



**ASSOCIATION OF
METROPOLITAN
WATER AGENCIES**

LEADERS IN WATER

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March 27, 2025

Ms. Megan E. Healy
Principal Deputy Director for NEPA
Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503

Re: Docket CEQ-2025-0002 Removal of National Environmental Policy Act Implementing Regulations

Submitted electronically

Dear Ms. Healy:

The Association of Metropolitan Water Agencies (AMWA) appreciates the opportunity to provide comments to CEQ on the interim final rule, Removal of National Environmental Policy Act (NEPA) Implementing Regulations. AMWA is an organization representing the largest publicly owned drinking water utilities in the United States, and its membership collectively serves more than 160 million people. AMWA recognizes NEPA as a cornerstone of U.S. environmental policy and supports maintaining the integrity of the NEPA process while also prioritizing efficiency.

AMWA appreciates this administration’s efforts to revise the NEPA regulation processes in a manner that will reduce costly and ineffective review processes. As leaders of drinking water utilities, AMWA member utilities sometimes have significant capital projects that are subject to NEPA review. Whether projects receive federal financial support, take place on federal lands, or are otherwise subject to the NEPA review process, AMWA members have a direct understanding about the importance of implementing efficient NEPA processes. AMWA, therefore, believes it is essential that CEQ and federal agencies prioritize the timely and clear NEPA processes for all projects that are currently subject to NEPA reviews. It is also essential that CEQ’s guidance to other federal agencies on developing NEPA implementing regulations ensures timely conduct of assessments while preserving the NEPA processes that protect water resources. AMWA is pleased to provide the following feedback

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to CEQ on the removal of its NEPA implementing regulations and offers the following considerations for CEQ as it provides guidance to other federal agencies on developing updated NEPA regulations.

AMWA remains concerned about the immediate impacts this decision will have on the timeliness and related costs of NEPA review processes, as well as the potential for conflicting, confusing NEPA regulations across agencies. The Association recognizes that the interim final rule rescinds CEQ's NEPA implementing regulations and directs agencies to promulgate amendments to their own NEPA implementing regulations within 12 months. While AMWA is appreciative that CEQ's memorandum¹ to the heads of all federal departments and agencies directed agencies not to delay pending or ongoing analyses, AMWA is nonetheless concerned that the interim impacts of this action may jeopardize projects currently under NEPA review processes. Many agency and department CEQ NEPA implementation rules referenced in part or in whole CEQ NEPA regulations, and the memorandum indicates that agencies and departments may choose which NEPA implementation regulations to use in the interim. This change ultimately leaves agencies and departments with many decisions to make in the near term, which will take time away from processing NEPA analyses, and introduces the possibility of a future fragmented and varied NEPA review process across different agencies.

AMWA member agencies may have various projects subject to NEPA reviews in different agencies or departments, highlighting AMWA's concerns about a varying and confusing NEPA regulatory regime. For example, water utilities may receive federal financial assistance for infrastructure projects that are therefore subject to NEPA review processes, such as funds from EPA's Water Infrastructure Finance and Innovation Act (WIFIA) program, FEMA's hazard mitigation assistance program, Bureau of Reclamation's WaterSMART program, and many others. Alternatively, AMWA utilities in the Western United States rely on or operate water supply projects that are subject to the Bureau of Reclamation's jurisdiction. Under the current memorandum guidance, water systems could face varying NEPA regulations across agencies, introducing confusion and uncertainty for permittees trying to advance important infrastructure projects. A consistent and efficient NEPA framework across federal departments and agencies is essential for water systems to provide their important services.

As CEQ provides guidance to federal agencies developing NEPA implementing regulations, AMWA encourages CEQ to consider that timely NEPA processes are essential for water systems to provide safe, clean, and affordable water supplies to their communities. One of AMWA's longstanding concerns with the NEPA review process is whether these revisions will achieve the more efficient and timely assessments required by the Fiscal Responsibility Act's amendments² to NEPA. Having extremely long timeframes for project approvals under NEPA can stymie necessary projects that address critical needs, such as securing additional water supplies in drought-prone communities. Persistent or unexpected delays in NEPA reviews can cause water systems to have to complete different parts of assessments multiple times to remain in compliance with NEPA timelines, wasting

¹ Council on Environmental Quality. (February 19, 2025). Memorandum for Heads of Federal Departments and Agencies. Implementation of the National Environmental Policy Act. <https://ceq.doe.gov/docs/ceq-regulations-and-guidance/CEQ-Memo-Implementation-of-NEPA-02.19.2025.pdf>.

² Fiscal Responsibility Act of 2023, Pub. L. No. 118-5 (2023), <https://www.govinfo.gov/app/details/PLAW-118publ5>.

limited capital and financial resources. Additionally, delays to capital projects can affect the creditworthiness of utilities as credit agencies seek resilience and reliability when evaluating prospective borrowers. Perceptions of unreliability can lead to lower bond ratings, which result in increased project costs and, therefore, place a greater burden on community ratepayers at a time when affordability is a key priority at all levels of government.

A few notable examples demonstrate the effects that complicated and extended NEPA review processes can have on water utilities, their infrastructure projects, and their ratepayers. In one high-profile challenge, an AMWA member sought a decision on an environmental review for over six years, a process hampered by the fact that federal partners determined that analyses conducted early in the process had expired and required the utility to reconduct them. This requirement cost the utility and its ratepayers more money in the long run due to no fault of the water utility's management. As another example, just one AMWA member serving 1.4 million people has three projects subject to NEPA reviews that have resulted in over four years of delays to vital infrastructure projects; for one specific project to expand reservoir allocations and ensure a reliable water supply, iterative permit reviews caused over three and a half years of delays. As another example, an environmental assessment for a project to meet the requirements of the Lead and Copper Rule Revisions under the Safe Drinking Water Act caused the delay of this project by six months. As public agencies, AMWA member utilities are, just like their federal partners, stewards of public funds that aim to protect public health and safety through the most affordable options available. Therefore, it is imperative that the NEPA process is administered in a way that upholds the integrity of NEPA while also eliminating the potential for duplicative efforts or other inefficiencies.

Expedient, thorough NEPA reviews are essential for implementing critical infrastructure projects. AMWA offers the following considerations to CEQ and federal agencies.

AMWA members greatly benefit from streamlined timelines and transparent schedules. AMWA supports the memorandum's encouragement of NEPA Implementing Regulations adhering to one- and two-year timelines for environmental assessments (EA) and environmental impact statements (EIA), respectively, as required by the Fiscal Responsibility Act. Utilities would benefit from agencies conducting NEPA reviews creating publicly available schedules for EA and EIS that include key milestones and schedules for any other required authorizations. While AMWA is greatly encouraged by the aims of these proposed revisions, the ability of agencies to meet the new one- and two-year timelines may require the successful deployment of adequate funding and resources to various federal agencies.

AMWA believes the proper use of categorical exclusions could be advantageous in simplifying complex federal permitting processes across multiple federal agencies, including those affecting water infrastructure projects. CEQ should consider and encourage the flexible use of categorical exclusions (CE), such as through allowing agencies to develop categorical exclusions outside of the normal NEPA process, such as through a land use plan or programmatic EIS, or allowing agencies to establish CEs with other agencies jointly. While AMWA reiterates that thorough NEPA processes protect water supplies, the Association also believes that appropriate use of the CE provisions could promote flexibility and efficiency of NEPA reviews.

Finally, AMWA encourages CEQ to consider public communication requirements, including requiring agencies to publish NEPA documents and supporting materials on their websites to establish tracking numbers for EA and EIS. These requirements will help utilities and the public understand the standing of proposed projects and assessments, and hold agencies accountable to the stated timelines, promoting efficient and timely reviews.

Conclusion

Water utilities nationwide face an array of challenges that require robust and agile management. Water utilities serving communities across the United States are facing clear and urgent operational challenges, such as droughts, severe storms, and wildfires. Ensuring clear, timely, and cost effective NEPA review processes across federal agencies will guarantee that utilities can implement key capital projects when necessary. Efficient and clear procedures will also ensure that water systems do not face unreasonable delays in the construction of important projects or receive financial penalties for delayed NEPA review processes. Simultaneously, AMWA members recognize the importance of due diligence in the NEPA review process, as following NEPA procedures ensures that agencies recognize the full array of potential effects on the nation's water supplies when conducting reviews.

AMWA thanks CEQ for the opportunity to provide feedback on the Removal of NEPA Implementing Regulations. If you have any questions or want to discuss our comments further, please contact Jessica Evans (evans@amwa.net), AMWA's Senior Manager of Government Affairs and Sustainability Policy.

Sincerely,



Thomas Dobbins
Chief Executive Officer

cc: Jomar Maldonado, Director for NEPA
Katherine R. Scarlett, Chief of Staff