agency CERPO, shall have the opportunity to include comments concerning the performance of the agency in the report described in subparagraph (A).

#### **(2) Quarterly agency performance report**

The Executive Director shall submit to Congress a quarterly report evaluating agency compliance with the provisions of this subchapter, which shall include a description of the implementation and adherence of each agency to the coordinated project plan and permitting timetable requirements under section 4370m–2(c) of this title.

#### **(3) Agency best practices report**

Not later than April 15 of each year, each participating agency and lead agency shall submit to Congress and the Director of the Office of Management and Budget a report assessing the performance of the agency in implementing the best practices described in section 4370m–1(c)(2)(B) of this title.

### **(b) Comptroller general report**

Not later than 3 years after December 4, 2015, the Comptroller General of the United States shall submit to Congress a report that describes—

(1) agency progress in making improvements consistent with the best practices issued under section 4370m–1(c)

(2)(B) of this title; and

(2) agency compliance with the performance schedules established under section 4370m–1(c)(1)(C) of this title.

(Pub. L. 114–94, div. D, title XLI, §41008, Dec. 4, 2015, 129 Stat. 1760; Pub. L. 117–58, div. G, title VIII, §70801(f), Nov. 15, 2021, 135 Stat. 1293.)

### **EDITORIAL NOTES**

### **CODIFICATION**

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

### **AMENDMENTS**

**2021**—Subsec. (a). Pub. L. 117–58 added subsec. (a) and struck out former subsec. (a) which required, for a period of 10 years beginning on Dec. 4, 2015, Executive Director to submit annual reports to Congress on progress accomplished under this subchapter during previous fiscal year.

## **§4370m–8. Funding for governance, oversight, and processing of environmental reviews and permits**

### **(a) In general**

For the purpose of carrying out this subchapter, the Executive Director, in consultation with the heads of the agencies listed in section 4370m–1(b)(2)(B) of this title and with the guidance of the Director of the Office of Management and Budget, may, after public notice and opportunity for comment, issue regulations establishing a fee structure for sponsors of covered projects to reimburse the United States for reasonable costs incurred in conducting environmental reviews and authorizations for covered projects.

**(b) Reasonable costs**

As used in this section, the term "reasonable costs" shall include costs to implement the requirements and authorities required under sections 4370m–1 through 4370m–7 of this title, including the costs to agencies and the costs of operating the Council.

**(c) Fee structure**

The fee structure established under subsection (a) shall—

- (1) be developed in consultation with affected project proponents, industries, and other stakeholders;
- (2) exclude parties for which the fee would impose an undue financial burden or is otherwise determined to be inappropriate; and
- (3) be established in a manner that ensures that the aggregate amount of fees collected for a fiscal year is estimated not to exceed 20 percent of the total estimated costs for the fiscal year for the resources allocated for the conduct of the environmental reviews and authorizations covered by this subchapter, as determined by the Director of the Office of Management and Budget.

**(d) Environmental Review Improvement Fund**

**(1) In general**

All amounts collected pursuant to this section shall be deposited into a separate fund in the Treasury of the United States to be known as the "Environmental Review Improvement Fund" (referred to in this section as the "Fund").

**(2) Availability**

Amounts in the Fund shall be available to the Executive Director, without fiscal year limitation, solely for the purposes of administering, implementing, and enforcing this subchapter, including the expenses of the Council, staffing of the Office of the Executive Director, and support of the role of the Council as a Federal center for permitting excellence, which may include supporting interagency detailee and rotation opportunities, advanced training, enhanced support for agency project managers, and fora for sharing information and lessons learned.

**(3) Transfer**

For the purpose of carrying out this subchapter, the Executive Director, with the approval of the Director of the Office of Management and Budget, may transfer amounts in the Fund to other Federal agencies and State, Tribal, and local governments to facilitate timely and efficient environmental reviews and authorizations for covered projects and other projects under this subchapter, including direct reimbursement agreements with agency CERPOs, reimbursable agreements, and approval and consultation processes and staff for covered projects.

**(e) Effect on permitting**

The regulations adopted pursuant to subsection (a) shall ensure that the use of funds accepted under subsection (d) will not impact impartial decision-making with respect to environmental reviews or authorizations, either substantively or procedurally.

**(f) Transfer of appropriated funds**

**(1) In general**

The heads of agencies listed in section 4370m–1(b)(2)(B) of this title shall have the authority to transfer, in accordance with section 1535 of title 31, funds appropriated to those agencies and not otherwise obligated to other affected Federal agencies for the purpose of implementing the provisions of this subchapter.

**(2) Limitation**

Appropriations under title 23 and appropriations for the civil works program of the Army Corps of Engineers shall not be available for transfer under paragraph (1).

(Pub. L. 114–94, div. D, title XLI, §41009, Dec. 4, 2015, 129 Stat. 1760; Pub. L. 117–58, div. G, title VIII, §70801(g), Nov. 15, 2021, 135 Stat. 1293.)

**EDITORIAL NOTES**

**CODIFICATION**

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

**AMENDMENTS**

**2021**—Subsec. (a). Pub. L. 117–58, §70801(g)(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "The heads of agencies listed in section 4370m–1(b)(2)(B) of this title, with the guidance of the Director of the Office of Management and Budget and in consultation with the Executive Director, may, after public notice and opportunity for comment, issue regulations establishing a fee structure for project proponents to reimburse the United States for reasonable costs incurred in conducting environmental reviews and authorizations for covered projects."

Subsec. (b). Pub. L. 117–58, §70801(g)(2), substituted "through 4370m–7" for "and 4370m–2".

Subsec. (d). Pub. L. 117–58, §70801(g)(3)(A), struck out "and Permitting" after "Review" in heading.

Subsec. (d)(2), (3). Pub. L. 117–58, §70801(g)(3)(B), added pars. (2) and (3) and struck out former pars. (2) and (3) which read as follows:

"(2) AVAILABILITY—Amounts in the Fund shall be available to the Executive Director, without appropriation or fiscal year limitation, solely for the purposes of administering, implementing, and enforcing this subchapter, including the expenses of the Council.

"(3) TRANSFER—The Executive Director, with the approval of the Director of the Office of Management and Budget, may transfer amounts in the Fund to other agencies to facilitate timely and efficient environmental reviews and authorizations for proposed covered projects."

## **§4370m–9. Application**

This subchapter applies to any covered project for which—

(1) a notice is filed under section 4370m–2(a)(1) of this title; or

(2) an application or other request for a Federal authorization is pending before a Federal agency 90 days after December 4, 2015.

(Pub. L. 114–94, div. D, title XLI, §41010, Dec. 4, 2015, 129 Stat. 1761.)

### **EDITORIAL NOTES**

### **CODIFICATION**

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

## **§4370m–10. GAO report**

Not later than 3 years after December 4, 2015, the Comptroller General of the United States shall submit to Congress a report that includes an analysis of whether the provisions of this subchapter could be adapted to streamline the Federal permitting process for smaller projects that are not covered projects.

(Pub. L. 114–94, div. D, title XLI, §41011, Dec. 4, 2015, 129 Stat. 1761.)

### **EDITORIAL NOTES**

### **CODIFICATION**

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.

## **§4370m–11. Savings provision**

Nothing in this subchapter amends the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(Pub. L. 114–94, div. D, title XLI, §41012, Dec. 4, 2015, 129 Stat. 1761.)

### **EDITORIAL NOTES**

### **REFERENCES IN TEXT**

The National Environmental Policy Act of 1969, referred to in text, is Pub. L. 91–190, [Jan. 1, 1970](#), 83 Stat. 852, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

### **CODIFICATION**

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the National Environmental Policy Act of 1969 which comprises this chapter.



**§4370m–12. Repealed.** Pub. L. 117–58, div. G, title VIII, §70801(h), Nov. 15, 2021, 135 Stat. 1294

Section, Pub. L. 114–94, div. D, title XLI, §41013, Dec. 4, 2015, 129 Stat. 1761, provided that this subchapter shall terminate 7 years after Dec. 4, 2015.