



August 20, 2018

Council on Environmental Quality  
Attn: Edward A. Boling  
722 Jackson Place NW  
Washington, DC 20503  
*VIA Regulations.gov*

**RE: Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, 83 Fed. Reg. 28,591 (June 20, 2018)**

In response to the Council on Environmental Quality’s (“CEQ”) request for comment on its Advance Notice of Proposed Rulemaking (“proposal”), the Natural Gas Supply Association and the Center for Liquefied Natural Gas (collectively, the “Joint Natural Gas Trades”) respectfully submit the following comments. The Joint Natural Gas Trades support CEQ’s proposal to update its National Environmental Policy Act (NEPA) regulations to ensure a more efficient, timely and effective NEPA process. Adopting a more streamlined approach will provide regulatory certainty for the permitting of needed infrastructure and better align with the directives outlined in Executive Order 13807.<sup>1</sup> The Joint Natural Gas Trades also endorse the comments of the American Petroleum Institute (API) et al. and support the recommendations API is putting forth for CEQ’s consideration.

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<sup>1</sup> See Executive Order No. 13807, 82 Fed. Reg. 40,463 (Aug. 15, 2017).

## **I. Interest of NGSA and CLNG**

Founded in 1965, the Natural Gas Supply Association (NGSA) represents integrated and independent energy companies that produce, transport and market domestic natural gas and is the only national trade association that solely focuses on producer-marketer issues related to the downstream natural gas industry. NGSA's members trade, transact and invest in the U.S. natural gas market in a range of different manners. NGSA members transport and/or supply billions of cubic feet of natural gas per day on interstate pipelines and could be greatly impacted by the outcome of this proceeding.

NGSA encourages the use of natural gas within a balanced national energy policy and supports the benefits of competitive markets. NGSA has consistently advocated for well-functioning natural gas markets, policies that support market transparency, efficient nomination and scheduling protocols, just and reasonable transportation rates, non-preferential terms and conditions of transportation services and the removal of barriers to developing needed natural gas infrastructure. NGSA has a long-established commitment to ensuring a public policy environment that fosters a growing, competitive market for natural gas. NGSA also supports a balanced energy future: one which ensures a level playing field for all market participants and eliminates inappropriate regulatory barriers to supply.

The Center for Liquefied Natural Gas (CLNG) advocates for public policies that advance the use of liquefied natural gas (LNG) in the United States, and its export internationally. A committee of the Natural Gas Supply Association (NGSA), CLNG represents the full value chain, including LNG producers, shippers, terminal operators and developers, providing it with unique insight into the ways in which the vast potential of this abundant and versatile fuel can be fully realized.

## II. Comments and Recommendations

### A. Updating and clarifying NEPA regulations is good governance and enhances regulatory certainty for the permitting process.

CEQ is seeking recommendations to modify and/or clarify NEPA regulations, with a particular focus on the NEPA process and the scope of a NEPA review. The Joint Natural Gas Trades strongly support CEQ's intention to streamline and improve NEPA regulations, a process that could result in more effective and efficient environmental reviews for permitting infrastructure projects. Given that NEPA has only been substantively amended once – in 1986 – since its inception in 1970, it behooves CEQ to take a fresh look at its regulations.<sup>2</sup> We believe it is good governance for a federal agency to review older, broad-reaching policies to determine whether they are still working effectively and to consider changes as appropriate. Further, as CEQ already recognizes in its proposal, the regulations should be updated to reflect new technologies that can make the process more efficient and promote coordination between the multiple agencies involved in permitting a project. However, this review should not delay the permitting process for projects that have already submitted applications for federal and state approvals.

A federal agency's interpretation and application of NEPA regulations for a proposed project's environmental review can have a significant impact on the agency's determination of whether the project is in the public's interest. For example, the Federal Energy Regulatory Commission (FERC)—the lead agency for permitting natural gas facilities—will thoroughly consider and disclose the environmental impacts of a proposed project as part of its review process under NEPA. Only if the public benefits of the project outweigh any potential adverse

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<sup>2</sup> CEQ amended its NEPA regulations to eliminate the “worst case” analysis requirement of 40 CFR 1502.22. 51 FR 15618 (April 25, 1986).

impacts will FERC then approve an application. Any lack of clarity regarding the scope or what is required of the agencies under NEPA could inadvertently delay or impede a project's approval. Therefore, it is essential that regulations that inform decision-making in the permitting process, such as NEPA, are clear, updated, effective and provide regulatory certainty for all parties involved. The importance of regulatory certainty cannot be overstated, because market participants rely on regulatory certainty to send the right market signals to incentivize investment in needed infrastructure.

**B. Revisions to NEPA regulations should focus on streamlining and not result in a more burdensome process.**

When considering suggested modifications to regulations for implementing NEPA, we implore CEQ to focus on streamlining to ensure there are no duplicative, outdated or ineffective provisions. The permitting process for infrastructure projects has been refined over the years and is very comprehensive: it involves multiple federal, state and local agencies assessments, time and resources. There are also dozens of supplemental guidances that have been issued since NEPA that are both broad in scope but also tailored to specific agencies and their roles in the permitting process. In addition, agencies often have their own interpretation of the scope of the NEPA review required. Given these factors, and bearing in mind that an environmental review under NEPA is just one step of many that are required for approval of a proposed project, we urge CEQ to be cautious of any changes that are too prescriptive or impose additional hurdles to the permitting process.

Any actions that would make the already comprehensive infrastructure permitting process more burdensome or lengthy could delay projects and hurt investment in needed infrastructure. Further, NEPA regulations and subsequently issued implementation guidances defer to the lead agency in evaluating the environmental impacts of a project and how the agency intends to

weigh those impacts. If CEQ were to make NEPA too prescriptive or rigid, it would impede a lead agency's ability to consider the individual interests of projects and the benefits these projects may offer to the public.

**C. Adequate infrastructure is essential for access to the benefits of natural gas.**

NEPA regulations serve the significant role of informing the decision-making process for permitting the infrastructure that is required to deliver the products for the lifestyle that American consumers depend on and rightfully demand. The natural gas industry supports a dynamic market that serves electric generation, home heating, manufacturing, LNG exports, industrial plants and more. Fortunately, our nation has abundant natural gas resources that burn clean and are affordable. Pipeline infrastructure enables the reliable delivery of natural gas to serve customers and provides numerous economic and environmental benefits.

For instance, access to abundant, affordable domestic natural gas has given U.S. industrial companies a competitive advantage over their global competition, leading to the resurgence of natural gas-intensive manufacturing in the United States. Plentiful natural gas also means lower household energy bills; lower overhead costs for businesses and lower costs for consumer products as diverse as clothing and fertilizer.

Further, natural gas's low-carbon emissions have allowed the United States to reduce our power sector emissions to the lowest they have been since 1985.<sup>3</sup> Exporting our natural gas can help countries around the world reduce their emissions as well. A 2014 study conducted by DOE found that LNG exports could reduce global greenhouse gas emissions by displacing more carbon-intensive fuels in importing nations.<sup>4</sup> Moreover, while greater use of natural gas will

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<sup>3</sup> See EIA June 2018 Monthly Energy Review.

<sup>4</sup> Department of Energy, National Energy Technology Laboratory, [Lifecycle Greenhouse Gas Perspective Report on Exporting LNG from the United States](#), 2014.

help reduce carbon emissions, it will also help reduce other traditional pollutants, since burning natural gas creates little to no emissions of sulfur dioxide, nitrogen oxides or particulate matter that can lead to smog.<sup>5</sup>

Expanding demand for U.S. natural gas in international markets through LNG exports will likewise result in increased investment, enhanced economic activity, rising incomes, and more American jobs – just as the case has been with increasing exports in other U.S. industries, including those that utilize natural gas, such as our nation’s petrochemical manufacturing industry. Exporting natural gas directly supports thousands of U.S. jobs in engineering, manufacturing, construction, and operation of the export infrastructure, as well as others indirectly along the equipment supply chain. The Department of Energy has commissioned several studies of its own to examine the effects of U.S. LNG exports on the U.S. economy and energy markets. The results of all these studies clearly demonstrate the benefits of LNG exports to the U.S. economy and state that U.S. economic output overall is higher whenever global markets call for higher levels of LNG exports.<sup>6</sup>

In order for Americans to take full advantage of the benefits offered by abundant natural gas supplies, adequate natural gas infrastructure all along the supply chain—including LNG facilities—must be in place to transport natural gas from the wellhead to consumers.

Streamlining and clarifying NEPA regulations should result in more transparent, timely and

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<sup>5</sup> Leidos, Inc., [A Comparison of Emissions from Major Fuels Used to Generate Electricity in the U.S.](#), 2016.

<sup>6</sup> The first study, Effect of Increased Natural Gas Exports on Domestic Energy Markets, was performed by the U.S. Energy Information Administration (EIA) and published in January 2012. The second study, Macroeconomic Impacts of LNG Exports from the United States, was performed by NERA and published in December 2012. The third study, Effect of Increased Levels of Liquefied Natural Gas Exports on U.S. Energy Markets, was performed by EIA and published in October 2014. The fourth study, The Macroeconomic Impact of Increasing U.S. LNG Exports, was performed jointly by the Center for Energy Studies at Rice University’s Baker Institute and Oxford Economics and published in October 2015. The fifth study, the Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports, was performed by NERA and published in June of 2018.

effective environmental reviews to better inform agency decision-making in the permitting process.

**D. Alignment with Executive Order 13807 will further enhance coordination and more effective environmental reviews under NEPA.**

The Joint Gas Trades' are encouraged by CEQ's initial steps to be responsive to the directives in President Trump's Executive Order 13807, 'Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects.' The purpose of the Executive Order is to ensure that the environmental review process for infrastructure projects is coordinated, predictable and transparent, and adoption of its directives could greatly affect how NEPA is implemented and interpreted. The Executive Order directs CEQ to develop the framework for implementing 'one federal decision' (discussed in more detail below). Thus, we believe any modifications to NEPA regulations should either align with or promote the following principles from the Executive Order to ensure consistency and certainty for all participants during the review process:

- A. Establish a two-year window for processing of environmental reviews and authorization decisions for new infrastructure projects;
- B. Establish one federal decision with the lead Federal agency responsible for navigating the project through the environmental review and authorization process;
- C. Establish one record of decision between the multiple agencies for NEPA within 90 days;
- D. Develop permitting timetables to identify estimated and final completion dates for environmental reviews and authorizations.

CEQ is also tasked with developing targeted actions that will enhance and modernize the environmental review process, a task that is the impetus for this proposal. In addition to the "initial actions list" it published, we offer the following suggestions to enhance interagency coordination and accountability in accordance with the Executive Order:

- A. Strengthen the lead agency role and define the role for participating agencies;
- B. Participating agencies should be required to commit or decline to be a part of review process by specific date;
- C. Agencies that decline participating should not be allowed to subsequently submit comments into the record or develop a supplemental NEPA review for a project; and
- D. The lead agency should be responsible for setting the clock on participating agencies review deadlines.

Allowing the lead agency to set strict deadlines and hold participating agencies accountable for timelines will help to ensure that the purpose of the Executive Order, to improve the timeliness and effectiveness of federal infrastructure decisions, is met. We encourage CEQ to work with federal and state agencies on managing the environmental review process so that there is a seamless transition if any of the suggestions are put into policy.

### **III. Conclusion**

The Joint Natural Gas Trades appreciate the opportunity to comment on the CEQ's Advance Notice of Proposed Rulemaking and support CEQ's proposal to update its NEPA regulations to ensure a more efficient, timely and effective NEPA process. We hope that any updates to NEPA regulations will create a more effective and efficient environmental review process for permitting infrastructure projects. However, we caution that even with the best of intentions, any regulatory update can have the unintended consequence of creating longer timelines and overburdening infrastructure project owners. We ask that CEQ proceed with



attentiveness to the details of the extensive NEPA process and continue to allow for public comment as this rulemaking develops.

Respectfully submitted,

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