

CEQ Announces New Limits on the Scope of the National Environmental Policy Act

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On July 15, 2020, the Council on Environmental Quality (CEQ) issued a [Final Rule](#) amending its regulations under the National Environmental Policy Act (NEPA). The update is a response to Executive Order 13807, in which President Trump directed the CEQ to investigate possible changes to NEPA that would modernize the regulations. Executive Order 13807 also established a goal of two years to prepare environmental impact statements for federal projects.

The Final Rule seeks to promote infrastructure development by streamlining the environmental review process. Key changes include:

- **Limits on Projects Subject to NEPA Review:** NEPA review is only required on projects that are “major federal actions.” The original rule defines this as “actions with effects that may be major” and “are potentially subject to Federal control.” The Final Rule revises the definition to limit the number of projects that are subject to NEPA review. The new rule exempts projects that receive minimal federal funding or involvement.
- **Narrower Definition of “Effects”:** NEPA review assesses the environmental effects of a major federal action. Previously, NEPA defined “effects” to include the cumulative and indirect effects of a proposed project, in addition to the direct effects on the environment. The Final Rule removes indirect and cumulative effects from consideration. An effect should not be considered if it is temporally or geographically remote from the project, or results from a “lengthy causal chain.”
- **New Time Limits:** Under the prior rules, the timeline for completing an environmental impact statement averaged four and a half years. The new rule establishes a presumptive two-year limit to complete environmental impact statements, and a presumptive one-year limit for environmental assessments.

Proponents of the new regulations cite increased efficiency in improving critical infrastructure. Critics argue that the new rules fail to protect the environment and communities where federal projects are located. Environmental groups have announced their intention to bring lawsuits challenging the Final Rule.

The Final Rule becomes effective on September 14, 2020, and applies to projects beginning on or after this date. Projects that begin prior to this date may continue to operate under the previous NEPA regulations or may utilize the new regulations, meaning that ongoing NEPA reviews could be streamlined under the Final Rule.

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