



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

January 18, 2024

Mr. Robert Gibbs
Associate Administrator for Mission Support
National Aeronautics and Space Administration (HQ-4J19)
300 E Street SW
Washington, DC 20546

Dear Mr. Gibbs:

Thank you for consulting with the Council on Environmental Quality (CEQ) on the National Aeronautics and Space Administration (NASA) amendments and updates to its regulations implementing the National Environmental Policy Act (NEPA) at 14 CFR part 1216. The CEQ regulations implementing NEPA (40 CFR parts 1500–1508) provide that agencies, in consultation with CEQ, develop or revise, as necessary, agency specific procedures to implement NEPA and the CEQ regulations. 40 CFR 1507.3. NASA consulted with CEQ in the development of its proposed rule, and CEQ reviewed NASA's draft notice of proposed rulemaking and "Administrative Record for Updates to the National Aeronautics and Space Administration Categorical Exclusions" (Administrative Record), which substantiates its new and revised categorical exclusions (CEs).

Consistent with 40 CFR 1507.3(b)(2), NASA solicited comments from the public on the proposed rulemaking through a 60-day public comment period announced in the Federal Register on May 3, 2023 (88 FR 27804). In its notice, NASA proposed to amend its regulations for implementing the requirements of NEPA to (1) better align with the Agency's current and near future actions, (2) adjust the level of NEPA review and documentation required for certain NASA actions that have become routine over the past decade for which NASA has determined do not have significant environmental effects, (3) provide more concise descriptions of NASA actions and more specific CEs to ensure appropriate application and tracking by NASA, and (4) ensure consistency with Executive Orders and Presidential Memoranda issued since the last update to NASA's procedures. The notice stated the proposed amendments are designed to assist decision makers across NASA with a wide array of missions and activities that include space exploration and Earth observation missions, aeronautics research, launch facilities and activities, sounding rocket and balloon campaigns, field campaigns, and facilities construction and maintenance activities. The proposed amendments would update existing CEs and add nine new CEs, amend existing actions normally requiring an environmental assessment (EA) and add a new action normally requiring an EA, amend existing actions normally requiring an environmental impact statement, and include other less substantive amendments. NASA received two comments on the public docket that were specific to the proposed rule. The comments raised general concerns regarding NASA's implementation of NEPA and the proposed CEs. NASA considered the public comments and has responded to them in its draft final rule; NASA did not make any revisions to the proposed regulatory text in the final rule.

CEQ has reviewed NASA's draft final rule to amend and update its NEPA procedures at 14 CFR part 1216 and its Administrative Record for its new and revised CEs to ensure conformity with NEPA and the CEQ regulations. Based on this review, CEQ concludes that NASA's final rule, including its new and revised CEs as described in the attached draft final rule, are in conformity with NEPA and the CEQ regulations implementing the procedural provisions of NEPA. NASA's new procedures will be effective upon publication of the final rule in the Federal Register.

CEQ appreciates NASA's responsiveness to its comments and recommendations.

Sincerely,

A handwritten signature in black ink that reads "Ana Unruh Cohen". The signature is written in a cursive, flowing style.

Ana Unruh Cohen, PhD
Senior Director for NEPA, Clean Energy & Infrastructure

cc: Ms. Tina Borghild Norwood, NASA NEPA & NRP Manager

Enclosure