

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.

(2) Delay

A lead agency that determines it is not able to meet the deadline described in paragraph (1) may extend such deadline, in consultation with the applicant, to establish a new deadline that provides only so much additional time as is necessary to complete such environmental impact statement or environmental assessment.

(3) Petition to court

(A) Right to petition

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.

(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.

(Pub. L. 91-190, title I, §107, as added Pub. L. 118-5, div. C, title III, §321(b), June 3, 2023, 137 Stat. 40.)

§ 4336b. Programmatic environmental document

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 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 years, so long as the agency re-evaluates the analysis in the programmatic environmental document and any underlying assumption to ensure reliance on the analysis remains valid.

(Pub. L. 91-190, title I, §108, as added Pub. L. 118-5, div. C, title III, §321(b), June 3, 2023, 137 Stat. 43.)

§ 4336c. Adoption of categorical exclusions

An agency may adopt a categorical exclusion listed in another agency's NEPA procedures 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 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.

(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

¹ See References in Text note below.