

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. 3322.

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.

Pub. L. 105-65, title III, Oct. 27, 1997, 111 Stat. 1375.

§ 4343. Employment of personnel, experts and consultants

(a) The Council may employ such officers and employees as may be necessary to carry out its functions under this chapter. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this chapter, in accordance with section 3109 of title 5 (but without regard to the last sentence thereof).

(b) Notwithstanding section 1342 of title 31, the Council may accept and employ voluntary and uncompensated services in furtherance of the purposes of the Council.

(Pub. L. 91-190, title II, § 203, Jan. 1, 1970, 83 Stat. 855; Pub. L. 94-52, § 2, July 3, 1975, 89 Stat. 258.)

Editorial Notes

REFERENCES IN TEXT

The last sentence of section 3109 of title 5, referred to in subsec. (a), probably means the last sentence of section 3109(b) of title 5, which was the last sentence of that section when the reference was enacted. Since then, section 3109 of title 5 has been amended to add subsecs. (c) to (e) at the end.

CODIFICATION

In subsec. (b), “section 1342 of title 31” substituted for “section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))” on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1975—Pub. L. 94-52 designated existing provisions as subsec. (a) and added subsec. (b).

§ 4344. Duties and functions

It shall be the duty and function of the Council—

(1) to assist and advise the President in the preparation of the Environmental Quality Report required by section 4341¹ of this title;

(2) to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in subchapter I of this chapter, and to compile and submit to the President studies relating to such conditions and trends;

(3) to review and appraise the various programs and activities of the Federal Government in the light of the policy set forth in subchapter I of this chapter for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto;

(4) to develop and recommend to the President national policies to foster and promote

the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation;

(5) to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;

(6) to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(7) to report at least once each year to the President on the state and condition of the environment; and

(8) to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

(Pub. L. 91-190, title II, § 204, Jan. 1, 1970, 83 Stat. 855.)

Editorial Notes

REFERENCES IN TEXT

Section 4341 of this title, referred to in par. (1), was omitted from the Code.

Executive Documents

TRANSFER OF FUNCTIONS

So much of functions of Council on Environmental Quality under par. (5) of this section as pertains to ecological systems transferred to Administrator of Environmental Protection Agency by Reorg. Plan No. 3 of 1970, §2(a)(5), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086, set out under section 4321 of this title.

§ 4345. Consultation with Citizens' Advisory Committee on Environmental Quality and other representatives

In exercising its powers, functions, and duties under this chapter, the Council shall—

(1) consult with the Citizens' Advisory Committee on Environmental Quality established by Executive Order numbered 11472, dated May 29, 1969, and with such representatives of science, industry, agriculture, labor, conservation organizations, State and local governments and other groups, as it deems advisable; and

(2) utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.

(Pub. L. 91-190, title II, § 205, Jan. 1, 1970, 83 Stat. 855.)

Editorial Notes

REFERENCES IN TEXT

Executive Order numbered 11472, dated May 29, 1969, referred to in par. (1), is set out as a note under section 4321 of this title.

¹ See References in Text note below.