

**STATEMENT OF
BRENDA MALLORY
CHAIR
COUNCIL ON ENVIRONMENTAL QUALITY**

**BEFORE THE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE**

May 17, 2023

Introduction

Chairman Carper, Ranking Member Capito, and distinguished Members of the Committee, it is good to see you again. Thank you for your bipartisan efforts to deliver for the American people and for the opportunity to discuss the improvements the Biden-Harris Administration has made in the permitting process for our Nation's infrastructure.

A little over a year ago, I testified before this Committee on the Administration's progress to improve the health of the environment in communities across America. Thanks to the Bipartisan Infrastructure Law (BIL) and the Inflation Reduction Act (IRA), we are delivering on the President's Investing in America agenda by making progress in producing transformative investments to achieve our clean energy future, improve the quality of America's drinking water, restore healthy forests and reduce the risk of catastrophic wildfire, clean up the nation's most contaminated lands, and deploy the clean and affordable transportation solutions that consumers want and need, including electric vehicles and electric charging infrastructure. In addition, thanks to the CHIPS and Science Act, we are reinvigorating our semiconductor manufacturing sector so we can increase manufacturing jobs across the country in an environmentally responsible manner.

These laws provide for historic investments to help rebuild American manufacturing, increase American competitiveness, create millions of long-lasting, well-paying jobs here at home, and tackle huge challenges, including climate change. We are focused on delivering these benefits with the speed needed to meet the challenges we face and in a manner that secures a clean, safe, and productive environment for present and future generations.

The National Environmental Policy Act, or NEPA, remains the crucial mechanism through which decisionmakers account for the potential environmental impacts of actions, make informed decisions, listen to affected communities, and enable sustainable and healthy economic growth. Done right, NEPA reviews lead to better decisions that generate more value for every taxpayer dollar we invest. Yet, we know that NEPA and other permitting processes can take too long and we must take steps to improve and modernize them without losing sight of the important values they serve. And I am here today to talk to you about how we are pursuing that critical work. We at CEQ and across the Administration are laser focused on ensuring that these reviews occur efficiently and serve as an effective decision-making tool. I'm pleased to share the improvements we are making to the permitting and environmental review process in light of

current social, environmental and economic conditions, new technology solutions, and lessons learned across the Federal government.

The Value of Environmental Review

Prior to the bipartisan passage of the National Environmental Policy Act in 1969, our government made decisions in an uncoordinated, inefficient manner that often failed to take communities' perspectives into account. Unsurprisingly, this resulted in damaging and costly environmental and economic outcomes.

Many decisions made prior to NEPA's enactment continue to challenge us to this day, requiring Federal investments to address the problems they caused. Examples include:

- Building roads that contributed to draining ecologically-important wetlands, such as Florida's Everglades National Park, where a million people a year visit .
- Designing dams without fish passage, eroding the abundance of American fish stocks.
- Allowing radioactive uranium tailings and waste from Federal programs to be left on the doorsteps of Tribal Nations across the Southwest.

One of NEPA's key functions is to prevent the damage and costs that arise from rushed, biased, and incomplete environmental decision-making. NEPA requires intergovernmental coordination; objective analysis of alternatives and potential mitigation strategies; comprehensive evaluation and consideration of environmental effects; and meaningful public engagement. These are hallmarks of democracy and good governance that result in stronger, scientifically supported decisions, with benefits for everyone in the United States.

It is a fact that NEPA produces better government decisions. In recent years, reviews conducted under NEPA have facilitated unprecedented collaboration among Federal, State, Tribal, and local government, and non-governmental organizations on highly complex actions. NEPA reviews have allowed us to identify and minimize the potential impacts of offshore wind energy projects on commercial fisheries and communities on the Atlantic coast, allowing us to advance energy security and clean energy goals while protecting fisherman and domestic food supply. It is also NEPA that helped the Postal Service ascertain and analyze the environmental impacts of the U.S. Postal Service's next generation of delivery trucks, enabling the agency to move toward a cleaner, more efficient, and more sustainable fleet helping the Federal Government lead by example toward a modern clean energy economy.

Each year, NEPA helps inform approximately 100,000 Federal agency actions and decisions. More than 95% of these actions are approved under the most expedited form of environmental review, called a categorical exclusion. Between 4% and 5% of these actions are reviewed and approved using environmental assessments, or EAs. And around 200 projects each year across the Federal government – around two-tenths of one percent – require the most comprehensive type of environmental analysis: the environmental impact statement, or EIS. To inform good project design and decision-making, it is critically important that all of these reviews be done right. It is also essential that these reviews be conducted efficiently, to avoid unnecessary and costly delays.

Permitting Needs for the 21st Century

We know, however, that NEPA reviews specifically and permitting processes more generally can take too long. And delays can come at a steep cost to communities, the economy and the environment. CEQ and the Administration are taking major steps to address this challenge and reform the permitting process to secure faster and better decisions that benefit the American people.

As we continue to take steps to reform permitting, we are also continuing to gather new and better information about permitting, the time it takes to complete processes, and the sources of delay, including the many causes of delay from non-Federal sources. Continuing to develop and refine this information is critical, because we must rely on good and accurate data if we want permitting reform to succeed.

Due to this Administration's efforts, we are getting environmental reviews done faster than the previous Administration ever did, but there is a lot more progress to be made.

The Administration's Efforts to Date

That is why the President, with your help, is making unprecedented investments in improving permitting processes. The Bipartisan Infrastructure Law and the Inflation Reduction Act provide more than one billion dollars to make sure that agencies have the environmental review and permitting experts they need, because insufficient personnel and resources is a serious cause of delay. Additionally, President Biden has elevated this issue to the highest levels of government for the first time by forming an Investing in America Cabinet that meets regularly on permitting and other priority issues for infrastructure implementation. CEQ and OMB are assisting the Federal Permitting Improvement Steering Council (FPISC) and the Office of Personnel Management in their efforts to get flexible hiring authorities for agencies to fill these positions quickly with some of the country's most talented individuals in the permitting space. These historic investments in the Federal workforce are among the most significant changes to federal permitting that have occurred since NEPA was enacted in 1970.

The Administration is also proud to have worked with Congress to successfully reauthorize FAST-41 and the Federal Permitting Improvement Steering Council, which is critically important to improving coordination and accountability for high-priority projects. FAST-41 now allows new categories of projects to be included on the Federal Permitting Dashboard so that the private sector and the public can track progress.

Building off these key legislative steps to improve permitting, the President last year released the Biden-Harris Permitting Action Plan, which sets forth a strategy for ensuring that Federal environmental reviews and permitting processes are effective, efficient, and transparent; guided by the best available science to promote positive environmental and community outcomes; and shaped by early and meaningful public engagement—without unnecessary bureaucratic delay.

Following the Permitting Action Plan, we have focused on sector-specific strategies to maximize efficiency.

- In the offshore wind sector, for example, the Bureau of Ocean Energy Management has developed clear guidance for project proponents on the information they need to gather to start the environmental review and permitting process. Setting clear expectations with project proponents up front avoids the need for follow-up requests for information and unnecessary delays. We have also worked with the three lead Federal agencies involved in offshore wind projects in the Atlantic to align their criteria for identifying the appropriate alternatives for analysis in their EISs.
- In the semi-conductor sector, we have been working with the National Institute for Standards and Technology on ways to facilitate an efficient and effective environmental review process for the CHIPS for America initiative, an unprecedented and crucial new funding program to revitalize the domestic semiconductor industry, protect American national and economic security, preserve U.S. leadership in the semiconductor industries of the future, create good-paying jobs, and build strong communities here in the United States.
- In the broadband sector, we are helping the agencies involved in permitting transformative and innovative projects to expand high-speed internet, such as the California Middle Mile Project, a 10,000 mile high-speed internet project that will use existing highway rights-of-way to co-locate broadband, connecting rural communities to high-speed internet. Fifteen Federal and State agencies signed a letter of intent to provide a framework to coordinate the environmental review and permitting process with each other as efficiently as possible.

In the transmission sector, CEQ, along with the Office of Management and Budget, the Department of Energy, and other agencies, have also signed a new and ambitious Memorandum of Understanding (MOU) to facilitate permitting of transmission facilities implementing section 216(h) of the Federal Power Act. This MOU will super-charge efforts to build transmission at the scale needed to advance energy security and meet the President's clean energy goals.

Across different sectors, CEQ is also convening an Interagency Working Group on Categorical Exclusions to enable better coordination and information sharing to make maximum use of CEs across the government for critical categories of activities that do not normally have significant environmental effects.

CEQ has also published guidance for Federal agencies on appropriate ways to consider greenhouse gas emissions and climate change in environmental reviews. CEQ's interim NEPA Guidance on Consideration of Greenhouse Gas Emissions and Climate Change promotes consistency and predictability across Federal agencies in this important area.

As directed in Executive Orders 14008 and 14096, CEQ is likewise contributing to the President's commitment to delivering environmental justice across America. CEQ's work on the Administration's Justice40 initiative, including the development of the Climate and Economic Justice Screening Tool and the first-ever Environmental Justice Scorecard, is heightening

agencies' attention to environmental justice principles and community engagement in the environmental decision-making process.

A Look into the Future

Over the next few months and the upcoming year, CEQ will continue to advance efforts to improve Federal agency decision-making and the environmental review and permitting process, so that we deliver on NEPA's goal to harmonize economic growth and environmental sustainability. CEQ will soon propose a rule that will reform and update the regulations implementing NEPA to ensure fair and full public involvement in the NEPA process and promote better decision-making consistent with NEPA's statutory requirements. We are planning a robust public engagement process to ensure that the regulations will achieve better outcomes for our communities and our environment.

CEQ will also continue to use its Inflation Reduction Act funding to bring on talented professionals who can guide the Administration's permitting initiatives, train professional staff across the Government on NEPA and other environmental review requirements, and facilitate the smooth and efficient implementation of CEQ's NEPA regulations. We are also exploring opportunities where programmatic approaches and digital tools could improve the permitting process. In addition, CEQ will continue to work with our partners at OMB and FPISC to continue to implement the Permitting Action Plan by identifying additional agency-specific and sector-specific strategies for accelerating project delivery.

As we implement these measures, we will continue to evaluate permitting reform proposals to assess their potential to improve the speed and quality of big transformative projects. For example:

- We believe that agencies should set ambitious but realistic deadlines and schedules for developing environmental assessments and environmental impact statements. Deadlines should hold agencies accountable and only be extended with oversight from an agency's leadership. Agencies should use schedules to set milestones to ensure that deadlines are met. Schedules should be flexible, as each project type presents its own unique challenges, but they should serve as a baseline in order to create predictability in the environmental review and permitting process.
- We also believe that ensuring the transparency of the environmental review process, including with respect to schedules and deadlines, is a positive change that we all can get behind. In too many cases, the agency review process has been a black box, leading to misunderstandings and speculation. Greater transparency offers certainty for project proponents, accountability for agencies, and visibility for our communities and stakeholders.
- We think that improving agency coordination at all levels of government—Federal, State, Tribal, and local—is critical in this process. One of the benefits of the NEPA process is that it is a venue for coordinating all of the planning processes and requirements that apply to a particular project. There is real value in ensuring that all levels of government are coordinated in making a project happen.
- We also think that early and meaningful public engagement is key to garnering support for a project, identifying information that would make a project better, and airing out

potential problems and challenges early enough for agencies to address them in a meaningful, responsible way. More to the point, bringing communities that are affected by the impacts of projects into the planning process is one of the pillars of achieving environmental justice in Federal decision making. And when communities are brought in early and have meaningful involvement in projects, that can lead better and quicker decisions, because conflicts can be avoided or addressed more efficiently than if issues arise late in a permitting process.

- Finally, we believe that clarifying the Federal authority on transmission projects would advance the Nation's efforts to achieve energy security and facilitate the transition to clean energy sources.

Conclusion

CEQ is hard at work delivering on the President's commitment to protect our health, our environment, and our communities. The investments that you—Congress—have made will deliver the benefits of a cleaner environment to all Americans for generations to come. Last week the Administration announced a set of priorities for any bipartisan permitting reform package. We will continue to work with you to strengthen supply chains, lower costs for families, grow our clean energy economy, revitalize communities, support well-paying jobs, and build much-needed infrastructure while promoting early and meaningful public engagement and, ultimately, positive environmental and community outcomes.

Thank you for the opportunity to testify today. I look forward to our continued partnership and welcome any questions you may have.