

Testimony on Proposed Revisions to Regulations Implementing NEPA

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My name is Cheryl Wasserman, a retired EPA veteran of 43 years, speaking for the Environmental Protection Network—former EPA career staff and confirmation-level appointees offering bipartisan expertise and hundreds of years of experience.

We strongly support CEQ’s proposed phase 1 fixes to swiftly correct the 2020 regulations’ removal of indirect and cumulative impacts from assessments and limitations on federal agency examination of alternatives beyond those based solely from the perspective of a project proponent’s purpose and need.

These radical changes are completely at odds with the statute and decades of legal precedent, resulting in both confusion and litigation that will delay projects as well as jeopardize the important benefits promised by the law’s implementation.

The 2020 rules so weakened the requirements for analysis of impacts that highway impact assessments would focus only on noise from construction and ignore the noise from subsequent traffic, ignore induced development along its route, and ignore resilience to climate change achieved through careful design and location alternatives. The 2020 rules also forego the opportunity to support rather than bypass rural towns or invigorate rather than destroy low-income minority urban communities in their path.

For proposed hydroelectric dams, long-term economic feasibility and sustainability of fish, wildlife, and downstream communities are jeopardized by ignoring projected cumulative changes to water flows.

NEPA gives us the opportunity to find a better way forward, but only if federal government officials can explore alternatives. For example, when reviewing a proposed dam project to address flooding, also consider the potential for non-structural approaches to flood control.

Timely action in phase 2 also will be critically important to revisit many other disturbing provisions in the 2020 rules, including limitations on NEPA’s application, public access, and several misguided mechanisms intended to reduce costs and time required for implementation. One-size-fits all page and time limits, fine as overall goals, are problematic when applied equally to all projects and project types, and wasteful if they force investment in detailed design for alternatives that might not be better for all concerned.

Phase 2 also should restore integrity to the application of categorical exclusions, environmental assessments, and tiering programmatic reviews by providing transparency, clear analytical basis, and enforceability of actions identified as necessary to avoid significant impacts.

Let's not pursue wasteful shortcuts that would undermine sound decision-making, but instead invest in making the NEPA review process more efficient, as was originally intended. Agencies need additional resources to implement NEPA efficiently and effectively:

- For collaboration, outreach, and especially scoping, one of the best ways to focus assessments;
- For programmatic reviews, especially when they can speed numerous individual permits; and
- For modernizing technology to integrate and access information, provide transparency, and support public engagement.

Thank you.