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PRESS RELEASE

NEPA Phase 1 Rulemaking is Critical to Sound Environmental Decision-Making

Biden's CEQ succeeds in undoing three of the worst of the Trump administration's changes to the NEPA

WASHINGTON, D.C. – Today, the White House Council on Environmental Quality (CEQ) released a pre-publication of final changes to the implementing regulations for the National Environmental Policy Act (NEPA), reversing several Trump-era environmental permitting changes to the regulations. NEPA is known as the nation's bedrock environmental law, guiding the environmental review process of major federal actions from highway construction to fossil fuel development. The changes, referred to by the administration as Phase 1, are the first of two steps in the administration's plan to update the regulations, which were severely restricted and amended in the last year of the Trump administration. Phase 1 focuses on Trump-era provisions that cause significant near-term interpretation or implementation challenges.

Barbara Vasquez, a leader with the Western Organization of Resource Councils, from Cowdrey, Colorado said, "Strong NEPA regulations mean that the concerns of rural and Tribal communities can't just be steamrolled by corporations in pursuit of their profits. This is an important first step, but the Biden Administration must continue down this path to ensure the public has a real voice in federal decisions and to prioritize protecting the land, water, and air we rely on to survive."

Lisa DeVille, of Mandaree, ND; Secretary of Dakota Resource Council, Vice-President of Fort Berthold POWER said, "These core NEPA regulations are essential to Tribal citizens like me. NEPA review is one of the only avenues for us to voice our opinions about projects that directly impact our lives and communities. Throughout the history of this nation, the needs, safety, and health of Indigenous peoples have been ignored. The changes in NEPA's Phase 1 are a step in the right direction. I urge the Biden Administration to take even stronger steps in Phase 2 to address environmental justice issues, including climate change, and support of community and third-party monitoring."

Changes under Phase 1 include the restored 1978 definition of "effects," thereby requiring consideration of "cumulative," "direct," and "indirect" effects. The Trump-era NEPA regulations

had consolidated those terms under the simple term “effects” which lead to several concerns, including whether the impact of pollution or climate change could be considered as a cumulative problem. Additionally, the restored implementing regulations reinstilled the requirement that agencies consider the public interest “purpose and need” of proposed actions subject to NEPA. Under the 2020 regulations, this assessment was largely limited to the goals of the applicant which short-cuts the range of alternatives and mitigation measures an agency could consider in response to a project proposal. Finally, the restored regulations clarify that agencies have the discretion and flexibility to develop procedures stronger than the CEQ regulatory requirements in order to meet an agency’s specific purpose and mission.

The Biden administration intends to develop a Phase 2 rulemaking to tackle the 2020 NEPA revisions more broadly, with a particular focus on integrating the Biden administration’s policies on climate and environmental justice. Phase 2 is also [expected](#) to provide regulatory certainty to federal agencies and entities proposing projects; promote better decision-making consistent with NEPA’s statutory requirements; and meet environmental, climate change, and environmental justice objectives.

BACKGROUND:

The National Environmental Policy Act (NEPA) was signed into law on January 1, 1970, and In 1978, CEQ issued regulations to implement NEPA. The law requires federal agencies to consider the environmental effects of proposed development that significantly impacts the quality of the environment. These projects include the construction of oil and gas wells, coal mines, roads, bridges, highways, transmission lines, renewable energy projects, broadband deployment, and more. Because of how the law cuts across every federal agency, the Council on Environmental Quality (CEQ) is charged with creating implementing rules and guidance for the federal government. Former President Trump’s CEQ revised the NEPA implementing regulations in order to shortcut adequate environmental review and handcuff agency review processes. These changes - the first major revisions to the rules in decades - eliminated cumulative impact analysis, allowed agencies to expand categories of activities that do not require an environmental review at all, and effectively prevented federal agencies from having to consider the climate impacts of development projects. In 2021, the Biden administration was successful in delaying agency implementation of Trump-Era rules by pausing the process by which federal agencies would adopt the new CEQ rules into their own agency rules as CEQ began a new rulemaking process. For the most part, federal agencies have continued to use pre-2020 regulations when conducting a NEPA review while President Biden’s CEQ works on a new NEPA implementing regulation.

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[Dakota Resource Council's](#) mission is to promote sustainable use of North Dakota’s natural resources and family-owned and operated agriculture by building member-led local groups that empower people to influence the decision-making processes that affect their lives and communities.

[The Western Organization of Resource Councils \(WORC\)](#) is a network of eight grassroots organizations in seven Western states with 15,000 members, many of them ranchers and farmers committed to common-sense reform in agriculture, oil and gas development, coal mine reclamation, and rural economic development. Headquartered in Billings, Mont., WORC also has offices in Colorado and Washington, D.C.