

August 20, 2018

Edward A. Boling  
Associate Director for the National Environmental Policy Act  
Council on Environmental Quality  
730 Jackson Place NW  
Washington, DC

**RE: Docket No. CEQ-2018-0001-0001 – Notice of Proposed Rulemaking on Implementation of Procedural Provisions of National Environmental Policy Act**

Dear Associate Director Boling:

Thank you for the opportunity to submit comments regarding potential changes to the National Environmental Policy Act (NEPA). We are writing to ensure that any changes balance the modernization of NEPA with strong commitments to environmental protection and community engagement.

Founded in 1911, the Port of Seattle is a special-purpose municipal corporation serving the residents of King County; its mission is to create good jobs here and across Washington state by advancing trade and commerce, promoting manufacturing and maritime growth, and stimulating economic development. Among its responsibilities is the operation of Seattle-Tacoma International Airport (Sea-Tac) and of major maritime facilities ranging from cruise operations to commercial and recreational fishing. Because of our diversified aviation and maritime operations, we interact with numerous federal agencies through the NEPA process from the Federal Aviation Administration (FAA) to the U.S. Army Corps of Engineers.

As a public sector entity, we are committed to creating opportunity for all, stewarding our environment responsibly, partnering with surrounding communities, promoting social responsibility, conducting ourselves transparently, and holding ourselves accountable. These are the same goals that serve as the underpinning for both the NEPA and State Environmental Policy Act (SEPA) processes: ensuring that we are maximizing the engagement of local residents, and providing the strongest possible environmental protections. The Port of Seattle has even mirrored this within our own decision-making by implementing a Sustainability Evaluation Framework to transparently document environmental, economic, and societal considerations associated with our actions.

Local residents often have valuable information about the places and resources that they value and the potential environmental, social, and economic effects that actions may have on those areas. Any changes to NEPA should not undermine the opportunity to benefit from this input. Similarly, the need for environmentally sustainable development and operations is not just a “nice to have” but a core requirement of our “license to operate” as a public sector organization. As environmental stewards, we embrace our responsibility to our citizens, to the livability of this region, and to the future. NEPA must first and foremost continue to serve as our basic national charter for protection of the environment.

The Port of Seattle supports the current purpose, policy, and mandates of CEQ's regulations for implementing NEPA. As CFR 1500.2 states, federal agencies shall to the fullest extent possible implement procedures to (1) make the NEPA process more useful to decision makers; (2) reduce paperwork and the accumulation of extraneous background data; (3) create documents that are concise, clear, and to the point; (4) integrate the requirements of NEPA with other planning and environmental review procedures; (5) encourage and facilitate public involvement; (6) use the NEPA process to identify and assess reasonable alternatives that will avoid or minimize adverse effects; and (7) use all practicable means to restore and enhance the quality of the human environment and avoid or minimize any possible adverse impacts. To that end, the Port believes that any changes to the CEQ regulations should offer additional guidance and further support the purpose of the CEQ regulations, which is "to make sure that federal agencies act according to the letter and spirit of the Act [NEPA]."

Though additional streamlining and efficiencies in the CEQ regulations could be beneficial, the Port has concerns with the CEQ Update Request, in that many of the questions provided are overly general and vague. In addition, there is no mention of the purpose of the update and the identified need for change. Most of the concerns that government agency staff, NEPA practitioners, and project sponsors have surrounding NEPA compliance arise from the guidance and practices developed by federal lead agencies, which have been shaped by a long history of policy development and case law. In addition, agency staffing capacity issues and agency procedures for providing staff resources are a substantial contributor to inefficiency and delays. If the CEQ aims to "ensure a more efficient, timely, and effective NEPA process consistent with the national environmental policy stated in NEPA," it is these agency issues – not NEPA itself – that need attention.

In addition, the Port feels strongly that evolving knowledge and practice since 1986 in several key areas warrant additions to the CEQ regulations:

- **Agency Review and Streamlining**

Section 1501 of the CEQ regulations addresses agency involvement and timelines for NEPA documentation, and Section 1506 addresses the NEPA process and agency adoption and responsibilities. When multiple agencies are involved, it has resulted in widely varying agency NEPA administration procedures, guidance, and jurisdictional limits. Though we acknowledge that some agencies have different jurisdictional needs than others, the Port's interest is ensuring improved interagency coordination. CEQ, with appropriate funding, should take the lead in providing better coordination and harmonization of multiple agency review and approval.

The Port also believes that many of the inefficiencies in agency NEPA review stem from a lack of sufficient staffing. Funding for staff to maintain NEPA databases, archives, project dashboards, and interagency communications should be considered a necessity for NEPA process reform.

- **Environmental Assessment**

The CEQ regulations are extremely broad when it comes to the use and documentation for Environmental Assessments. As such, NEPA implementation guidance varies greatly due to lack of

standard process across agencies. The Port suggests the inclusion of guidance specific to NEPA Environmental Assessments.

- **Climate Change**

Since the last revision of the CEQ regulations, scientific understanding of human-caused climate change has broadened and deepened. There is now overwhelming consensus within the scientific community that our emissions of greenhouse gases (GHGs) are contributing to climate change. Anticipated future changes could affect human population patterns, surface water flows and quality, soil quality and productivity, biological communities, the number and range of plant and animal species, infrastructure needs and ability to function, natural resource availability and use, socioeconomic conditions, air quality, and human health (among other factors). These topics are among the prime concerns of NEPA. The Port proposes the following changes related to climate change: (1) addition of a definition of “human-caused climate change” to Section 1508 of the CEQ regulations; (2) inclusion of language in Section 1500 of the regulations to emphasize that preventing and mitigating climate change is fundamental to meeting the purpose of NEPA Section 101; and (3) addition of language to Section 1502.16 of the regulations to include discussion of climate change as part of a proposed action’s environmental consequences. In addition, we request that CEQ reinstate its “Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews” without weakening the intent or instructions. More than just acknowledging a critical environmental category, implementing these guidelines would provide project sponsors more certainty and would result in a more standard and consistent discussion of GHG-related impacts.

- **Sustainability**

The concept of sustainability has evolved substantially since the last major changes to the CEQ regulations, and has become increasingly integrated into actions and decision-making within government and industry. Similarly, sustainability is at the heart of NEPA: “Congress, recognizing the profound impact of man’s activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.” (42 U.S. Code, Section 4331)

The innovation, multi-disciplinary approach, and flexibility that help make sustainability successful should be recognized and encouraged. Instead, our experience has been that federal agencies have considered sustainability as, at best, an “add on” to NEPA compliance, and at worst, in conflict with

it. Therefore, we ask that (1) a definition of “sustainability” or “sustainable development” be added to Section 1508 of the CEQ regulations; (2) language be included in Section 1500 of the regulations to emphasize that sustainability is at the heart of meeting the purpose of NEPA; and (3) provisions be added elsewhere in the regulations encouraging federal agencies to incorporate sustainability in their implementing guidance.

- **Environmental Justice**

The CEQ regulations do not specifically require an analysis of environmental justice, but CEQ has developed guidance for environmental justice analyses (CEQ, Environmental Justice Guidance Under the National Environmental Policy Act, 1997). The guidance states that “attainment of environmental justice is wholly consistent with the purposes and policies of NEPA.” Environmental justice considerations are also an important part of Port policies and decisions.

Our understanding of issues related to environmental justice has evolved considerably since 1997. We therefore ask that the CEQ regulations be updated to formalize the need to consider environmental justice in NEPA analysis. We also ask that CEQ update its 1997 guidance, considering information and practices in the 2016 report “Promising Practices for EJ Methodologies in NEPA Reviews” (Report of the Federal Interagency Working Group on Environmental Justice & NEPA Committee). Formalization and updated guidance would provide greater clarity and certainty to project sponsors and would reflect the importance of equity and inclusiveness in the environmental review process.

Thank you again for the chance to comment, and please do not hesitate to contact me if you would like additional information. I look forward to continuing to work with you on this issue and other relevant policies.

Sincerely,



Elizabeth Leavitt  
Senior Director, Environment & Sustainability  
Port of Seattle