Proposed Resolution on the Council of Environmental Quality’s Revisions to the National Environmental Policy Act Implementing Regulations

**Issue:** The Council of Environmental Quality (CEQ) has promulgated a proposed rulemaking that would update its National Environmental Policy Act (NEPA) implementing regulations.

**Proposed Policy:** The Montana Association of Counties (MACo) supports revising NEPA implementing regulations to standardize the qualifications for cooperating agency status, to allow for a cooperating agency to participate in the schedule planning process for NEPA analyses, to direct the lead federal agency to meet with a cooperating agency at the cooperating agency’s request and to amend the definition of cooperating agency to increase the opportunities for involvement from experts within state, local and tribal governments.

MACo supports revisions that would allow federal agencies’ local and regional offices to enter into formal agreements with state and local partners, including allowing state and local governments to conduct portions of, or provide critical data for, a NEPA analysis. MACo recommends that federal agencies work with state and local officials to ensure proposed actions and categorical exclusions are consistent with state and local infrastructure development and land management plans by expanding and mandating reviews for federal agencies with counties and considering the input of all affected parties.

MACo supports page and time limitation for environmental assessments and environmental impact statements to minimize the administrative burden that counties face as a result of the NEPA process. MACo also requests CEQ clarify that any potential deleterious environmental impacts a project may cause will continue to be thoroughly analyzed as changes to NEPA implementation are developed.

**Background:** NEPA, passed in 1970, establishes a process by which federal agencies must consider the potential impacts of proposed projects on the environment. To oversee implementation of the Act, NEPA also established the CEQ, the federal agency charged with developing regulations for the implementation of NEPA. NEPA regulations have been substantively updated only once since 1978.

Despite NEPA’s stated policy of including state and local governments in the NEPA process, the existing NEPA regulations do not require federal agencies to provide counties with meaningful opportunities for cooperation and collaboration in the decision-making process. Further, the NEPA process is often inefficient and time consuming.

In 2018, it was estimated that counties faced a $19.4 billion backlog of deferred infrastructure maintenance primarily impacting roads, trails, bridges and visitor centers that has only continued to grow in the years since. Unnecessarily onerous and duplicative federal regulations further hinder the ability of local governments to address these concerns that impact residents’ quality of life each day. Balancing common sense NEPA reforms with good environmental stewardship will both expedite the timeline for constructing or repairing critical infrastructure projects and lower the cost to local governments while still ensuring the commitment of counties to the health of our ecosystem.

**Sponsors:** Greg Chilcott, Ravalli County, Montana