



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

July 16, 2020

MEMORANDUM FOR HEADS OF FEDERAL DEPARTMENTS AND AGENCIES

FROM: Mary B. Neumayr *Mary B. Neumayr*
Chairman

SUBJECT: Implementation of Updated National Environmental Policy Act Regulations

I. Purpose and Overview of Final Rule

Today, the Council on Environmental Quality (CEQ) published a final rule updating its regulations at 40 CFR parts 1500–1508 implementing the procedural provisions of the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* (NEPA).¹ The final rule modernizes and clarifies the CEQ regulations to facilitate more efficient, effective, and timely NEPA reviews by Federal departments and agencies (agencies) in connection with proposals for agency action. CEQ is issuing this memorandum to provide direction to agencies regarding their implementation of the updated regulations.

The final rule establishes a presumptive two-year time limit for environmental impact statements (EISs) and a presumptive one-year time limit for environmental assessments (EAs) as well as presumptive page limits for both EISs and EAs. Each agency must designate a senior agency official responsible for overall agency NEPA compliance, including resolving implementation issues, to avoid delays and inefficient environmental documentation. The final rule requires Federal agencies in their notices of intent for the preparation of EISs to provide more information to the public earlier in the process and to request early input from the public. The final rule also requires increased coordination on proposed actions that involve multiple agencies consistent with the One Federal Decision policy established by Executive Order 13807.² It also avoids redundant documentation by facilitating use of documents required by other statutes or prepared by State, Tribal, and local agencies, and ensures the use of modern technologies. The final rule further provides agencies with new tools to efficiently implement NEPA, including the ability to apply other agencies' categorical exclusions. The modernized regulations reduce unnecessary paperwork and delays and promote better decision making consistent with NEPA's statutory requirements.

¹ Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 85 FR 43304 (July 16, 2020).

² Exec. Order No. 13807, Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects, 82 FR 40463 (Aug. 24, 2017).

II. Implementation

The CEQ regulations implementing NEPA are effective on September 14, 2020. All agencies must comply with these regulations. The CEQ regulations apply to any NEPA process begun after the effective date. Agencies may apply these regulations to ongoing activities and environmental documents begun before September 14, 2020.³

Where existing agency NEPA procedures are inconsistent with the CEQ regulations, the CEQ regulations apply unless there is a clear and fundamental conflict with the requirements of another statute. CEQ has determined that the categorical exclusions contained in agency NEPA procedures as of September 14, 2020 are consistent with the CEQ regulations.⁴

Agencies must update all existing agency NEPA procedures, including eliminating any inconsistencies with the CEQ regulations. No more than 12 months after September 14, 2020, each agency must develop or revise, as necessary, proposed procedures to implement the CEQ regulations. Within departments, it may be efficient for major subunits to adopt their own procedures, as departments deem appropriate. Except for agency efficiency or as otherwise required by law, agency NEPA procedures cannot impose additional procedures or requirements beyond those set forth in the CEQ regulations.⁵

Agencies must consult with CEQ while developing or revising their proposed NEPA procedures and before publishing them in the *Federal Register* for public comment. Agencies with similar programs should consult with each other and CEQ to coordinate their procedures, especially for programs requesting similar information from applicants. CEQ has existing resources, such as the Categorical Exclusion List,⁶ which may aid agencies with similar programs in reviewing and aligning their procedures to help maximize efficient implementation of NEPA. Agencies also must provide their final NEPA procedures to CEQ for review for conformity with the Act and the CEQ regulations.

III. Actions for Agencies

A. Designation of Senior Agency Official for NEPA Compliance

Agencies must designate a senior agency official responsible for overall agency NEPA compliance, including resolving implementation issues. The senior agency official must be of assistant secretary rank or higher, or the equivalent. Under the CEQ regulations, the senior agency official has specific responsibilities, including approval in writing of requests to exceed the page and time limits for EISs and EAs. CEQ requests that each agency notify CEQ of the position (e.g., Assistant Secretary for Policy) designated as its senior agency official by August 31, 2020. For departments, this may include designating senior agency officials for major subunits. Agencies should include the names and contact information for the individuals holding the designated positions and transmit the notifications to CEQ to FN-CEQ-NEPA@ceq.eop.gov.

³ 40 CFR 1506.13.

⁴ 40 CFR 1507.3(a).

⁵ 40 CFR 1507.3(a)–(b).

⁶ <https://ceq.doe.gov/nepa-practice/categorical-exclusions.html>.

B. Updates to Agency NEPA Procedures and Related Materials

During the 12-month period of revision or development of agency NEPA procedures, CEQ will host monthly meetings of the Federal Agency NEPA Contacts⁷ to share information and provide assistance to agencies. CEQ will hold the first meeting on July 30, 2020. CEQ has distributed specific information regarding the webinar to the Federal Agency NEPA Contacts.

Agencies should review and update relevant agency documents and processes to conform to the CEQ regulations. Agencies should review and draft updates to their existing agency NEPA procedures; handbooks, manuals, guidance and policies; and all other information and materials on their websites. CEQ requests that each agency develop a proposed schedule for updating their procedures and coordinate with CEQ to allow for planning and efficient review of those updates. Agencies are encouraged to reach out to CEQ to address questions regarding implementation as they are working to revise all relevant materials.

If your staff has any questions regarding this memorandum, they may contact Edward A. Boling, CEQ's Associate Director for the National Environmental Policy Act, at (202) 395-0827 or eboling@ceq.eop.gov or Amy B. Coyle, CEQ's Senior Counsel, at (202) 395-3621 or Amy.B.Coyle@ceq.eop.gov.

⁷ <https://ceq.doe.gov/nepa-practice/agency-nepa-contacts.html>.