



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

## **Fact Sheet: Modernizing CEQ's NEPA Regulations**

On July 15, 2020, the Council on Environmental Quality (CEQ) announced its final rule titled "[Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act.](#)"

For the first time in over 40 years, CEQ has comprehensively updated its National Environmental Policy Act (NEPA) regulations to modernize the Federal environmental review process, which will benefit the environment, economy, and every American. The regulations, which apply to all Federal agencies, have been complex and unnecessarily difficult to understand and navigate. The result has been excessive paperwork, litigation, and delays. Environmental impact statements (EISs) for Federal highway projects have averaged over seven years to complete and some reviews have taken a decade or more. The modernized regulations will promote more efficient, effective, and timely environmental reviews by all Federal agencies.

CEQ's final rule will modernize the NEPA regulations by simplifying and clarifying the requirements, and incorporating key elements of President Trump's One Federal Decision policy. The final rule codifies Supreme Court and other case law, updates the regulations to reflect current technologies and agency practices, eliminates obsolete provisions, and improves the format and readability of the regulations. The rule also exempts certain loan guarantee programs from the NEPA process, which will reduce unnecessary burdens on small businesses and family farms. Additionally, the rule will expand public participation and the involvement of Tribal governments in the NEPA process. The modernized NEPA regulations will accelerate the environmental review and permitting processes for development of modern, resilient infrastructure, management of our Federal lands and waters, and restoration of our environment.

### **Background:**

NEPA, signed into law in 1970, is a procedural statute that requires Federal agencies to assess the potential environmental impacts of proposed major Federal actions. CEQ issued regulations for Federal agencies to implement NEPA in 1978. CEQ has not comprehensively updated these regulations in over 40 years, and has made only one limited substantive amendment in 1986.

Since NEPA's enactment, implementation has been complex and time consuming for Federal agencies and Americans seeking permits or approvals from the Federal government. The complexity of the regulations has given rise to CEQ's issuance of more than 30 guidance documents to assist Federal agencies in understanding and complying with NEPA. Additionally, Presidents on a bipartisan basis have issued directives, and Congress has enacted legislation to reduce delays and expedite the implementation of NEPA and the CEQ regulations, including for transportation, water, and other types of infrastructure projects.

CEQ has found that the average length of an EIS is over 600 pages, and that the average time for Federal agencies to conduct these NEPA reviews is four and a half years. However,

reviews for some projects have taken much longer. NEPA is the most litigated environmental law in the country. NEPA analyses are frequently challenged in the courts, and while Federal agencies ultimately prevail in many cases, litigation can unnecessarily delay and increase costs for important projects that benefit States, Tribes, and local communities. The increased costs and complexity of NEPA reviews and litigation make it very challenging for businesses and communities to plan, finance, and build projects in the United States.

In 2017, President Trump issued [Executive Order 13807](#) establishing a One Federal Decision policy, including a two-year goal for completing environmental reviews for major infrastructure projects, and directing CEQ to consider revisions to modernize its NEPA regulations. In 2018, CEQ issued an [Advance Notice of Proposed Rulemaking](#) (ANPRM) requesting comment on potential updates to its regulations. CEQ received over [12,500 comments](#). On January 10, 2020, CEQ issued a [Notice of Proposed Rulemaking](#) (NPRM) to modernize and clarify the NEPA regulations and provided for a 60 day public comment period. CEQ also held two public hearings and received over [1.1 million comments](#), which informed development of the final rule.

### **Overview of Key Elements of the Final Rule:**

- **Improves Management of the NEPA Process**
  - Establishes presumptive time limits of two years for the preparation of environmental impact statements (EISs) and one year for the preparation of environmental assessments (EAs)
  - Specifies presumptive page limits for EISs and EAs
  - Requires joint schedules, a single EIS, and a single record of decision (ROD), where appropriate, for EISs involving multiple Federal agencies
  - Strengthens the role of the lead agency and requires senior agency officials to oversee NEPA compliance, including timely resolution of disputes to avoid delays
  - Allows applicants/contractors to assume a greater role in preparing EISs with appropriate disclosure of financial or other interests and with supervision and independent evaluation by the agency
  
- **Codifies Relevant Case Law and Provides New Efficiencies**
  - Includes new provisions to assist Federal agencies in determining whether NEPA applies and the appropriate level of environmental review
  - Requires agencies to consider environmental effects that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action
  - Clarifies the definition of major Federal action and excludes activities with minimal Federal funding or involvement such as small business and farm loan guarantees
  - Directs agencies to analyze a reasonable range and number of technically and economically feasible alternatives
  - Provides efficiencies to comply with NEPA where procedures and documents required under other statutes satisfy the requirements of the CEQ regulations
  - Allows agencies to establish procedures to use other agencies' categorical exclusions (CEs) and to adopt EAs and CE determinations, where appropriate

- **Expands Public Involvement and Improves Coordination with States, Tribes, and Localities**
  - Requires agencies to provide more information to and solicit input from the public earlier in the process to ensure and facilitate informed decision making by Federal agencies
  - Reduces duplication by facilitating use of documents prepared by State, Tribal, and local agencies to comply with NEPA
  - Enhances ability of Native Americans to participate in the NEPA process and ensures appropriate consultation with affected Tribal governments and agencies
  - Eliminates provisions in the prior regulations that limit Tribal interest to reservations
  - Promotes use of modern technologies for information sharing and public outreach
  
- **Ensures Meaningful and Effective Environmental Reviews**
  - Requires agencies to consider the affected environment, including reasonably foreseeable environmental trends and planned actions
  - Requires agencies to certify consideration of alternatives, information, and analyses submitted by State, Tribal, and local governments and public commenters
  - Clarifies that mitigation must have a nexus to effects of the proposed action or alternatives
  - Does not alter any substantive environmental laws or regulations

**Additional Information:**

- NEPA applies to a broad range of Federal agency actions, including Federally-funded construction projects, plans to manage and develop Federal lands, and Federal authorizations of non-Federal activities such as licenses and permits. NEPA encompasses a variety of projects and activities, including construction of roads, bridges, highways, public transit, and airports, conventional and renewable energy production and distribution, electricity transmission, water infrastructure, and broadband deployment, as well as management of public lands, forests, and waters. Such management activities include leases and authorizations for energy production, mining, grazing, and other activities; management of national parks, forests, and fisheries; and environmental restoration projects.
- Under the CEQ regulations, there are three levels of environmental review: EISs, EAs, and CEs. Annually agencies issue approximately 170 final EISs and 10,000 EAs, and apply categorical exclusions to approximately 100,000 actions.

*For the Final Rule, click [HERE](#).*

*For the Regulatory Impact Analysis, click [HERE](#).*

*For the Final Rule Response to Comments, click [HERE](#).*