

**REDLINE OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969**  
**[As Amended by the Westerman AINS as modified and reported 11/20/2025]**

AN ACT To establish a national policy for the environment, to provide for the establishment of a Council on Environmental Quality, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the “National Environmental Policy Act of 1969”.

SEC. 2. PURPOSE

The purposes

- (a) **The purposes** of this Act 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.
- (b) **This Act is a purely procedural statute intended to ensure Federal agencies consider the environmental impacts of their actions during the decisionmaking process. This Act does not mandate particular results, and only prescribes a process. Nothing in this Act shall be construed to mandate any specific environmental outcome or result, nor shall this Act be interpreted to confer substantive rights or impose substantive duties beyond procedural requirements.**

TITLE I

DECLARATION OF NATIONAL ENVIRONMENTAL POLICY

SEC. 101.

- (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 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

- (b) 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.
- (c) In order to carry out the policy set forth in this Act, 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.
- (d) 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.

SEC. 102. 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 Act, and (2) all agencies of the Federal Government shall—

- (A) utilize a systematic, interdisciplinary approach which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making 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 title II of this Act, which will ensure that presently unquantified environmental amenities and values may be given

appropriate consideration in decisionmaking along with economic and technical considerations;

(C) consistent with the provisions of this Act and except where compliance would be inconsistent with other statutory requirements, 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) reasonably foreseeable environmental effects of the proposed agency action;

(ii) any reasonably foreseeable adverse environmental effects which cannot be avoided should the proposal be implemented;

(iii) a reasonable range of alternatives to the proposed agency action, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative, that are technically and economically feasible, and meet the purpose and need of the proposal;

(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 Federal resources which would be involved in the proposed agency action should it be implemented. Prior to making any detailed statement, the head of the lead agency 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, United States Code, and shall accompany the proposal through the existing agency review processes;

(D) ensure the professional integrity, including scientific integrity, of the discussion and analysis in an environmental document;

(E) make use of reliable data and resources in carrying out this Act;

(F) consistent with the provisions of this Act, study, develop, and describe technically and economically feasible alternatives;

(G) 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 Act; and further, this subparagraph does not affect the legal sufficiency of statements prepared by State agencies with less than statewide jurisdiction.

(H) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(I) consistent with the provisions of this Act, 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;

(J) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(K) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(L) assist the Council on Environmental Quality established by title II of this Act.

SEC. 103. 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 Act 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 Act.

SEC. 104. Nothing in section 102 or 103 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.

SEC. 105. The policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of Federal agencies.

SEC. 106. PROCEDURE FOR DETERMINATION OF LEVEL OF REVIEW; SCOPE OF REVIEW.

(a) THRESHOLD DETERMINATIONS.—An agency is not required to prepare an environmental document with respect to a proposed agency action if—

(1) the proposed agency action is not a final agency action within the meaning of such term in chapter 5 of title 5, United States Code;

(2) the proposed agency action is excluded pursuant to one of the agency's categorical exclusions, another agency's categorical exclusions consistent with section 109 of this Act, or another provision of law;

(3) the preparation of such document would clearly and fundamentally conflict with the requirements of another provision of law; ~~or~~

(4) the proposed agency action is a nondiscretionary action with respect to which such agency does not have authority to take environmental factors into consideration in determining whether to take the proposed ~~action; action.~~

(5) the agency determines proposed agency action is an action for which such agency's compliance with another statute's requirements serves the function as the of agency compliance with requirements of this Act with respect to such action; or

(6) the proposed agency action relates to a project or action that has already been reviewed pursuant to a State environmental review standard or a Tribal environmental review statute, ordinance, resolution, or formally adopted policy and the lead agency determines such review serves the function of agency compliance with this Act.

(b) LEVELS OF REVIEW.—

(1) ENVIRONMENTAL IMPACT STATEMENT.—An agency shall issue an environmental impact statement with respect to a proposed agency action requiring an environmental document that has a reasonably foreseeable significant effect on the quality of the human environment.

(2) ENVIRONMENTAL ASSESSMENT.—An agency shall prepare an environmental assessment with respect to a proposed agency action that ~~does not~~ **is not likely to** have a reasonably foreseeable significant effect on the quality of the human environment, or if the significance of such effect is unknown, unless the agency finds that the proposed agency action is excluded pursuant to one of the agency's categorical exclusions, another agency's categorical exclusions consistent with section 109 of this Act, or another provision of law. Such environmental assessment shall be a concise public document prepared by a Federal agency to set forth the basis of such agency's finding of no significant impact or determination that an environmental impact statement is necessary.

(3) SOURCES OF INFORMATION.—In making a determination under this subsection, an agency—

(A) may make use of any reliable data source; and

~~(B) is not required to undertake new scientific or technical research unless the new scientific or technical research is essential to a reasoned choice among alternatives, and the overall costs and time frame of obtaining it are not unreasonable.~~

**(B) is not required to—**

**(i) undertake new scientific or technical research unless the new scientific or technical research is essential to a reasoned choice among alternatives, and the overall costs and time frame of obtaining it are not unreasonable; or**

**(ii) undertake new scientific or technical research after the receipt of an application, as applicable, with respect to a proposed agency action.**

(c) SCOPE OF REVIEW.—In preparing an environmental document for a proposed agency action, a Federal agency—

(1) may consider only those effects that share a reasonably close causal relationship to, and are proximately caused by, the immediate project or action under consideration; and

(2) may not consider effects that are speculative, attenuated from the project or action, separate in time or place from the project or action, or in relation to separate existing or potential future projects or actions.

(d) CERTAINTY.—

(1) ENVIRONMENTAL DOCUMENTS.— A Federal agency may not rescind, withdraw, amend, alter, or otherwise render ineffective any environmental document completed under this Act for a project or action where there is an applicant unless the Federal agency has been so ordered by a court or the applicant has agreed in writing to such rescission, withdrawal, amendment, or alteration.

(2) AUTHORIZATIONS.—

(A) IN GENERAL.—Except as provided in this subsection or existing law, a Federal agency may not revoke, rescind, withdraw, terminate, suspend, amend, alter, or take any other action to interfere with an authorization unless—

(i) the Federal agency is required to take such action by order of a court of competent jurisdiction;

(ii) the holder of the authorization has materially breached the terms of the authorization, or otherwise violated applicable law;

(iii) the authorization was obtained through fraud, intentional concealment, or material misrepresentation;

(iv) such action is necessary to prevent specific, immediate, substantial, and proximate harm or damage to life, property, national security, or defense that was not considered in the underlying environmental review process or final agency action for the authorization; or

(v) the Federal agency has received a request from the holder of the authorization or project sponsor to take such action.

(B) REQUIREMENT.—The actions described in subparagraph (A) shall be, as appropriate and where feasible, supported by clear and convincing evidence and

reasonably limited in duration and scope by the agency to address the specific issue such action is intended to address.

(C) NOTICE.—Before an agency takes an action described in subparagraph (A), the agency shall notify the holder of the authorization and the project sponsor in writing of such action, including by providing a detailed explanation of the action, identifying the statutory authority relied upon for the action, and providing the evidence supporting the action.

(D) JUDICIAL REVIEW.—

(i) IN GENERAL.—An action described in subparagraph (A) shall be subject to judicial review under chapter 7 of title 5, United States Code.

(ii) VENUE.—A person seeking judicial review of an action described in subparagraph (A) may only obtain review of such action in the United States court of appeals for any circuit wherein the project for which the authorization was issued is located.

(iii) PETITIONS BY FEDERAL AGENCIES.—No Federal agency may petition a court for vacatur or voluntary remand of an authorization unless the holder of the authorization or the project sponsor consents in writing to such a petition.

(E) SAVINGS CLAUSE.—Nothing in subparagraph (A) shall be construed to provide any Federal agency new, enhanced, or expanded authority, or to limit any existing authority, concerning any authorization.

(e) PRESUMPTION OF NEGATIVE IMPACTS OF TAKING NO ACTION RELATING TO TRIBAL TRUST RESOURCES.—For any proposed agency action carried out on, or directly affecting, tribal trust resources (including lands and minerals) that is initiated by the federally recognized Indian Tribe for which the United States holds the affected resources in trust, and for which an environmental document was prepared that included consideration of a no action alternative, there shall be a presumption that the effects of taking no action will be negative for the federally recognized Indian Tribe.

(f) Effect of Threshold Determinations on Other Agencies.—If a lead agency determines an environmental document is not required to be prepared with respect to a proposed agency action under subsection 106(a), another agency may not prepare an environmental document with respect to such proposed agency action.

Sec. 107 TIMELY AND UNIFIED FEDERAL REVIEWS.

(a) LEAD AGENCY.—

(1) DESIGNATION.—

(A) IN GENERAL.—If there are two or more participating Federal agencies, such agencies shall determine, by letter or memorandum, which agency shall be the lead agency based on consideration of the—

- (i) magnitude of agency's involvement;
- (ii) project approval or disapproval authority;
- (iii) expertise concerning the action's environmental effects;
- (iv) duration of agency's involvement; and
- (v) sequence of agency's involvement.

(B) JOINT LEAD AGENCIES.—In making a determination under subparagraph (A), the participating Federal agencies may appoint such State, Tribal, or local agencies as joint lead agencies as the involved Federal agencies shall determine appropriate. Joint lead agencies shall jointly fulfill the role described in paragraph (2).

(2) ROLE.—A lead agency shall, with respect to a proposed agency action—

(A) supervise the preparation of an environmental document if, with respect to such proposed agency action, there is more than one participating Federal agency **in accordance with subsection (g)(2);**

(B) request the participation of each cooperating agency ~~at the earliest practicable time;~~

(C) in preparing an environmental document, give consideration to any analysis or proposal created by a cooperating agency;

(D) develop a schedule, in consultation with each cooperating agency, the applicant, and such other entities as the lead agency determines appropriate, for completion of any environmental review, permit, or authorization required to ~~carry out the proposed agency action~~ **carry out the proposed agency action in compliance with the deadlines outlined in subsection(g);**

(E) if the lead agency determines that ~~a review~~ **an environmental review,** permit, or authorization will not be completed in accordance with the

schedule developed under subparagraph (D), notify the agency responsible for issuing ~~such review~~ **such environmental review**, permit, or authorization of the discrepancy and request that such agency take such measures as such agency determines appropriate to comply with such schedule; and

(F) meet with a cooperating agency that requests such a meeting.

(3) COOPERATING AGENCY.—The lead agency may, with respect to a proposed agency action, designate any Federal, State, Tribal, or local agency **(including counties, boroughs, parishes, and other political subdivisions of a State)** that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal to serve as a cooperating agency. A cooperating agency may, not later than a date specified in the schedule established by the lead agency, submit comments to the lead agency. **Such comments from Federal cooperating agencies shall be limited to matters relating to the proposed agency action with respect to which such Federal cooperating agency has jurisdiction by law.**

(4) REQUEST FOR DESIGNATION.—Any Federal, State, Tribal, or local agency or person that is substantially affected by the lack of a designation of a lead agency with respect to a proposed agency action under paragraph (1) may submit a written request for such a designation to a participating Federal agency. An agency that receives a request under this paragraph shall transmit such request to each participating Federal agency and to the Council.

(5) COUNCIL DESIGNATION.—

(A) REQUEST.—If the participating Federal agencies are unable to agree on the designation of a lead agency within 45 days of the request under paragraph (4), then the Federal, State, Tribal or local agency or person that is substantially affected by the lack or a designation of a lead agency may request that the Council designate a lead agency. Such request shall consist of—

(i) a precise description of the nature and extent of the proposed agency action; and

(ii) a detailed statement with respect to each participating Federal agency and each factor listed in paragraph (1) regarding which agency should serve as lead agency.

(B) TRANSMISSION.—The Council shall transmit a request received under subparagraph (A) to each participating Federal agency.

(C) RESPONSE.—A participating Federal agency may, not later than 20 days after the date of the submission of a request under subparagraph (A), submit to the Council a response to such request.

(D) DESIGNATION.—Not later than 40 days after the date of the submission of a request under subparagraph (A), the Council shall designate the lead agency with respect to the relevant proposed agency action.

(b) ONE DOCUMENT.—~~To the extent practicable,~~

(1) DOCUMENT.—~~To the extent practicable,~~ if a proposed agency action will require action by more than one Federal agency and the lead agency has determined that it requires preparation of an environmental document, the lead and cooperating agencies shall evaluate the proposal in a single environmental document.

(2) CONSIDERATION TIMING.—

(A) IN GENERAL.—~~In preparing an environmental document for a proposed agency action, no Federal agency shall be required to consider any scientific or technical research that becomes publicly available after the earlier of, as applicable—~~

~~(i) the date of receipt of an application with respect to such proposed agency action; and~~

~~(ii) the date of publication of a notice of intent or decision to prepare such environmental document for such proposed agency action.~~

(B) APPLICABILITY TO OTHER LAW.— ~~This paragraph does not affect any review of information required under subchapter II of chapter 5 of title 5, United States Code, with respect to comments received during the public comment period as applicable.~~

(C) DELAY.—~~A Federal agency may not delay the issuance of an environmental document or a final agency action, including any decision or determination, on the basis of awaiting new scientific or technical research or information that was not available as of the earlier of the dates described in subparagraph (A).~~

(c) REQUEST FOR PUBLIC COMMENT.—Each notice of intent to prepare an environmental impact statement under section 102 shall include a request for public comment on

alternatives or impacts and on relevant information, studies, or analyses with respect to the proposed agency action.

(d) STATEMENT OF PURPOSE AND NEED.—Each environmental document shall include a statement of purpose and need that briefly summarizes the underlying purpose and need for the proposed agency ~~action~~. **action. Where applicable, the statement of purpose and need shall meet the goals of the applicant.**

(e) PAGE LIMITS.—

(1) ENVIRONMENTAL IMPACT STATEMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an environmental impact statement shall not exceed 150 pages, not including any citations or appendices.

(B) EXTRAORDINARY COMPLEXITY.—An environmental impact statement for a proposed agency action of extraordinary complexity shall not exceed 300 pages, not including any citations or appendices.

(2) ENVIRONMENTAL ASSESSMENTS.—An environmental assessment shall not exceed 75 pages, not including any citations or appendices.

(f) SPONSOR PREPARATION.—A lead agency shall prescribe procedures to allow a project sponsor to prepare an environmental assessment or an environmental impact statement under the supervision of the agency. Such agency may provide such sponsor with appropriate guidance and assist in the preparation. The lead agency shall independently evaluate the environmental document and shall take responsibility for the contents.

(g) DEADLINES.—

**(1) APPLICATIONS FOR AUTHORIZATIONS.—**

**(A) NOTIFICATION OF COMPLETE OR INCOMPLETE APPLICATION.—Unless a shorter deadline is specified by law, in connection with a proposed agency action for which an applicant submitted an application for an authorization to an agency, not later than 60 days after the date on which the applicant submits the application to the agency, the agency shall document the receipt of the application and—**

**(i) notify the applicant that the application is complete; or**

**(ii) notify the applicant that the application is incomplete and request in writing any additional information that the agency needs to**

determine that the application is complete and begin preparation of an environmental document.

(B) AGENCY DETERMINATION.—

(i) COMPLETE DETERMINATION.—If an agency determines an application is complete under subparagraph (A)(i), the agency shall, not later than 60 days after the date on which the agency makes such determination—

(I) notify the applicant that the agency has determined that the proposed agency action is excluded pursuant to one of the agency's categorical exclusions, is not a major Federal action, or that no further agency action is required;

(II) issue a notice of intent to prepare an environmental impact statement for such proposed agency action; or

(III) notify the applicant that the agency has determined that preparation of an environmental assessment is necessary.

(ii) INCOMPLETE DETERMINATION.—If the agency requests additional information under subparagraph (A)(ii), the deadline described in clause (i) shall be based on the date on which the agency receives the additional information instead of the date on which the determination is made.

(2) COOPERATING AGENCIES.—

(A) ~~IN GENERAL~~ REVIEW TIMELINE.—Not later than 21 days after a lead agency issues a notice of intent under paragraph (1)(B)(i)(II) or notifies an applicant under paragraph (1)(B)(i)(III) with respect to a proposed agency action, the lead agency shall—

(i) identify all agencies that are likely to have environmental review, authorization, or other responsibilities with respect to the proposed agency action; and

(ii) invite each such agency to become a cooperating agency.

(B) DEADLINE TO ACCEPT INVITATION.—Not later than 21 days after an agency receives an invitation to become a cooperating agency under subparagraph (A)(ii), such agency shall accept or deny the invitation.

(C) CONVENING OF COOPERATING AGENCIES.—Not later than 7 days after the deadline described in subparagraph (B) has passed for each agency that received an invitation to become a cooperating agency under subparagraph (A)(ii), the lead agency that sent each such invitation shall convene each agency that accepts such an invitation to coordinate on developing the schedule under subsection (a)(2)(D) for the applicable proposed agency action.

(D) UNIDENTIFIED AGENCIES.—In the event that an agency that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposed agency action is not identified under subparagraph (A)(i), the lead agency with respect to the proposed agency action shall—

(i) invite such unidentified agency to become a cooperating agency by not later than 7 days after becoming aware that the agency has jurisdiction by law or special expertise; and

“(ii) if such agency accepts the invitation, incorporate such agency into the schedule developed under subsection (a)(2)(D) and update such schedule accordingly by not later than 14 days after the date on which such agency accepts the invitation.

(3) ~~IN GENERAL~~ REVIEW TIMELINE.—Except as provided in paragraph (2 5), with respect to a proposed agency action, a lead agency shall complete, as applicable—

- (A) the environmental impact statement not later than the date that is 2 years after the sooner of, as applicable—
- (i) the date on which such agency determines that section 102(2)(C) requires the issuance of an environmental impact statement with respect to such action;
  - (ii) the date on which such agency notifies the applicant that the application to establish a right-of-way for such action is complete; and
  - (iii) the date on which such agency issues a notice of intent to prepare the environmental impact statement for such action; and
- (B) the environmental assessment not later than the date that is 1 year after the sooner of, as applicable—

- (i) the date on which such agency determines that section 106(b)(2) requires the preparation of an environmental assessment with respect to such action;
- (ii) the date on which such agency notifies the applicant that the application to establish a right-of-way for such action is complete; and
- (iii) the date on which such agency issues a notice of intent to prepare the environmental assessment for such action.

(4) DEADLINE FOR FINAL AGENCY ACTION.—For any proposed agency action for which an applicant submitted an application for an authorization to an agency, not later than 30 days after completing an environmental impact statement or an environmental assessment for the proposed agency action, the lead agency, and any cooperating agency, shall issue a final agency action. The agency issuing such final agency action shall include in the final agency action a performance schedule for the completion of any other outstanding authorizations.

(5) DELAY.—A lead agency that determines it is not able to meet the deadline described in this subsection may extend such deadline if the applicant approves such extension, the lead agency shall establish a new deadline that provides only so much additional time as is necessary to complete such environmental impact statement or environmental assessment.

(6) PETITION TO COURT.—

(A) RIGHT TO PETITION.— Except as provided in subparagraph (C), a project sponsor may obtain a review of an alleged failure by an agency to act in accordance with an applicable deadline under this section by filing a written petition with a court of competent jurisdiction seeking an order under subparagraph (B).

(B) COURT ORDER.—If a court of competent jurisdiction finds that an agency has failed to act in accordance with an applicable deadline, the court shall set a schedule and deadline for the agency to act as soon as practicable, which shall not exceed 90 days from the date on which the order of the court is issued, unless the court determines a longer time period is necessary to comply with applicable law.

(C) EXCEPTION.—A project sponsor that approved an extension of a deadline under paragraph (5) may not obtain judicial review of a failure to act in accordance with such deadline under subparagraph

(A) unless the lead agency fails to meet the new deadline or is delaying for reasons other than those necessary to complete its review.

(7) CONCURRENT REVIEW.—In carrying out an environmental review, the lead agency and each cooperating agency shall carry out the obligations of that agency under other applicable laws concurrently, and in conjunction, with other required reviews for the proposed agency action, pursuant to the requirements of applicable law, including, if applicable, under this Act.

(h) REPORT.—

(1) IN GENERAL.—The head of each lead agency shall annually submit to the Committee on Natural Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that—

(A) identifies any environmental assessment and environmental impact statement that such lead agency did not complete by the deadline described in subsection (g); and

(B) provides an explanation for any failure to meet such deadline.

(2) INCLUSIONS.—Each report submitted under paragraph (1) shall identify, as applicable—

(A) the office, bureau, division, unit, or other entity within the Federal agency responsible for each such environmental assessment and environmental impact statement;

(B) the date on which—

(i) such lead agency notified the applicant that the application to establish a right-of-way for the major Federal action is complete;

(ii) such lead agency began the scoping for the major Federal action; or

(iii) such lead agency issued a notice of intent to prepare the environmental assessment or environmental impact statement for the major Federal action; and

(C) when such environmental assessment and environmental impact statement is expected to be complete.

SEC. 108. PROGRAMMATIC ENVIRONMENTAL DOCUMENT.

**(a) PROGRAMMATIC ENVIRONMENTAL DOCUMENTS.—**~~When an agency prepares~~ **When an agency prepares** a programmatic environmental document for which judicial review was available, the agency may rely on the analysis included in the programmatic environmental document in a subsequent environmental document for related actions as follows:

(1) Within ~~5-10~~ years and without additional review of the analysis in the programmatic environmental document, unless there are substantial new circumstances or information about the significance of adverse effects that bear on the analysis.

(2) After ~~5~~ 10 years, so long as the agency reevaluates the analysis in the programmatic environmental document and any underlying assumption to ensure reliance on the analysis remains valid; **and**

**(b) RELIANCE ON PREVIOUSLY COMPLETED ENVIRONMENTAL REVIEWS.—**

**(1) ACTIONS THAT ARE SUBSTANTIALLY THE SAME.—**A lead agency may satisfy the requirements of this Act with respect to a major Federal action by relying on an environmental assessment, environmental impact statement, or a categorical exclusion determination that the lead agency, another Federal agency, or a project sponsor under the supervision of a Federal agency completed for another major Federal action if the lead agency determines that—

(A) the new major Federal action is substantially the same as the other major Federal action or, if applicable, an alternative analyzed in such environmental assessment or environmental impact statement; and

(B) if applicable, the effects of the new major Federal action are substantially the same as the effects analyzed in such environmental assessment or environmental impact statement.

**(2) ACTIONS THAT ARE NOT SUBSTANTIALLY THE SAME.—**If a new major Federal action is not substantially the same as another major Federal action or an alternative analyzed in an environmental assessment or environmental impact statement completed by the lead agency, another Federal agency, or a project sponsor under the supervision of a Federal agency, the lead agency may modify or augment any such previously completed environmental assessment or environmental impact statement as necessary to satisfy the requirements of this Act with respect to the new major Federal action. The lead agency shall make such modified environmental assessment or environmental impact statement publicly available as a new environmental assessment or environmental impact statement.

## SEC. 109. ADOPTION OF CATEGORICAL EXCLUSIONS.

An agency may adopt a categorical exclusion listed in another agency's NEPA procedures, **or that was legislatively enacted by Congress**, for a category of proposed agency actions for which the categorical exclusion was established consistent with this paragraph. The agency shall—

- (1) identify the categorical exclusion listed in another agency's NEPA procedures that covers a category of proposed actions or related actions;
- (2) consult with the agency that established the categorical exclusion, **if applicable**, to ensure that the proposed adoption of the categorical exclusion to a category of actions is appropriate;
- (3) identify to the public the categorical exclusion that the agency plans to use for its proposed actions; and
- (4) document adoption of the categorical exclusion.

## SEC. 110. E-NEPA.

(a) PERMITTING PORTAL STUDY.—The Council on Environmental Quality shall conduct a study and submit a report to Congress within 1 year of the enactment of this Act on the potential for online and digital technologies to address delays in reviews and improve public accessibility and transparency under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) including, but not limited to, a unified permitting portal that would—

(1) allow applicants to—

- (A) submit required documents or materials for their project in one unified portal;
- (B) upload and collaborate with the applicable agencies to edit documents in real-time, as required;
- (C) upload and display visual features such as video, animation, geographic information system displays, and three-dimensional renderings; and
- (D) track the progress of individual applications;

(2) include a cloud based, digital tool for more complex reviews that would enhance interagency coordination in consultation by—

(A) centralizing, across all necessary agencies, the data, visuals, and documents, including but not limited to geographic information system displays, other visual renderings, and completed reports and analyses necessary for reviews;

(B) streamlining communications between all necessary agencies and the applicant;

(C) allowing for comments and responses by and to all necessary agencies in one unified portal;

(D) generating analytical reports to aid in organizing and cataloguing public comments; and

(E) be accessible on mobile devices;

(3) boost transparency in agency processes and present information suitable for a lay audience, including but not limited to—

(A) scientific data and analysis; and

(B) anticipated agency process and timeline; and

(4) include examples describing how at least five permits would be reviewed and processed through this portal.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$500,000 for the Council on Environmental Quality to carry out the study directed by this section.

**SEC. 442110A. PROJECT SPONSOR OPT-IN FEES FOR ENVIRONMENTAL REVIEWS.**

(a) PROCESS.—

(1) PROJECT SPONSOR.—A project sponsor that intends to pay a fee under this section for the preparation, or supervision of the preparation, of an environmental assessment or environmental impact statement for a project shall submit to the Council—

(A) a description of the project; and

(B) a declaration of whether the project sponsor intends to prepare the environmental assessment or environmental impact statement under section 107(f).

(2) COUNCIL ON ENVIRONMENTAL QUALITY.—Not later than 15 days after the date on which the Council receives information described in paragraph (1) from a project sponsor, the Council shall provide to the project sponsor notice of the amount of the fee to be paid under this section, as determined under subsection (b).

(3) PAYMENT OF FEE.—A project sponsor may pay a fee under this section after receipt of the notice described in paragraph (2).

(4) DEADLINE FOR ENVIRONMENTAL REVIEWS FOR WHICH A FEE IS PAID.—Notwithstanding section 107(g)(1)—

(A) an environmental assessment for which a fee is paid under this section shall be completed not later than 180 days after the date on which the fee is paid; and

(B) an environmental impact statement for which a fee is paid under this section shall be completed not later than 1 year after the date of publication of the notice of intent to prepare the environmental impact statement.

(b) FEE AMOUNT.—The amount of a fee under this section shall be—

(1) 125 percent of the anticipated costs to prepare the environmental assessment or environmental impact statement; and

(2) in the case of an environmental assessment or environmental impact statement to be prepared in whole or in part by a project sponsor under section 107(f), 125 percent of the anticipated costs to supervise preparation of, and, as applicable, prepare, the environmental assessment or environmental impact statement.

#### **SEC. 113110B. JUDICIAL REVIEW.**

(a) ROLE OF THE COURT.—In reviewing a claim of whether a final agency action complies with the requirements of this Act, a court-

(1) shall afford substantial deference to the agency; and

(2) may not substitute its judgment for that of the agency regarding the environmental effects included in the final agency action or included in the environmental document.

(b) REMAND.-

(1) IN GENERAL.—If a court holds, under section 706(2)(A) of title 5, United States Code, that a final agency action does not comply with the requirements of this Act, the only remedy the court may order, notwithstanding chapter 7 of title 5, United States Code, is to remand, without vacatur or injunction, the final agency action to the agency with—

(A) specific instruction to correct the errors or deficiencies found by the court; and

(B) a reasonable schedule and deadline to correct such errors or deficiencies, which such deadline may not exceed—

(i) with regard to an order entered on or after the date of enactment of this section, the date that is 180 days after the date on which the order was entered; and

(ii) with regard to an order entered before the date of enactment of this section, the date that is 180 days after the date of enactment of this section.

(2) CONTINUED EFFECT OF FINAL AGENCY ACTION.—A final agency action remanded under paragraph (1) shall remain in effect while the Federal agency corrects any errors or deficiencies found by the court.

(c) LIMITATIONS ON CLAIMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law (except as provided in subparagraph (A) with respect to a shorter deadline), a claim described in subsection (a) shall be barred unless—

(A) such claim is filed not later than 150 days after the final agency action is made public, unless a shorter deadline is specified under law;

(B) in the case of a final agency action for which there was a public comment period on an environmental document, such claim—

(i) is filed by a party that submitted a substantive and unique comment during such public comment period by the noticed comment deadline for the environmental document and such comment was sufficiently detailed to put the applicable Federal agency on notice of the issue upon which the party seeks review; and

(ii) concerns the same subject matter raised in the comment submitted during the public comment period; and

(C) such claim is filed by a party that has suffered or imminently will suffer direct harm from the final agency action;

(D) such claim does not challenge the establishment of a categorical exclusion.

(2) SUPPLEMENTAL ENVIRONMENTAL DOCUMENTS.—If an agency issues a supplemental environmental document in response to a court order remanding a final agency action, the deadline described in paragraph (1)(A) shall be the date on which the agency makes public the agency action for which the supplemental environmental document is prepared. A claim for review of such final agency action shall be limited to information contained in the final supplemental environmental document that was not contained in a previous environmental document for the final agency action.

(3) ACTIONS FOR USE OF TRIBAL TRUST RESOURCES.—For any final agency action that authorizes or affects the use of lands, minerals, or other resources already held in trust at the time of the final agency action for the benefit of a federally recognized Indian Tribe—

(A) except as provided in subparagraph (B), there shall be no administrative or judicial review of such final agency action based on a claim of failure to comply with the requirements of this Act; and

(B) subparagraph (A) shall not apply to actions for administrative or judicial review—

(i) brought by the federally recognized Indian Tribe for which the United States holds the lands, minerals, or other resources in trust; or

(ii) that involve reasonably foreseeable effects of the final agency action that occur outside the lands, minerals, or other resources held in trust by the United States for the benefit of a federally recognized Indian Tribe.

(d) DEADLINE FOR RESOLUTION.—

(1) IN GENERAL.—A court shall issue a final judgment on a claim described in subsection (a)—

(A) as expeditiously as practicable; and

(B) unless a shorter deadline is specified under Federal law, not later than the date that is 180 days after the date on which the agency record for the

review is filed with the reviewing court, which shall not be more than 60 days after the filing of the claim.

(2) ACCELERATED DEADLINES.—Nothing in this subsection may be construed to prevent a court from further expediting review of a claim described in subsection (a).

(3) APPEALS.—

(A) FILING.—A notice of appeal of a final judgment described in this subsection shall be filed not later than 60 days after such final judgment is issued. In the case of a final agency action remanded under subsection (b), the agency and, if applicable, the applicant, shall have the right to appeal during the pendency of the remand.

(B) DEADLINE FOR REVIEW.—A court shall issue a final decision on an appeal filed under subparagraph (A)—

(i) as expeditiously as practicable; and

(ii) not later than the date that is 180 days after the date on which the appeal is filed.

(e) NO EFFECT ON REVIEW OF COMPLIANCE WITH OTHER DEADLINES.—This section shall not affect the right to obtain review under section 107(g)(3).

## SEC. 111. DEFINITIONS.

In this title:

(1) AUTHORIZATION. —The term ‘authorization’ means any lease, right-of-way, easement, license, permit, approval, finding, determination, or other administrative decision issued by an agency or any interagency consultation that is required or authorized under Federal law in order to construct, modify, or operate a project.

(2) CATEGORICAL EXCLUSION.—The term “categorical exclusion” means a category of actions that a Federal agency has determined, or Congress has deemed by statute, normally does not significantly affect the quality of the human environment within the meaning of section 102(2)(C).

(3) COOPERATING AGENCY.—The term “cooperating agency” means any Federal, State, Tribal, or local agency that has been designated as a cooperating agency under section 107(a)(3).

(34) COUNCIL.—The term “Council” means the Council on Environmental Quality established in title II.

(45) ENVIRONMENTAL ASSESSMENT.—The term “environmental assessment” means an environmental assessment prepared under section 106(b)(2).

(56) ENVIRONMENTAL DOCUMENT.—The term “environmental document” means an environmental impact statement, an environmental assessment, or a finding of no significant impact.

(67) ENVIRONMENTAL IMPACT STATEMENT.—The term “environmental impact statement” means a detailed written statement that is required by section 102(2)(C).

(78) FINDING OF NO SIGNIFICANT IMPACT.—The term “finding of no significant impact” means a determination by a Federal agency that a proposed agency action does not require the issuance of an environmental impact statement.

(89) PARTICIPATING FEDERAL AGENCY.—The term “participating Federal agency” means a Federal agency participating in an environmental review or authorization of an action.

(910) LEAD AGENCY.—The term “lead agency” means, with respect to a proposed agency action—

(A) the agency that proposed such action; or

(B) if there are 2 or more involved Federal agencies with respect to such action, the agency designated under section 107(a)(1).

(1011) MAJOR FEDERAL ACTION.—

(A) IN GENERAL.—The term “major Federal action” means an action that the agency carrying out such action determines is subject to substantial Federal control and responsibility.

(B) EXCLUSION.—The term “major Federal action” does not include—

(i) a non-Federal action—

(I) with no or minimal Federal funding; or

(II) with no or minimal Federal involvement where a Federal agency cannot control the outcome of the project;

(ii) funding assistance solely in the form of general revenue sharing funds which do not provide Federal agency compliance or enforcement responsibility over the subsequent use of such funds;

(iii) loans, loan guarantees, **grants (including capitalization grants), cost share awards, or** other forms of financial assistance where a Federal agency does not exercise ~~sufficient~~ **complete** control and responsibility over the ~~subsequent use of such financial assistance or the effect of the action;~~

**(iv) farm ownership loans and operating loan guarantees by the Farm Service Agency pursuant to sections 305 and 311 through 319 of the Consolidated Farm and Rural Development Act;**

**(v) the issuance of an authorization by an agency where the effects of the action or project being permitting or authorized were previously evaluated by the another agency in compliance with this Act;**

~~(iv)~~ **(vi) business loan guarantees provided by the Small Business Administration pursuant to section 7(a) or (b) and of the Small Business Act ( U.S.C. 636(a)), or title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.);**

**(vii) bringing judicial or administrative civil or criminal enforcement actions;**

**(viii) extraterritorial activities or decisions, which means agency activities or decisions with effects located entirely outside of the jurisdiction of the United States; or**

**(ix) activities or decisions that are non-discretionary and made in accordance with the agency's statutory authority.**

**(C) ADDITIONAL EXCLUSIONS.—An agency action may not be determined to be a major Federal action solely on the basis of the provision of Federal funds, including a grant, loan, loan guarantee, and funding assistance.**

~~(11)~~ **12) PROGRAMMATIC ENVIRONMENTAL DOCUMENT.—**The term “programmatic environmental document” means an environmental impact statement or environmental assessment analyzing all or some of the environmental effects of a policy, program, plan, or group of related actions.

~~(12)~~ **13) PROPOSAL.—**The term “proposal” means a proposed action at a stage when an agency has a goal, is actively preparing to make a decision on one or more alternative means of accomplishing that goal, and can meaningfully evaluate its effects.

~~(13)~~ **14) SPECIAL EXPERTISE.—**The term “special expertise” means statutory responsibility, agency mission, or related program experience.

~~(1415)~~ REASONABLY FORESEEABLE.—The term ‘reasonably foreseeable’, with respect to environmental effects of a proposed agency action—

(A) means effects that share a reasonably close causal relationship to, and are proximately caused by, the immediate project or action under consideration; and

(B) does not include effects that are—

(i) speculative;

(ii) attenuated from the proposed agency action;

(iii) separate in time or place from the proposed agency action; or

(iv) in relation to separate existing or potential future projects.

## TITLE II

### COUNCIL ON ENVIRONMENTAL QUALITY

SEC. 201. The President shall transmit to the Congress annually beginning July 1, 1970, an Environmental Quality Report (hereinafter referred to as the “report”) which shall set forth (1) the status and condition of the major natural, manmade, or altered environmental classes of the Nation, including, but not limited to, the air, the aquatic, including marine, estuarine, and fresh water, and the terrestrial environment, including, but not limited to, the forest, dryland, wetland, range, urban, suburban, and rural environment; (2) current and foreseeable trends in the quality, management and utilization of such environments and the effects of those trends on the social, economic, and other requirements of the Nation; (3) the adequacy of available natural resources for fulfilling human and economic requirements of the Nation in the light of expected population pressures; (4) a review of the programs and activities (including regulatory activities) of the Federal Government, the State and local governments, and nongovernmental entities or individuals, with particular reference to their effect on the environment and on the conservation, development and utilization of natural resources; and (5) a program for remedying the deficiencies of existing programs and activities, together with recommendations for legislation.

SEC. 202. 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 title I of this Act; 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.

SEC. 203. (a) The Council may employ such officers and employees as may be necessary to carry out its functions under this Act. 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 Act, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

(b) Notwithstanding section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)), the Council may accept and employ voluntary and uncompensated services in furtherance of the purposes of the Council.

SEC. 204. 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 201;

(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 title I of this Act, 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 title I of this Act 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, **energy**, 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.

SEC. 205. In exercising its power, functions, and duties under this Act, the Council shall—

(1) consult with the Citizen's 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.

SEC. 206. 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 of the Executive Schedule Pay Rates (5 U.S.C. 5315).

SEC. 207. 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.

SEC. 208. 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.

SEC. 209. There are authorized to be appropriated to carry out the provisions of this Act not to exceed \$300,000 for fiscal year 1970, \$700,000 for fiscal year 1971, and \$1,000,000 for each fiscal year thereafter.