

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.

(Pub. L. 91-190, title I, §109, as added Pub. L. 118-5, div. C, title III, §321(b), June 3, 2023, 137 Stat. 43.)

§ 4336d. 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 Act¹ on the potential for online and digital technologies to address delays in reviews and improve public accessibility and transparency under section 4332(2)(C) of this title 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) be² 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.

(Pub. L. 91-190, title I, §110, as added Pub. L. 118-5, div. C, title III, §321(b), June 3, 2023, 137 Stat. 44.)

Editorial Notes

REFERENCES IN TEXT

The enactment of this Act, referred to in subsec. (a), probably means the enactment of Pub. L. 118-5, which added this section to title I of Pub. L. 91-190 and was approved June 3, 2023.

§ 4336e. Definitions

In this subchapter:

(1) Categorical exclusion

The term “categorical exclusion” means a category of actions that a Federal agency has determined normally does not significantly affect the quality of the human environment within the meaning of section 4332(2)(C) of this title.

(2) Cooperating agency

The term “cooperating agency” means any Federal, State, Tribal, or local agency that has been designated as a cooperating agency under section 4336a(a)(3) of this title.

(3) Council

The term “Council” means the Council on Environmental Quality established in subchapter II.

(4) Environmental assessment

The term “environmental assessment” means an environmental assessment prepared under section 4336(b)(2) of this title.

(5) Environmental document

The term “environmental document” means an environmental impact statement, an environmental assessment, or a finding of no significant impact.

(6) Environmental impact statement

The term “environmental impact statement” means a detailed written statement that is required by section 4332(2)(C) of this title.

(7) 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.

(8) Participating Federal agency

The term “participating Federal agency” means a Federal agency participating in an environmental review or authorization of an action.

(9) 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 4336a(a)(1) of this title.

(10) Major Federal action

(A) In general

The term “major Federal action” means an action that the agency carrying out such

¹ See References in Text note below.

² So in original. Probably should be “being”.

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, or other forms of financial assistance where a Federal agency does not exercise sufficient control and responsibility over the subsequent use of such financial assistance or the effect of the action;
- (iv) business loan guarantees provided by the Small Business Administration pursuant to section 7(a) or (b) and¹ of the Small Business Act (U.S.C. 636(a)),² or title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.);
- (v) bringing judicial or administrative civil or criminal enforcement actions;
- (vi) extraterritorial activities or decisions, which means agency activities or decisions with effects located entirely outside of the jurisdiction of the United States; or
- (vii) activities or decisions that are non-discretionary and made in accordance with the agency’s statutory authority.

(11) 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) 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) Special expertise

The term “special expertise” means statutory responsibility, agency mission, or related program experience.

(Pub. L. 91–190, title I, §111, as added Pub. L. 118–5, div. C, title III, §321(b), June 3, 2023, 137 Stat. 44.)

Editorial Notes

REFERENCES IN TEXT

The Small Business Investment Act of 1958, referred to in par. (10)(B)(iv), is Pub. L. 85–699, Aug. 21, 1958, 72

¹ So in original. The word “and” probably should not appear.

² So in original. Probably should refer to 15 U.S.C. 636(a), (b).

Stat. 689. Title V of the Act is classified generally to subchapter V (§695 et seq.) of chapter 14B of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 15 and Tables.

SUBCHAPTER II—COUNCIL ON ENVIRONMENTAL QUALITY

§ 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.