EO on Accelerating the Nation's Economic Recovery from the COVID-19 Emergency by Expediting Infrastructure Investments and Other Activities

INFRASTRUCTURE & TECHNOLOGY

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By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby determine and authorize as follows:

Section 1. Purpose. The 2019 novel coronavirus known as SARS-CoV-2, the virus causing outbreaks of the disease COVID-19, has significantly disrupted the lives of Americans. In Proclamation 9994 of March 13, 2020 (Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak), I declared, pursuant to the National Emergencies Act, 50 U.S.C. 1601 *et seq.*, that the COVID-19 outbreak in the United States constituted a national emergency that posed a threat to our national security ("the national emergency"). I also determined that same day that the COVID-19 outbreak constituted an emergency of nationwide scope, pursuant to section 501(b) of the Stafford Act (42 U.S.C. 5191(b)).

Since I declared this national emergency, the American people have united behind a policy of mitigation strategies, such as social distancing, to reduce the spread of COVID-19. The unavoidable result of the COVID-19 outbreak and these necessary mitigation measures has been a dramatic downturn in our economy. National unemployment claims have reached historic levels. In the days between the national emergency declaration and May 23, 2020, more than 41 million Americans filed for unemployment, and the unemployment rate reached 14.7 percent. In light of this and other developments, I have determined that, without intervention, the United States faces the likelihood of a potentially protracted economic recovery with persistent high unemployment.

From the beginning of my Administration, I have focused on reforming and streamlining an outdated regulatory system that has held back our economy with needless paperwork and costly delays. Antiquated regulations and bureaucratic practices have hindered American infrastructure investments, kept America's building trades workers from working, and prevented our citizens from developing and enjoying the benefits of world-class infrastructure.

The need for continued progress in this streamlining effort is all the more acute now, due to the ongoing economic crisis. Unnecessary regulatory delays will deny our citizens opportunities for jobs and economic security, keeping millions of Americans out of work and hindering our economic recovery from the national emergency.

In tandem with this regulatory reform, I will continue to use existing legal authorities to respond to the full dimensions of the national emergency and its economic consequences. These authorities include statutes and regulations that allow for expedited government decision making in exigent circumstances.

Sec. 2. Policy. Agencies, including executive departments, should take all appropriate steps to use their lawful emergency authorities and other authorities to respond to the national emergency and to facilitate the Nation's economic recovery. As set forth in this order, agencies should take all reasonable measures to speed infrastructure investments and to speed other actions in addition to such investments that will strengthen the economy and return Americans to work, while providing appropriate protection for public health and safety, natural resources, and the environment, as required by law. For purposes of this order, the term "agencies" has the meaning given that term in section 3502(1), of title 44, United States Code, except for the agencies described in section 3502(5) of title 44.

Sec. 3. Expediting the Delivery of Transportation Infrastructure Projects. (a) To facilitate the Nation's economic recovery, the Secretary of Transportation shall use all relevant emergency and other authorities to expedite work on, and completion of, all authorized and appropriated highway and other infrastructure projects that are within the authority of the Secretary to perform or to advance.

(b) No later than 30 days of the date of this order, the Secretary of Transportation shall provide a summary report, listing all projects that have been expedited pursuant to subsection (a) of this section ("expedited transportation projects"), to the Director of the Office of Management and

Budget (OMB), the Assistant to the President for Economic Policy, and the Chairman of the Council on Environmental Quality (CEQ). Such report may be combined, as appropriate, with any other reports required by this order.

(c) Within 30 days following the submission of the initial summary report described in subsection (b) of this section, the Secretary of Transportation shall provide a status report to the OMB Director, the Assistant to the President for Economic Policy, and the Chairman of CEQ that shall list any additions or other changes to the list described in subsection (b) of this section. Such status reports shall thereafter be provided to these officials at least every 30 days for the duration of the national emergency, and may be combined, as appropriate, with any other reports required by this order.

Sec. 4. Expediting the Delivery of Civil Works Projects Within the Purview of the Army Corps of Engineers. (a) To facilitate the Nation's economic recovery, the Secretary of the Army, acting through the Assistant Secretary of the Army for Civil Works, shall use all relevant emergency and other authorities to expedite work on, and completion of, all authorized and appropriated civil works projects that are within the authority of the Secretary of the Army to perform or to advance.

(b) No later than 30 days of the date of this order, the Secretary of the Army, acting through the Assistant Secretary of the Army for Civil Works, shall provide a summary report, listing all such projects that have been expedited ("expedited Army Corps of Engineers projects"), to the OMB Director, the Assistant to the President for Economic Policy, and the Chairman of CEQ. Such report may be combined, as appropriate, with any other reports required by this order.

(c) Within 30 days following the submission of the initial summary report described in subsection (b) of this section, the Secretary of the Army, acting through the Assistant Secretary of the Army for Civil Works, shall provide a status report to the OMB Director, the Assistant to the President for Economic Policy, and the Chairman of CEQ. Each such report shall list the status of all expedited Army Corps of Engineers projects and shall list any additions or other changes to the list described in subsection (b) of this section. Such status reports shall thereafter be provided to these officials at least every 30 days for the duration of the national emergency and may be combined, as appropriate, with any other reports required by this order.

Sec. 5. Expediting the Delivery of Infrastructure and Other Projects on Federal Lands. (a) As used in this section, the term "Federal lands" means any land or interests in land owned by the United States, including leasehold interests held by the United States, except Indian trust land.

(b) To facilitate the Nation's economic recovery, the Secretary of Defense, the Secretary of the Interior, and the Secretary of Agriculture shall use all relevant emergency and other authorities to expedite work on, and completion of, all authorized and appropriated infrastructure, energy, environmental, and natural resources projects on Federal lands that are within the authority of each of the Secretaries to perform or to advance.

(c) No later than 30 days of the date of this order, the Secretary of Defense, the Secretary of the Interior, and the Secretary of Agriculture shall each provide a summary report, listing all such projects that have been expedited ("expedited Federal lands projects"), to the OMB Director, the Assistant to the President for Economic Policy, and the Chairman of CEQ. Such report may be combined, as appropriate, with any other reports required by this order.

(d) Within 30 days following the submission of the initial summary report described in subsection (c) of this section, the Secretary of Defense, the Secretary of the Interior, and the Secretary of Agriculture shall each provide a status report to the OMB Director, the Assistant to the President for Economic Policy, and the Chairman of CEQ. Each such report shall list the status of all expedited Federal lands projects and shall list any additions or other changes to the list described in subsection (c) of this section. Such status reports shall thereafter be provided to these officials at least every 30 days for the duration of the national emergency and may be combined, as appropriate, with any other reports required by this order.

Sec. 6. National Environmental Policy Act (NEPA) Emergency Regulations and Emergency Procedures. The Council on Environmental Quality has provided appropriate flexibility to agencies for complying with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, in emergency situations. Such flexibility is expressly authorized in CEQ's regulations, contained in title 40, Code of Federal Regulations, that implement the procedural provisions of NEPA (the "NEPA regulations"), which were first issued in 1978. These regulations provide that when emergency circumstances make it necessary to take actions with significant environmental impacts without observing the regulations, agencies may consult with CEQ to make alternative arrangements to take such actions. Using this authority, CEQ has appropriately approved alternative arrangements in a wide variety of pressing emergency situations. These emergencies

have included not only natural disasters and threats to the national defense, but also threats to human and animal health, energy security, agriculture and farmers, and employment and economic prosperity.

(a) No later than 30 days of the date of this order, the heads of all agencies:

(i) shall identify planned or potential actions to facilitate the Nation's economic recovery that:

(A) may be subject to emergency treatment as alternative arrangements pursuant to CEQ's NEPA regulations and agencies' own NEPA procedures;

(B) may be subject to statutory exemptions from NEPA;

(C) may be subject to the categorical exclusions that agencies have included in their NEPA procedures pursuant to the NEPA regulations;

(D) may be covered by already completed NEPA analyses that obviate the need for new analyses; or

(E) may otherwise use concise and focused NEPA environmental analyses; and

(ii) shall provide a summary report, listing such actions, to the OMB Director, the Assistant to the President for Economic Policy, and the Chairman of CEQ. Such report may be combined, as appropriate, with any other reports required by this order.

(b) To facilitate the Nation's economic recovery, the heads of all agencies are directed to use, to the fullest extent possible and consistent with applicable law, emergency procedures, statutory exemptions, categorical exclusions, analyses that have already been completed, and concise and focused analyses, consistent with NEPA, CEQ's NEPA regulations, and agencies' NEPA procedures.

(c) Within 30 days following the submission of the initial summary report described in subsection (a)(ii) of this section, each agency shall provide a status report to the OMB Director, the Assistant to the President for Economic Policy, and the Chairman of CEQ. Each such report shall list actions taken within the categories described in subsection (a)(i) of this section, shall list

the status of any previously reported planned or potential actions, and shall list any new planned or potential actions within these categories. Such status reports shall thereafter be provided to these officials at least every 30 days for the duration of the national emergency and may be combined, as appropriate, with any other reports required by this order.

(d) The Chairman of CEQ shall be available to consult promptly with agencies and to take other prompt and appropriate action concerning the application of CEQ's NEPA emergency regulations.

Sec. 7. Endangered Species Act (ESA) Emergency Consultation Regulations. (a) No later than 30 days of the date of this order, the heads of all agencies:

(i) shall identify planned or potential actions to facilitate the Nation's economic recovery that may be subject to the regulation on consultations in emergencies, *see* 50 C.F.R. 402.05, promulgated by the Secretary of the Interior and the Secretary of Commerce pursuant to the Endangered Species Act (ESA), 16 U.S.C. 1531 *et seq.*; and

(ii) shall provide a summary report, listing such actions, to the Secretary of the Interior, the Secretary of Commerce, the OMB Director, the Assistant to the President for Economic Policy, and the Chairman of CEQ. (The Secretary of the Interior and the Secretary of Commerce shall provide such summary reports, listing such actions on behalf of their respective agencies, to each other and for internal use throughout their respective agencies, as well as to the OMB Director, the Assistant to the President for Economic Policy, and the Chairman of CEQ.) Such report may be combined, as appropriate, with any other reports required by this order.

(b) The heads of all agencies are directed to use, to the fullest extent possible and consistent with applicable law, the ESA regulation on consultations in emergencies, to facilitate the Nation's economic recovery.

(c) Within 30 days following the submission of the initial summary report described in subsection (a)(ii) of this section, the head of each agency shall provide a status report to the Secretary of the Interior, the Secretary of Commerce, the OMB Director, the Assistant to the President for Economic Policy, and the Chairman of CEQ. (The Secretary of the Interior and the Secretary of Commerce shall provide such status reports, listing such actions on behalf of their

respective agencies, to each other and for internal use throughout their respective agencies, as well as to the OMB Director, the Assistant to the President for Economic Policy, and the Chairman of CEQ.) Each such report shall list actions taken within the categories described in subsection (a)(i) of this section, shall list the status of any previously reported planned or potential actions, and shall list any new planned or potential actions within these categories. Such status reports shall thereafter be provided to these officials at least every 30 days for the duration of the national emergency and may be combined, as appropriate, with any other reports required by this order.

(d) The Secretary of the Interior shall ensure that the Director of the Fish and Wildlife Service, or the Director's authorized representative, shall be available to consult promptly with agencies and to take other prompt and appropriate action concerning the application of the ESA's emergency regulations. The Secretary of Commerce shall ensure that the Assistant Administrator for Fisheries for the National Marine Fisheries Service, or the Assistant Administrator's authorized representative, shall be available for such consultation and to take such other action.

Sec. 8. Emergency Regulations and Nationwide Permits Under the Clean Water Act (CWA) and Other Statutes Administered by the Army Corps of Engineers. (a) No later than 30 days of the date of this order, the heads of all agencies, including the Secretary of the Army, acting through the Assistant Secretary of the Army for Civil Works:

(i) shall identify planned or potential actions to facilitate the Nation's economic recovery that may be subject to emergency treatment pursuant to the regulations and nationwide permits promulgated by the Army Corps of Engineers, or jointly by the Corps and the Environmental Protection Agency (EPA), pursuant to section 404 of the Clean Water Act, 33 U.S.C. 1344, section 10 of the Rivers and Harbors Act of March 3, 1899, 33 U.S.C. 403, and section 103 of the Marine Protection Research and Sanctuaries Act of 1972, 33 U.S.C. 1413 (collectively, the "emergency Army Corps permitting provisions"); and

(ii) shall provide a summary report, listing such actions, to the Secretary of the Army, acting through the Assistant Secretary of the Army for Civil Works; the OMB Director; the Assistant to the President for Economic Policy; and the Chairman of CEQ. Such report may be combined, as appropriate, with any other reports required by this order.

(b) The heads of all agencies are directed to use, to the fullest extent possible and consistent with applicable law, the emergency Army Corps permitting provisions, to facilitate the Nation's economic recovery.

(c) Within 30 days following the submission of the initial summary report described in subsection (a)(ii) of this section, each agency shall provide a status report to the Secretary of the Army, acting through the Assistant Secretary of the Army for Civil Works; the OMB Director; the Assistant to the President for Economic Policy; and the Chairman of CEQ. Each such report shall list actions taken within subsection (a)(i) of this section, shall list the status of any previously reported planned or potential actions, and shall list any new planned or potential actions that fall within subsection (a)(i). Such status reports shall thereafter be provided to these officials at least every 30 days for the duration of the national emergency and may be combined, as appropriate, with any other reports required by this order.

(d) The Secretary of the Army, acting through the Assistant Secretary of the Army for Civil Works, shall be available to consult promptly with agencies and to take other prompt and appropriate action concerning the application of the emergency Army Corps permitting provisions. The Administrator of the EPA shall provide prompt cooperation to the Secretary of the Army and to agencies in connection with the discharge of the responsibilities described in this section.

Sec. 9. Other Authorities Providing for Emergency or Expedited Treatment of Infrastructure Improvements and Other Activities. (a) No later than 30 days of the date of this order, all heads of agencies:

(i) shall review all statutes, regulations, and guidance documents that may provide for emergency or expedited treatment (including waivers, exemptions, or other streamlining) with regard to agency actions pertinent to infrastructure, energy, environmental, or natural resources matters;

(ii) shall identify planned or potential actions, including actions to facilitate the Nation's economic recovery, that may be subject to emergency or expedited treatment (including waivers, exemptions, or other streamlining) pursuant to those statutes and regulations; and

(iii) shall provide a summary report, listing such actions, to the OMB Director, the Assistant to the President for Economic Policy, and the Chairman of CEQ. Such report may be combined, as appropriate, with any other reports required by this order.

(b) Consistent with applicable law, agencies shall use such statutes and regulations to the fullest extent permitted to facilitate the Nation's economic recovery.

(c) Within 30 days following the submission of the initial summary report described in subsection (a)(iii) of this section, each agency shall provide a status report to the OMB Director, the Assistant to the President for Economic Policy, and the Chairman of CEQ. Each such report shall list actions taken within subsection (a)(ii) of this section, shall list the status of any previously reported planned or potential actions, and shall list any new planned or potential actions that fall within subsection (a)(ii). Such status reports shall thereafter be provided to these officials at least every 30 days for the duration of the national emergency and may be combined, as appropriate, with any other reports required by this order.

Sec. 10. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the OMB Director relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.