



March 9, 2020

Submitted via regulations.gov
Council on Environmental Quality,
730 Jackson Place NW,
Washington, DC 20503

Re: Docket ID: CEQ-2019-0003
Comments in Response to Proposed Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act

On behalf of the Interfaith Center on Corporate Responsibility ([ICCR](http://www.iccr.org)), a coalition of faith-based and values-driven institutional investors representing \$500 billion in assets under management, we write in strong opposition to the Council on Environmental Quality's (CEQ) abovementioned proposed update of the regulations implementing the National Environmental Policy Act (NEPA).

NEPA is the cornerstone for the United States' environmental laws. NEPA ensures that federal agencies engage in fully informed and well-considered decision-making and in so doing, protects the right to a healthy environment, improves governance and assures that agency actions do not cause unnecessary harm to communities and the environment.

When properly conducted, NEPA review protects people and the environment from negative impacts ranging from increased carbon dioxide emissions, habitat loss, water pollution and degradation of wetlands and rivers to the destruction of historic buildings and the disproportionate condemnation of homes and businesses in low-income communities and/or marginalized communities including native American communities and communities of color.

We oppose the proposed amendments for the following reasons:

Compromising Communities' Right to a Healthy Environment

- Limiting Communities' Right to Participate in Decisions Impacting their Health and Environment

NEPA empowers local communities by providing a real opportunity for participation in government decisions that affect their environment. During the NEPA review process, the government must **accept any and all public comment** on proposed actions and agencies must respond to all comments in their final decision. The proposed amendment limits the public comment period to a maximum of 30 days and only comments submitted within this tight time frame can be considered by the federal agency. This means that affected communities who are not able to respond during this 30-day time period are prohibited from raising concerns and their comments, no matter how important, cannot be raised in any court challenge to the agency's action.

Limiting meaningful community participation in this way imposes huge financial, and reputational risks on business. In 2016, for instance, Energy Transfer Partners incurred extra costs of US\$3.8 billion (in addition to the

original total project cost of US\$3.7 billion), thus doubling the cost of the Dakota Access Pipeline project as a result of failing to properly consult with and account for the input of the local Standing Rock Sioux tribe.¹

- Exacerbating Environmental Racism

Low-income and minority communities are disproportionately exposed to pollution and toxins on the job, at schools and in their homes.² The negative impact of the proposed amendments in limiting the scope of NEPA analysis and limiting participation will be predominantly felt by marginalized communities that are most in need of NEPA's protection. These communities will again be rendered voiceless in decisions and policies that affect them.

- Reducing Timelines for NEPA reviews by Federal Agencies

The proposed changes impose time-limits on federal agencies to complete Environmental Assessments (EA) and Environmental Impact Statements (EIS) as well as page-limits on the length of these EAs and EISs. These restrictions may prevent federal agencies from spending the time needed to undertake the necessary analysis and outreach to affected communities as well as confining agencies from providing key details and data, especially for large and complex development projects.

- Narrowing the Scope of Projects and Actions subject to NEPA Review

The suggested revisions would exclude many projects from the definition of "major federal action," and would expand the ability of agencies to exclude a variety of actions from NEPA review altogether. Projects that have a significant environmental impact but do not qualify as a "major federal action" would not receive a NEPA review. These revisions would allow more projects to move ahead without being subject to review, further restricting community participation in decisions that directly affect their health and welfare.

- Allowing Private Contractors (Project Proponents) to Prepare Environmental Document for Agencies

An EIS for a proposed project is to be prepared by a federal agency, and current regulations specifically restrict private companies who sponsor projects from preparing these documents to ensure an impartial and thorough review of environmental risks and impacts. The proposed revisions would eliminate this restriction, expanding the ability of private contractors to prepare environmental documents for their proposed projects (subject to the oversight and review of the relevant agency). Clearly, this opens the door for self-dealing and lack of objective analysis. Affected communities would again be prejudiced as private contractors may rely on biased environmental documents that do not include objective community impact assessments.

Ignoring Climate Change and its Impact on Environment and People

- Eliminates the consideration of "indirect" and "cumulative" environmental impacts

The current regulations require agencies to take into account the "impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions", and also require agencies to analyze effects that are "indirect," namely "effects caused by the action that are later in time or further removed in distance but still reasonably foreseeable." (see 40 C.F.R. §1508.7 and 1508.8(b)). This ensures that federal projects are reviewed holistically, taking into account all other sources of pollution that may combine with and interact with pollution from the particular federal action.

The net effect of the proposed amendment to exclude the consideration of cumulative, indirect effects, is the disregard for climate change considerations by federal agencies. Climate change is one of the world's greatest threats and is fueling more unpredictable, frequent and extreme weather events. Agencies would no longer have

¹ <https://earth.gizmodo.com/the-dakota-access-pipeline-project-lost-billions-by-fai-1830884504>

² <https://protectnepa.org/environmental-justice/>

to consider the long term and pervasive threat that rising sea-levels, flooding, wildfires, extreme weather and other anticipated effects of climate change will pose to the project as well as to people and planet.

For the reasons stated above, ICCR strongly opposes the proposed updates that undermine the stated purpose of NEPA: to protect both the environment and communities. The suggested revisions will result in fewer NEPA reviews that will shut down a crucial avenue for local residents to voice their concerns on federal actions that impact their health and community. Many negative impacts would become apparent only after the project completion, dramatically increasing the cost of remediation and resulting in irreversible harms.

Federal projects are of both great size and complexity and impact thousands of communities, ecosystems and cultural sites. It is critical that federal agencies offer a meaningful process for due diligence with sufficient time to ensure the voices of communities are adequately considered and not suppressed by powerful economic interests.

We urge the Council on Environmental Quality to withdraw the proposed revisions.

Sincerely,



Josh Zinner, CEO
Interfaith Center on Corporate Responsibility

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