



CHAIRMAN

EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

August 22, 2019

The Honorable Neil Chatterjee  
Chairman  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

Dear Chairman Chatterjee:

The Council on Environmental Quality (CEQ) writes to follow up on discussions of our staffs regarding implementation of Executive Order (E.O.) 13807 and the *Memorandum of Understanding Implementing One Federal Decision Under Executive Order 13807* (MOU) effective April 10, 2018. In particular, we write regarding to the provisions of E.O. 13807 relating to Records of Decision (RODs).

With respect to the One Federal Decision policy and development of RODs, E.O. 13807 states that the “lead, cooperating, and participating agencies for each major infrastructure project shall all record any individual agency decision in one Record of Decision (ROD) . . . unless the project sponsor requests that agencies issue separate [National Environmental Policy Act (NEPA)] documents, the NEPA obligations of a cooperating or participating agency have already been satisfied, or the lead Federal agency determines that a single ROD would not best promote completion of the project’s environmental review and authorization process.” § 5(b)(ii), 82 Fed. Reg. 40,463, 40,466 (Aug. 24, 2017). The MOU authorizes FERC to grant an exception to the single ROD requirement:

FERC will grant an exception to the single ROD requirement of E.O. 13807 when the FERC licensing order serves as the ROD. In such situations, the agencies not authorized to issue a combined FEIS/ROD will issue a joint ROD or other appropriate decision document as soon as practicable, consistent with applicable law and the Permitting Timetable.

MOU, Section XIII(C).

CEQ writes to confirm that FERC does not need to specifically grant itself or other agencies the authority to issue a separate ROD via letter or other means. Where a project requires only a FERC order and one other Federal authorization following FERC’s action, there is no need for a joint ROD for the remaining authorization and the cooperating agency may simply proceed to complete its final decision independently. Where multiple Federal authorizations are required in addition to the FERC action, CEQ recommends that the

cooperating agencies plan to prepare a joint ROD (separate from the relevant FERC action) and select an agency to coordinate development of a joint ROD or other appropriate decision document prior to issuance of the final EIS. CEQ encourages FERC to facilitate the cooperating agencies' selection of an appropriate agency to the extent practicable during routine agency coordination associated with the NEPA review. The agency with the largest remaining scope of Federal control, broadest authority, or where otherwise provided for by Federal law may be the most appropriate to coordinate these interagency efforts after the publication of the FERC-led final EIS. If the cooperating agencies cannot reach agreement, they may refer the matter to CEQ in accordance with Section 5(e)(ii) of E.O. 13807.

CEQ looks forward to continuing to work with FERC to ensure that Federal environmental reviews for infrastructure projects are coordinated, predictable and transparent, while ensuring environmental protection.

Sincerely,



Mary B. Neumayr  
Chairman

cc: Terry Turpin, Director, Office of Energy Projects, Federal Energy Regulatory Commission

Heather Campbell, Senior Policy Advisor, Office of Energy Projects, Federal Energy Regulatory Commission