



NEPA: Back to the Drawing Board



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Today the Council on Environmental Quality (CEQ) issued an [interim final rule](#) (IFR) that will soon remove all existing CEQ regulations implementing the National Environmental Policy Act (NEPA). Other than the issuance of CEQ's original NEPA regulations in 1978, this IFR is perhaps the most significant rulemaking in

the statute's 55-year history. CEQ is providing a condensed, 30-day public comment period, which closes on March 27, 2025. The IFR becomes effective on April 11, 2025.

The IFR responds to President Trump's Executive Order (EO) 14154, "[Unleashing American Energy](#)", and sets the stage for the administration's aggressive push to streamline federal agency approvals under NEPA. While comments on the IFR are unlikely to change it, project proponents still should consider submitting comments, including on the need for certainty and consistency in NEPA implementation within and across federal agencies without the CEQ regulations in place.

In issuing the IFR, CEQ is leaning on [recent court rulings](#) that the agency lacks statutory authority to issue binding regulations. However, this approach based on the "good cause" exception under the Administrative Procedure Act, particularly on an expedited basis, will likely attract litigation. Stakeholders should closely watch this space and consider getting involved in any relevant resulting actions, including individual agencies' subsequent revisions to their own NEPA procedures to align with CEQ's action and the administration's announced policy priorities.

What does this mean for my project?

The IFR would not immediately affect past or ongoing project evaluations. Agencies generally have NEPA regulations and procedures that largely adopt or mirror CEQ's regulations. The IFR states that agencies will remain free to rely on and adapt those as needed.

However, under EO 14154, President Trump also directed CEQ to issue a [guidance memorandum](#) that sets in motion efforts to complete amendments to agency-specific NEPA procedures within merely 12 months. These individual agency actions may have substantial implications for new and ongoing environmental reviews. As a preview of potential changes, the memorandum signals areas where the Administration will push agencies to embrace narrower and less stringent NEPA reviews. Among other recommendations, CEQ encourages agencies to:

1. Consider adverse effects of the no-action alternative;
2. Carefully consider a threshold of federal funding to trigger NEPA;

3. Not expressly or always consider “cumulative effects” apart from only those effects that are “reasonably foreseeable” which could minimize climate-related impacts; and
4. Exclude an environmental justice analysis to the extent not required by other applicable laws.

Next Steps

The NEPA statute, CEQ, and reviewing courts are not going away. Consistent implementation of NEPA is essential to timely and cost-effective environmental reviews. Stakeholders will also need to track potential congressional efforts to amend NEPA so that any final drafts of new regulations are compatible with any new legislation.

On the horizon, given the aggressive 12-month timeline and the complexity of conducting rulemakings across multiple federal agencies, there will be numerous opportunities to streamline a wide range of agency procedures. It is crucial for stakeholders to participate actively in these rulemakings and engage with agencies as they work to identify and implement productive, legally defensible NEPA regulations.

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