



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

## **Fact Sheet: CEQ's Proposal to Modernize its NEPA Implementing Regulations**

On January 9, 2020, the Council on Environmental Quality (CEQ) announced a [notice of proposed rulemaking \(NPRM\)](#) titled "[Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act.](#)"

For the first time in over 40 years, CEQ is proposing to modernize its National Environmental Policy Act (NEPA) regulations. The outdated regulations have slowed and impeded the development of needed infrastructure in communities across the nation. Environmental impact statements (EISs) for Federal highway projects have averaged over 7 years to complete and many reviews have taken a decade or more.

CEQ's proposed rule would modernize and clarify the CEQ regulations to facilitate more efficient, effective, and timely NEPA reviews by simplifying and clarifying regulatory requirements, incorporating key elements of the One Federal Decision policy, codifying certain case law and CEQ guidance, updating the regulations to reflect current technologies and agency practices, eliminating obsolete provisions, and improving the format and readability of the regulations. The proposed rule seeks to reduce unnecessary paperwork and delays, and to promote better decision-making consistent with NEPA's statutory requirements.

### **Background:**

The National Environmental Policy Act (NEPA), signed into law in 1970, is a procedural statute that requires Federal agencies to assess the environmental impacts of proposed major Federal actions. The Council on Environmental Quality (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.

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 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](#), which informed CEQ's proposed rule.

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 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 such as needed transportation, water, and other infrastructure that benefit States, Tribes, and local communities. The increased costs and complexity of NEPA reviews and litigation make it very challenging for large and small businesses to plan, finance, and build projects in the United States.

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

- **Modernize, Simplify and Accelerate the NEPA Process**
  - Establish presumptive time limits of two years for completion of environmental impact statements (EISs) and one year for completion of environmental assessments (EAs)
  - Specify presumptive page limits
  - Require joint schedules, a single EIS, and a single record of decision (ROD), where appropriate, for EISs involving multiple agencies
  - Strengthen the role of the lead agency and require senior agency officials to timely resolve disputes to avoid delays
  - Promote use of modern technologies for information sharing and public outreach
  
- **Clarify Terms, Application and Scope of NEPA Review**
  - Provide direction regarding the threshold consideration of whether NEPA applies to a particular action
  - Require earlier solicitation of input from the public to ensure informed decision-making by Federal agencies
  - Require comments to be specific and timely to ensure appropriate consideration
  - Require agencies to summarize alternatives, analyses, and information submitted by commenters and to certify consideration of submitted information in the ROD
  - Simplify the definition of environmental “effects” and clarify that effects must be reasonably foreseeable and have a reasonably close causal relationship to the proposed action
  - State that analysis of cumulative effects is not required under NEPA
  - Clarify that “major Federal action” does not include non-discretionary decisions and non-Federal projects (those with minimal Federal funding or involvement)
  - Clarify that “reasonable alternatives” requiring consideration must be technically and economically feasible
  
- **Enhance Coordination with States, Tribes, and Localities**
  - Reduce duplication by facilitating use of documents required by other statutes or prepared by State, Tribal, and local agencies to comply with NEPA
  - Ensure appropriate consultation with affected Tribal governments and agencies
  - Eliminate the provisions in the current regulations that limit Tribal interest to reservations
  
- **Reduce Unnecessary Burdens, Delays**
  - Facilitate use of efficient reviews (categorical exclusions (CEs), environmental assessments)
  - Allow agencies to establish procedures for adopting other agencies’ CEs
  - Allow applicants/contractors to assume a greater role in preparing EISs under the supervision of an agency

### **Request for Public Comment:**

- CEQ requests public comment on the NPRM. Comments should be submitted on or before March 10, 2020.
- You may submit comments via any of the following methods:
  - Go to <https://www.regulations.gov/> and follow the online instructions for submitting comments to Docket ID No. CEQ-2019-0003.
  - By Fax: 202-456-6546
  - By mail:
    - Council on Environmental Quality  
730 Jackson Place NW  
Washington, DC 20503  
Attn: Docket No. CEQ-2019-0003

### **Public Engagement:**

- CEQ will host two public hearings in Denver, CO and Washington, DC.
  - Additional details concerning the hearings and other public engagement may be found [HERE](#).

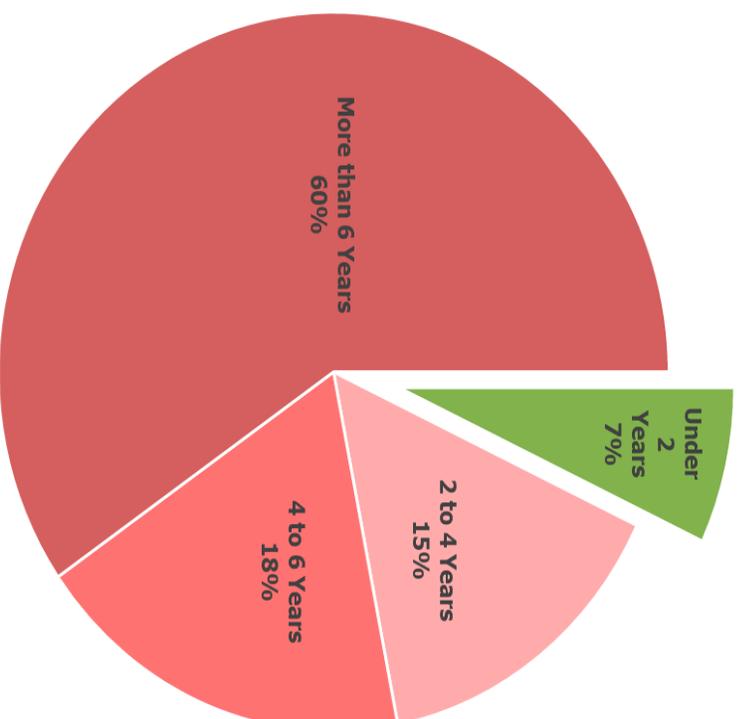
### **Additional Information:**

- NEPA applies to a broad range of Federal 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 activities, including projects involving the construction of roads, bridges, highways, and airports, conventional and renewable energy production and distribution, electricity transmission, water infrastructure, and broadband deployment, as well as management activities on public lands. Such management activities include leases and authorizations for energy production, mining, grazing, and other activities; management of national parks and forests; and environmental restoration projects.
- Under the CEQ regulations, there are three levels of environmental review: environmental impact statements (EISs), environmental assessments (EAs), and categorical exclusions (CEs). Annually agencies prepare approximately 170 EISs and 10,000 EAs, and apply categorical exclusions to approximately 100,000 actions.



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## Length of Environmental Review for Federal Highway Projects



Council on Environmental Quality (2018). *EIS Timeline Database*. CEO\_EIS\_Timelines.xlsx. Available from <https://ceq.doe.gov/nepa-practice/eis-timelines.html>