

Five major points that stand out in Trump's 194-page proposed NEPA regulations (with page #s!)

Today, the Trump administration [released their draft proposed changes](#) to the regulations that implement the National Environmental Policy Act (NEPA) - the only law that requires the federal government to consider the environmental impacts of its decisions and gives the public a voice in federal decision making.

This isn't just an effort to "modernize" the review process as Trump and CEQ Chair Mary Neumayr claim. This is about allowing pipelines and dirty fossil fuel projects to bulldoze communities with less public input and less disclosure of potentially harmful public health, environmental, and climate change impacts.

We took a look at the 194-page document and here are five points that stand out:

1. **Removing any analysis of climate impacts through changes to "cumulative impacts" or "effects:"** Trump's proposal removes the requirement that agencies analyze cumulative impacts under NEPA; in fact, the proposed regulatory language states, "**Analysis of cumulative effects is not required.**" This is about allowing more polluting projects across the country. Federal actions would not be required to analyze how their project will pollute over time or contribute to climate change.

In fact, the proposed regulatory language essentially directs agencies **not** to consider climate change, without actually using the word "climate": "**Effects should not be considered significant if they are remote in time, geographically remote, or the product of a lengthy causal chain.**"

Notably, both CEQ and EPA in the past have underscored how cumulative effects can ultimately be the most severe. In a [25th anniversary report](#) in 1997, CEQ wrote "perhaps the most significant environmental impacts result from the combination of existing stresses on the environment with the individually minor, but cumulatively major, effects of multiple actions over time." And EPA wrote in [a report in 1999](#), "while they may be insignificant by themselves, cumulative impacts accumulate over time, from one or more sources, and can result in the degradation of important resources." Trump's directive today could put projects, and communities--particularly those struggling with a toxic legacy of pollution--in peril.

Here are the page numbers below to find this in the proposed regulations:

- P. 63: "CEQ proposes...to strike the paragraph on 'cumulative actions.'"
- P. 98: "...CEQ proposes to make amendments to simplify the definition of effects by consolidating the definition into a single paragraph and **striking the specific references to direct, indirect, and cumulative effects.**"
- P. 99: "CEQ proposes to **strike the definition of cumulative impacts and strike the terms "direct" and "indirect"** in order to focus agency time and resources on considering whether an effect is caused by the proposed action rather than on categorizing the type of effect..." (more)
- P. 99: **In addition, CEQ proposes a change in position to state that analysis of cumulative effects, as defined in CEQ's current regulations, is not required under NEPA.**
- P. 99: "With this proposed change and the proposed elimination of the definition of cumulative impacts, it is CEQ's intent to focus agencies on analysis of effects that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action."

- **Proposed regulatory amendments**, P. 189: “A “but for” causal relationship is insufficient to make an agency responsible for a particular effect under NEPA. **Effects should not be considered significant if they are remote in time, geographically remote, or the product of a lengthy causal chain.** Effects do not include effects that the agency has no ability to prevent due to its limited statutory authority or would occur regardless of the proposed action. **Analysis of cumulative effects is not required.”**

2. **Ignoring “Indirect” effects:** Adding on to the above deletion of cumulative effects requirements, the current regulations require agencies to consider both “direct” and “indirect” effects in their analyses. But today’s proposed regulations will allow **agencies and fossil fuel companies to completely disregard potential “indirect” effects of federal actions, as well.** For example, downstream water pollution from a coal mine or drilling operation would not be assessed.

The administration leaves open the door to narrowing the scope of effects that are considered even further: “CEQ invites comment on the proposed revisions to the definition of effects, including whether CEQ should affirmatively state **that consideration of indirect effects is not required**” (p. 100).

Here are the page numbers below to find this in the proposed regulations:

- P. 98: “ While NEPA refers to environmental impacts and environmental effects, it does not subdivide the terms into direct, indirect, or cumulative...CEQ proposes to make amendments to simplify the definition of effects by consolidating the definition into a single paragraph and striking the specific references to direct, indirect, and cumulative effects.”

3. **Blurring the lines on conflicts of interest:** A major change that Trump and Neumayr are proposing is allowing companies to conduct their own environmental review. Currently, reviews (environmental assessments and impact statements) are [prepared](#) by federal agencies and agencies can contract with an outside consulting firm when needed due to limited capacity. However, the current [regulations](#) ensure that any [conflicts of interest](#) for these companies are avoided by requiring financial and interest disclosures.

Trump and Neumayr are blurring the lines on this requirement, for the first time allowing companies to **“assume a greater role in contributing information and material to the preparation of environmental documents, subject to the supervision of the agency.”**

Here are the page numbers below to find this in the proposed regulations:

- P. 86: **“Applicants and contractors would be able to assume a greater role in contributing information and material to the preparation of environmental documents, subject to the supervision of the agency.”**
- P. 172, proposed regulatory amendment: “(b) Environmental assessments. **If an agency permits an applicant to prepare an environmental assessment**, the agency, besides fulfilling the requirements of paragraph (a) of this section, shall make its own evaluation of the environmental issues and take responsibility for the scope and content of the environmental assessment.”

4. **Redefining “Major Federal Action”:** Today’s proposed regulations also change the definition of “Major Federal Action,” to create loopholes for polluting industries to exploit. Currently, agencies have to conduct environmental review for federal actions that are “major,” OR that significantly affect the environment. For example, if a federal action is relatively minor but has a significant environmental impact, a review must be completed, or visa versa.

Trump and Neumayr today propose redefining what constitutes a “major” federal action by **narrowing the scope of projects that require environmental review**. For example, a permitting decision where the federal government is only one of several partners could no longer require federal environmental review, despite the potential for a significant environmental impact in one location.

Furthermore, by leaving “minimal federal funding” undefined in today’s proposed regulations as it relates to the definition of a major federal action, the Trump administration is leaving open the door for a lot of uncertainty.

Here are the page numbers below to find this in the proposed regulations:

- P. 102: “CEQ proposes to amend the first sentence of the definition to clarify that an action meets the definition if it is subject to Federal control and responsibility, and it has effects that may be significant. CEQ proposes to replace “major” effects with “significant” in this sentence to align with the NEPA statute. CEQ proposes to strike the second sentence of the definition, which provides “Major reinforces but does not have a meaning independent of significantly.”
- P. 103: “CEQ proposes to add two sentences to the definition to make clear that this term does not include non-Federal projects with minimal Federal funding or minimal Federal involvement such that the agency cannot control the outcome on the project. In such circumstances, there is no practical reason for an agency to conduct a NEPA analysis because the agency could not influence the outcome of its action to address the effects of the project.”
- **Proposed regulatory amendment (P. 190; Section 1508.1 (q)):** “Major Federal action or action means an action subject to Federal control and responsibility with effects that may be significant. Major Federal action does not include non-discretionary decisions made in accordance with the agency’s statutory authority or activities that do not result in final agency action under the Administrative Procedure Act. Major Federal action also does not include non-Federal projects with **minimal Federal funding or minimal Federal involvement** where the agency cannot control the outcome of the project.”

5. **Creating loopholes to ignore public comment:** Finally, today’s proposed NEPA regulations also create loopholes that could allow federal agencies to ignore public comment. NEPA is the only law that gives the public a voice in federal decision making, so any attempt to limit public comment silences communities that could be harmed the most by federal actions.

Through confusing language to require public comment be “specific” and “timely,” as well as an “Exhaustion” clause, Trump’s proposed regulations place the burden on the public to list any and all possible impacts of a proposed project. The proposed regulations also require that comments be specific to the project at hand, a term that agencies may interpret differently.

Here are the page numbers below to find this in the proposed regulations:

- **P. 33 “CEQ further proposes to make revisions to part 1503 to ensure that comments are timely submitted on the draft EIS and on the completeness of the summary of information submitted by the public, and that comments are as specific as possible.”**
- P. 40: “CEQ proposes to add a new § 1500.3(b), “Exhaustion,” which would provide that agencies must request comments on potential alternatives and impacts and identification of any relevant information, studies, or analyses of any kind concerning impacts affecting the quality of the human environment in the notice of intent to prepare an EIS. It would provide that comments on draft EISs and any information on environmental impacts or alternatives to a proposed action must be timely submitted to ensure informed decision making by Federal agencies. CEQ further proposes to provide that comments not timely raised and information not provided shall be

deemed unexhausted and forfeited. This reinforces that parties may not raise claims based on issues they did not raise during the public comment period.”

If you have any questions or would like to speak to Christy Goldfuss (former CEQ Managing Director) or other CAP experts, please feel free to reach out to Ari Drennen (zdrennen@americanprogress.org).