



STATE OF WASHINGTON
OFFICE OF GOVERNOR BOB FERGUSON

March 26, 2025

Megan Healy
Principal Deputy Director for the National Environmental Policy Act
Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503

Subject: Council on Environmental Quality, [Docket No. CEQ-2025-0002](#), Removal of National Environmental Policy Act Implementing Regulations

Dear Megan Healy:

On behalf of Washington state, I have grave concerns about the final interim rule change and need to express my resounding opposition to removing the Council on Environmental Quality (CEQ) regulations that guide the federal application of the National Environmental Policy Act (NEPA) under 40 CFR 1500-1508.

The NEPA regulations from CEQ have evolved over decades and provide a consistent framework for the application of NEPA. This elimination of CEQ's NEPA implementing regulations represents a major policy shift that will disrupt the nation's foundational environmental law.

In general, I am not opposed to developing methods to improve permitting timelines and the application of NEPA. However, the procedural jump to an interim final rule without state consultation and a full understanding of the effects of removing the primary guidance for NEPA by federal agencies is reckless and irresponsible, at best.

Removing these guidelines will almost certainly have the opposite effect as intended and delay projects through legal challenges and increased project timelines. Furthermore, without clear guidance from the CEQ, each federal agency is left to develop their own implementing procedures. This approach is inefficient and places environmental protection at risk.

I have included letters from Washington state agencies that developed analyses of how this rule could affect their work protecting human health and preserving environmental quality. Please find enclosed comments from the Washington State Department of Ecology (Ecology), Washington State Department of Transportation (WSDOT), Washington Department of Fish and Wildlife (WDFW), Washington State Department of Health (DOH), Department of Archeology

Megan Healy
March 26, 2025
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and Historic Preservation (DAHP), Puget Sound Partnership (PSP), and Governor's Salmon Recovery Office (GRSO).

Efforts to streamline and expedite the NEPA process should not cause harm to the quality of our state's environment and human health. Please abandon this interim final rule. This misguided proposal will create more inefficiency, confusion and will increase costs to taxpayers in the long term and should immediately be withdrawn.

If you have any questions, please contact the Director of Federal and Interstate Affairs in my Washington D.C. Office, Rose Minor, at rose.minor@gov.wa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bob Ferguson", with a stylized flourish at the end.

Bob Ferguson
Governor

Enclosures



**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

PO Box 47600, Olympia, WA 98504-7600 • 360-407-6000

March 27, 2025

The Honorable Katherine Scarlett
Chair Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503

RE: Docket Number CEQ-2025-0002

Dear Chair Scarlett:

On behalf of the Washington State Department of Ecology, I write to express our concerns with the Council on Environmental Quality's interim final rule to remove National Environmental Policy Act (NEPA) implementing regulations. Our state has long supported NEPA as a bedrock environmental law that is critical to protecting the environment and public health. We are troubled by the lack of consultation with states and inadequate time provided for us to understand and respond to the impacts of CEQ's interim final rule. We are further concerned that the rule could cause significant harm to natural resources, endangered species, and human health in Washington as well as to the integrity, efficiency and consistency of the NEPA process.

The interim final rule would remove decades of NEPA regulations that ensure complete and consistent analysis of environmental impacts across federal agencies. This upending of long-standing processes and procedures sows unnecessary confusion, creates inconsistencies across agencies and will lead to less efficient processes for evaluating impacts and permitting projects – the antithesis of the purported rationale provided by the White House.

Overview

Washington State agencies, including Ecology, regularly engage in the NEPA process as cooperating and commenting agencies for proposals for which we have "jurisdiction by law" under 40 C.F.R. § 1508.15 and as agencies with special expertise under § 1508.15. Washington State also has an environmental review statute, the State Environmental Policy Act (SEPA), which is largely modeled after NEPA. State and local agencies have discretion to facilitate efficiencies in the SEPA process by "adopting" or incorporating by reference the environmental documents prepared under NEPA, on a case-by-case basis, if the analysis done under NEPA is sufficient to meet the requirements of SEPA.

The Removal of CEQ's NEPA Implementing Regulations Undermines Coordination of NEPA Process with Other Federal and State Regulatory Processes and Causes Unnecessary Confusion and Inefficiencies

By repealing the NEPA implementing regulations, federal agencies would be left with gaps in guidance that could lead to inconsistent and incomplete analyses. It is inefficient to require each individual agency to develop their own NEPA implementing rules without overarching direction. If CEQ repeals its rules, all federal agencies would be left to follow their own NEPA implementing regulations. Without the overarching consistency and thoroughness of CEQ's NEPA implementing regulations, agencies could make modifications that significantly weaken their NEPA regulations and therefore reduce the robustness of the subsequent environmental analysis. This would lead to different approaches and interpretations of NEPA across federal agencies. Many federal agencies' rules currently incorporate CEQ's NEPA rules by reference. The interim final rule will obscure the status of those rules, immediately generating confusion across the regulatory landscape. We work with multiple federal agencies, sometimes on the same project. Inconsistent approaches to fulfilling NEPA requirements and confusion around the status of existing NEPA implementing rules could lead to delays, duplicative work, critical gaps, and conflicting conclusions.

The removal of NEPA implementing regulations will also make it more difficult for states to rely on NEPA analyses for joint analyses of environmental impacts. In Washington, we follow the State Environmental Policy Act (SEPA), which sets forth a process for identifying and understanding environmental impacts associated with government decisions. For some projects, we conduct joint analyses under SEPA and NEPA. In other cases, we cite NEPA analyses in our SEPA analysis. This coordination is critical to efficiently inform decision making.

The CEQ Memorandum on the Implementation of NEPA Undermines the Intent of the Statute and Would Lead to Weak and Incomplete Analyses

On February 19, 2025, CEQ sent a memo to heads of federal departments and agencies directing them to consider a list of criteria when revising or establishing their NEPA implementing regulations. The criteria substantially limit the scope of effects and projects NEPA would consider. This could lead to incomplete analyses that undermine the requirement of Section 102 of the NEPA statute. Further, these limitations would reduce the ability for our state to use NEPA analyses to support SEPA analyses.

If federal agencies consider revising their NEPA procedures, it is imperative that they seek public comment on those changes, including comments from state agencies affected by actions of those agencies. States will have more specific local knowledge about the impacts of federal agencies in their respective states.

The Repeal of CEQ Rules would be Counterproductive to the Cleanup of Hanford

One example of the potential impacts of the repealing of CEQ rules is on the complex, multiagency effort to cleanup Hanford. At Hanford, CEQ's interim final rule will impact the important work Ecology conducts with its federal partners, namely the Department of Energy



and the Environmental Protection Agency, to clean up the most complex environmental remediation site in the country. Ecology relies on DOE's NEPA analyses to make programmatic permitting and siting decisions and ensure assess the potential environmental impacts of investigation and cleanup activities.

DOE adopted CEQ's NEPA implementing regulations. 10 CFR § 1021.103.

Although DOE has enacted some of its own NEPA rules, DOE's rules are expressly meant to supplement and be "used in conjunction with, the CEQ Regulations." 10 CFR § 1021.100. Therefore, CEQ's interim final rule renders the state of DOE's NEPA regulations unclear. The following changes to DOE practices, which are currently tied to CEQ's NEPA implementing rules, could create confusion, delays, and grave risk to human health and the environment:

- Timelines for publication of NEPA documents (10 CFR § 1021.213(d))
- Coordination of NEPA and SEPA reviews (10 CFR § 1021.215(b)(4); 10 CFR § 1021.301(a))
- Delegation of NEPA document preparation to contractors (10 CFR § 1021.215)
- NEPA review of DOE's actions pursuant to contracts or awards of financial assistance (10 CFR § 1021.216(i))
- Scope and procedures for preparing NEPA documents. [10 CFR § 1021.310 (Environmental Impact Statements); 10 CFR § 1021.311(a) (Notices of Intent); 10 CFR § 1021.315(b) (Records of Decision); 10 CFR § 1021.320 and 10 CFR § 1021.321 (Environmental Assessments)]
- Responses to public comments (10 CFR § 1021.313(c))
- Policies regarding emergency variances to NEPA rules (10 CFR § 1021.343)

Hanford is but one example that illustrates the importance of consistent and thorough NEPA analyses on sites where state and federal agencies are working together. Ecology works on many complex sites with state and federal collaboration that will be less efficient and effective if NEPA regulations are repealed.

Finally, we are concerned that moving to the final interim rule is not justified and skips important opportunities for states to provide input and work collaboratively. We understand that our Attorney General's Office will also send a letter detailing these concerns.

We are asking that CEQ rescind the interim final rule and reinstate the NEPA implementing regulations to allow consistent, efficient and thorough analysis of environmental impacts on state and federal projects.

Sincerely,



Casey D. Sixkiller
Director



March 26, 2025

Megan Healy
Principal Deputy Director for the National Environmental Policy Act
Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503

Subject: Council on Environmental Quality, Docket No. CEQ-2025-0002, Removal of National Environmental Policy Act Implementing Regulations

Dear Principal Deputy Director Healy:

I am writing to express concerns on behalf of the Washington State Department of Transportation (WSDOT) about procedural complications and disruptions that could result from removal of the Council on Environmental Quality's (CEQ) National Environmental Policy Act (NEPA) implementing regulations under [40 CFR 1500-1508](#), per Docket No. CEQ-2025-0002. WSDOT is responsible for ensuring that Washington State's transportation projects are planned, permitted, and delivered in compliance with NEPA. Clarity, consistency, and predictability around NEPA procedures is therefore critical for timely and cost-effective transportation project delivery, as well as to ensure NEPA compliance for our projects is sound and defensible. The concerns detailed below highlight the potential for uncertainty, inconsistency, and increased complexity around NEPA procedures that pose risks to transportation project delivery.

Removal of CEQ regulations creates risk of disparate procedures by different federal agencies

WSDOT works with the Federal Highway Administration (FHWA) on most WSDOT projects that include a federal nexus. However, FHWA is not the only federal agency to serve as a lead agency on WSDOT projects. WSDOT also works with other U.S. Department of Transportation agencies, the U.S. Army Corps of Engineers, and federal resource agencies depending on the project.

Removal of the CEQ regulations could lead to each federal agency developing disparate procedures and substantive regulations. We appreciate that CEQ has made an effort to address this through its [February 19, 2025 memorandum](#) on federal agency NEPA procedures. That guidance, however, does not provide the basis for a reasonable level of consistency or clarity between federal agencies to administer or revise their NEPA procedures. This could lead to WSDOT having to follow conflicting NEPA procedures, creating uncertainty, project delivery delay, and increasing potential vulnerabilities for legal challenges.

Procedural Concerns

1. **Increased Uncertainty and Administrative Complexity:** The rescission removes the clarity and procedural streamlining that recent NEPA regulations provided, requiring our agency to navigate a more complex and less predictable regulatory framework. Without consistent federal guidance, our ability to efficiently process NEPA documentation, including Environmental Assessments (EAs) and Environmental Impact Statements (EISs), is significantly hindered.
2. **Disruptions to Established Procedures and Potential Legal Risk:** Removal of the CEQ NEPA regulations will create inconsistencies in federal agencies' compliance with the original NEPA statute for project delivery. Federal agencies will no longer have a common NEPA implementing framework on which to base their own agency NEPA regulations, creating greater confusion and disparity between federal agency procedures. For example, projects with two or more federal lead agencies may no longer have similar NEPA documentation direction or be confident in adopting each other's NEPA documentation (particularly for Categorical Exclusions [CEs]), creating greater project delivery inefficiencies.

Projects that require EAs or EISs rely heavily on CEQ's 40 CFR 1500-1508 for documentation processes, including but not limited to structure, public and agency involvement, and timeline. The rescission of these regulations will lead to greater disparity and increased risk.

Transportation projects also require close coordination between federal and state agencies. The rescission could make this interagency collaboration more complex, less predictable, and potentially delay necessary approvals that affect WSDOT's federally funded projects.

WSDOT has developed NEPA compliance processes that align with CEQ regulations. With this rescission, WSDOT will need to revise internal procedures, re-train staff, and re-establish agreements with federal agencies, leading to additional administrative burdens and increased project costs.

The rescission of NEPA streamlining measures creates greater exposure to litigation, as opponents may exploit regulatory uncertainties. This puts WSDOT at risk of extended legal challenges, further delaying essential transportation projects.

3. **Delays in Project Delivery and Increased Costs:** The lack of clear and consistent NEPA regulations will likely result in prolonged review periods and increased costs due to additional environmental analyses, documentation, and legal reviews. This affects WSDOT's ability to meet project timelines and budget constraints, which is particularly concerning given the increasing need for transportation infrastructure improvements. Costly and prolonged environmental review is also contrary to the intent of the federal policy reform as stated in [Executive Order \(EO\) 14154](#) (90 Fed. Reg. 8353, January 29, 2025), promulgated to "expedite and simplify the permitting process."

Given these challenges, we strongly urge CEQ, through the NEPA Implementation Work Group (established through section [5\(c\) of EO 14154](#)) or otherwise, to provide or facilitate clear and specific guidance to states on how to navigate NEPA compliance moving forward. This would further the federal administration's stated goal to streamline and simplify the NEPA process in

part through CEQ guidance. Additionally, we recommend that any future rulemaking efforts prioritize procedural clarity, predictability, and efficiency to ensure that our transportation projects can proceed without unnecessary delays.

We appreciate your attention to these concerns and look forward to working collaboratively to develop solutions that support both environmental stewardship and the timely delivery of transportation infrastructure. Should you require further information or wish to discuss this matter in greater detail, please do not hesitate to contact WSDOT Environmental Services Director, Ahmer Nizam at ahmer.nizam@wsdot.wa.gov.

Sincerely,



Julie Meredith, PE
Secretary of Transportation
Washington State Department of Transportation



State of Washington
DEPARTMENT OF FISH AND WILDLIFE

Mailing Address: PO Box 43200, Olympia, WA 98504-3200 · 360 902-2200 · TDD 360 902-2207

Main Office Location: Natural Resources Building, 1111 Washington Street, Olympia, WA

March 20, 2025

The Honorable Katherine R. Scarlett
Chief of Staff
Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503

RE: Docket Number CEQ-2025-0002, removal of Council on Environmental Quality regulations implementing the National Environmental Policy Act (NEPA) from the Code of Federal Regulations

Dear Ms. Scarlett:

On behalf of the Washington Department of Fish and Wildlife (WDFW), I am submitting our comments and concerns with the Council on Environmental Quality's (CEQ) retraction of the CEQ regulations implementing the National Environmental Protection Act (NEPA). This action forces each agency to update or promulgate its own NEPA regulations and as I understand, adopt new regulations that conform with the final 2020 rule. I appreciate your consideration of our concerns.

The State of Washington has long supported NEPA as a bedrock environmental law that is critical to evaluate impacts to the environment. Federal projects subject to NEPA impact a range of social, economic, environmental and cultural interests that must be protected. We have vital interest in ensuring that federal agencies adequately evaluate and disclose potential impacts, especially as it pertains to the environmental consequences of major federal actions. While we do not oppose efforts to improve the NEPA process, we are concerned with the decision to have each federal agency promulgate its own new NEPA rules that rely on the 2020 NEPA rule as guidance. Any changes to NEPA must avoid significant harm to natural resources and endangered species in Washington, as well as preserve the integrity of and public confidence in the NEPA process.

Below, please find a more detailed analysis of how promulgating the 2020 rule across federal agencies would impact the WDFW's work. While we appreciate the need to create an efficient government process, we value a process that entails adequate consultation with states prior to issuing proposed changes. Reducing environmental review without very careful considerations will only weaken the protections essential to the recovery and conservation of Washington's fish and wildlife. We therefore request that this administration embark on a thoughtful approach to NEPA that includes adequate consultation with states and results in regulations that do not put our species at risk.

Particularly concerning aspects of the 2020 rule and their potentially deleterious impact to Washington's fish and wildlife include:

Discontinuing consideration of environmental impacts that are “indirect,” “cumulative,” or “remote in time, geographically remote, or the product of a lengthy causal chain” (85 FR 1708)

This almost certainly eliminates assessment of climate impacts from the NEPA process. However, consideration of climate impacts is essential to understanding the health of Washington's natural resources. Failing to evaluate and account for the impacts of climate change during a NEPA review process will inevitably yield deficient and misleading results and recommendations.

Additionally, cumulative impacts are difficult to identify, manage, and mitigate ahead of time. It is precisely for this reason that the evaluation of “cumulative” impacts that NEPA is so critical. Ignoring cumulative effects during a NEPA process, would preclude consideration of other critical environmental impacts such as land use change, sedimentation and erosion, water quantity and quality, and ecosystem function.

Removing specific direction to consider impacts to listed species

As the state's principal steward of fish and wildlife resources, removing specific direction to consider impacts to listed species directly impedes our mission to preserve, protect, and perpetuate Washington's fish, wildlife, and ecosystems. As federally listed species like Southern

Resident orcas and Columbia Basin pygmy rabbits teeter on the brink of extinction, it is essential to evaluate effects of a project on a protected species. Removing language (§ 1508.27(b)(9)) that specifically directs responsible officials to evaluate the "degree to which the action may adversely affect an endangered or threatened species or its habitat" greatly undermines that goal.

Shortening the length and timelines of Environmental Assessments and Environmental Impact Statements

For State Environmental Policy Act (SEPA) compliance, WDFW occasionally adopts an existing NEPA document (EIS, EA, or categorical exclusion (CE)) instead of requiring the applicant to prepare an Environmental Checklist or a new EIS. If such a NEPA document was inadequate or non-existent, a checklist or EIS would be needed to meet SEPA requirements. This could potentially create inefficiencies and extra work for applicants that need both NEPA and SEPA. Requiring agencies to coordinate on scheduling and/or completion of a single environmental document will likely increase the time needed to complete such a document and/or increase costs by requiring more staff time. However, in many cases, WDFW would consider being a cooperating agency with a federal agency in developing environmental documents.

Expanding Categorical Exemptions

Expanding or increasing CEs without proper oversight or consideration of fit of a CE to a project risks not conducting adequate review and not providing the public and other agencies with governmental transparency and the opportunity to review and comment. Many environmental impacts, whether direct, indirect, or cumulative, are permanent and cannot be reversed. Careful

analysis and examination of alternatives can help reduce or mitigate for adverse environmental impacts. With an expanding human population, development, expanding resource needs, and increased competition on natural resource management capacity, it is important to ensure thoughtful development and environmental review. Reducing environmental review and public input will likely increase adverse environmental impacts.

Limiting Supplemental EISs

The proposal suggests that a supplemental EIS would be required only when a major federal action remains to occur. This may not allow transparency in all cases when additional information or changes are needed after the main agency action is complete.

Changing EIS Format

The proposal also includes updates to formats because of electronic preparation and distribution of documents. These appear to be appropriate. However, the inclusion of estimated costs of conducting an environmental review would be hard to determine, and time consuming, with little benefit to the environment. Including the cost of compliance associated with other environmental review and authorization requirements is frequently unforeseeable because EISs can be used several years later for related actions.

We appreciate your consideration. I urge you to embark on a more thoughtful approach to NEPA that does not put environmental protection at risk. If you have any questions, please contact Meagan West or the Director of Governor Ferguson's Washington, D.C. Office, Rose Minor at Rose.Minor@gov.wa.gov.

Thank you,

A handwritten signature in blue ink, appearing to read "Kelly Susewind", is written over a light blue rectangular background.

Kelly Susewind
Director



STATE OF WASHINGTON

DEPARTMENT OF HEALTH

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March 27, 2025

Katherine R. Scarlett
Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503

RE: Implementation of the National Environmental Policy Act (CEQ-2025-0002)

Dear Katherine R. Scarlett:

The Washington State Department of Health (DOH) offers the following comments in response to the Council on Environmental Quality's (CEQ) proposed rulemaking titled "*Removal of National Environmental Policy Act Implementing Regulations*" published in the Federal Register on February 25, 2025.

DOH is concerned about sweeping changes to the proposed National Environmental Policy Act (NEPA). DOH supported NEPA as a bedrock environmental law that is critical to protecting the environment and public health. NEPA has provided a roadmap that ensures our government evaluates the full environmental, economic, social, and public health impacts of federal actions. While DOH does not oppose efforts to improve the NEPA process, we are concerned by the lack of information, consultation, and adequate time to understand the impacts of CEQ's proposal, especially given the scope and magnitude of the changes proposed. Further, DOH is concerned that the changes to the NEPA process in this rule could cause significant harm to natural resources, endangered species, and human health in Washington State.

DOH has summarized specific comments below.

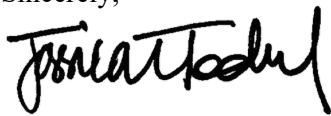
1. NEPA is one of the standard ways that a project is assessed as it impacts vulnerable locations, such as schools, healthcare facilities, and nursing homes. The proposed rule change weakens the ability for agencies and the public to understand the full scope of potential environmental and public health impacts of projects, especially to our most vulnerable residents and natural resources. Of particular importance is the impact of projects on vulnerable groups such as children, the elderly, those with disabilities, and those with underlying health conditions that could be exacerbated by environmental harm.
2. NEPA recognizes that projects and proposals can impact the environment, and the people living within that environment, in multiple ways. DOH does not support the elimination of the concept of Environmental Justice in the analysis of impacts. Asking agencies to ignore cumulative impacts is

essentially asking to ignore a key intention of NEPA. This policy may give agencies discretion on when to use NEPA procedures even when they would normally be required. This lack of standardization may lead to greater discrepancies around environmental protections and health outcomes.

3. DOH is concerned by potential overuse of categorical exclusions to streamline NEPA review. The proposal allows larger projects that may have significant impacts to be considered a categorical exclusion if there are mitigating conditions. This proposal could severely limit the rights of the public, states, and federal recognized Tribes to participate in the environmental review process and voice their concerns. This streamlining will likely result in unintended consequences in the form of health impacts and economic loss due to poor planning and lack of public oversight.
4. This rule makes engagement through public comments vague and could allow agencies to determine that public comment may not be required. Public comment is one of the foundations of NEPA and allows residents directly impacted by a project's actions to speak directly to decision-makers. The first statement of the CEQ memo states the intention to "prioritize efficiency and certainty over any other policy objectives." But opening NEPA up to inconsistent implementation across agencies, removing critical information, and reducing public input may lead to more environmental and public health harm. The whole exercise of having a public comment period is moot if this statement is followed, "though CEQ seeks comments to obtain the public's views, such comments could not alter the President's decision." (Section 3, page 10615). Public input in these processes, regarding this rule change, and NEPA more generally, are the cornerstone of democratic values. Ignoring public sentiment and subject matter expertise is at odds with NEPA, and public comment processes.

DOH strongly opposes the proposed changes to NEPA outlined in this rule. Thank you for considering our response to this request for comments. If you have any questions, please contact DOH's Federal and Regulatory Affairs Director, Michael Ellsworth at Michael.Ellsworth@doh.wa.gov or Governor Ferguson's Director of Federal and Inter-State Affairs, Rose Minor at Rose.Minor@gov.wa.gov.

Sincerely,



Jessica Todorovich
Interim Secretary of Health
Washington State Department of Health

cc: Michael Ellsworth, Federal & Regulatory Affairs Director, DOH
Lacy Fehrenbach, Chief, Office of Prevention, Safety & Health, DOH
Tao Sheng Kwan-Gett, WA State Health Officer, DOH
Rose Minor, Director of Federal & Inter-State Affairs, GOV
Kristin Peterson, Chief, Office of Policy, Planning & Evaluation, DOH
Nate Weed, Chief, Office of Resilience & Health Security, DOH
Meghan Jernigan, Federal Relations Deputy Director, DOH



Allyson Brooks Ph.D., Director
State Historic Preservation Officer

Log; 2025-03-01553

March 17, 2025

Katherine R. Scarlett
Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503

RE: Implementation of the National Environmental Policy Act

Dear Katherine R. Scarlett:

On behalf of the Washington State Department of Archaeology and Historic Preservation, I am submitting our comments and concerns with the Council on Environmental Quality's (CEQ) retraction of the CEQ regulations implementing the National Environmental Protection Act (NEPA). This action forces each agency to update or promulgate its own NEPA regulations.

Washington has a unique relationship to the National Environmental Policy Act (NEPA) as it our Senator, Henry "Scoop" Jackson, who conceived of the legislation and ensured its passage through Congress in the 1960s. We are very proud that it was our Senator who took the initiative to recognize that the federal government should ensure that our citizens and the environment exist in productive harmony and consider the needs of present and future generations of Americans.

The purpose of NEPA in Section 2 states: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

Section 101 b (4) states: Preserve important historic, cultural and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice.

Section 102(2)(1) makes it perfectly clear that NEPA requires consideration of any worldwide and long-range character of environmental problems. This section ends with the phrase "preventing a decline in the quality of mankind's world environment". This speaks *directly* to the emerging issue of climate change and the impact to humans and the environment. It is an *undeniable* connection. This requires that climate change impacts must be considered in any environmental analysis.

It is also important to remember that in *Calvert Cliffs Coordinating Committee v USAEC*, J. Skelly Wright held that the courts have the power to require agencies to comply with the procedural



directions of NEPA. This means that all the issues surrounding impacts on natural and cultural resources, including climate change, cultural heritage and impacts on communities (humans) must be addressed. Nowhere does the original legislation limit itself to only impacts that were happening in the 20th century.

The proposed guidance may have significant impacts on how federal agencies assess the effects to cultural resources by federal agencies. It is stated clearly in 42 U.S.C § 4331 (1970) that the intent of Congress was to:

“Preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;” and

“Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations”

The guidance that is proposed would negate the direction from Congress to balance development with the protection of our American heritage.

Below is a more detailed analysis of how this rulemaking impacts our agency’s work and our state’s cultural resources. If CEQ through the working group is going to assist agencies in updating their regulation we continue to advocate for a more thoughtful approach to NEPA following the intent of the original Act. Federal agency regulations must include adequate consultation with states and tribes that results in an environmental analysis that does not put cultural resource protection at risk.

1. We want to ensure that any repeal of CEQ’s regulatory definition of “effects and impacts” is replaced in federal agency rules. For cultural resources, indirect effects, such as changes to setting, feeling and association, are potential impacts that will cause a property to lose its historic significance. While this may not rise to the level of a full Environmental Impact Statement it should be considered worthy enough of an Environmental Assessment and mitigation procedures.

The construction of the Alaskan Way tunnel in Seattle is an example of why analyzing an indirect effect, such as vibration, is critical. The study of potential vibration impacts from tunneling led to the realization that the historic buildings in Pioneer Square required LIDAR documentation and monitoring to record potential movement and structural changes. The analysis resulted in having FHWA/WSDOT develop monitoring measures to detect when the tunneling vibrations were having adverse effects to the materials, workmanship and structural integrity of the historic buildings above. The loss of this type of analysis, in which an indirect effect could result in a direct consequence, will lead to the damage and destruction of cultural resources.



2. We are **concerned** by any agency potential overuse of categorical exclusions to streamline NEPA review. The proposal allows larger projects that may have significant impacts to be considered a categorical exclusion if there are mitigating conditions. This proposal could severely limit the rights of the public, states and federal recognized tribes to participate in the environmental review process and voice their concerns.
3. We are concerned with any agency clarification that effects should not be considered significant if they are remote in time, geographically remote, or the result of a lengthy causal chain. As seen in Washington State, major infrastructure projects are licensed or permitted for 50 years or more. The entire Columbia and Snake River Hydro system is a relevant example. The Hanford Nuclear Facility and the remediation of nuclear waste is the prime example in Washington State for a temporal scale. Projects such as the Hanford remediation and hydro facilities, which can continue for half a century or more, have direct and indirect effects to archaeological sites, historic buildings and tribal traditional cultural places.
4. We want to ensure that agency rules make it clear that mitigation must have a nexus to the effects of the proposed action, is limited to those actions that have an effect on the environment and does not include actions that do not have an effect on the environment. Compensatory mitigation has worked well for impacts to cultural resources when there aren't direct mitigation options. This is particularly true for culturally significant properties where archaeological data recovery or other forms of documentation are not sufficient mitigation for the loss or alteration of the resource.
5. We want to ensure that agencies add "Tribal" to the phrase "State and local" throughout any proposed rule to ensure consultation with Tribal entities. It reflects the existing NEPA practice to coordinate or consult with affected Tribal governments and agencies, as necessary and appropriate for a proposed action. It is a critical modification necessary to fully recognize and support Tribal sovereignty and participation in the review of all federal agency actions. This is particularly important given the tribes' unique traditional cultural and ecological knowledge.
6. We remain supportive of any agency rule that replaces "circulate" or "circulation" with "publish" or "publication" throughout the rule and make "publish" a defined term that provides agencies with the flexibility to make environmental review and information available to the public by electronic means. However, the caveat is that the documents must still be available for those who do not have digital access.

Historically, the practice of circulation included the mailing of hard copies or providing electronic copies on disks or CDs. There should be a minimum requirement to provide a hard copy or copy of physical media in limited circumstances, and hard copies should be placed in local libraries to ensure access by the public with limited or no internet access. However, we are supportive of the acknowledgement of digital delivery of NEPA documents. This will



reduce paperwork and delays and modernize the NEPA process to be more accessible to the public.

7. We remain **strongly opposed** to any elimination of the consideration of the concept of Environmental Justice in the analysis of impacts and believe that intent still exists in law. American heritage and cultural sites encompass all of America's diverse history and locations. Incorporating Environmental Justice is critical to assure all American's regardless of race, color, national origin or income are entitled to the same environmental protection of their historic and cultural sites during the analysis of proposed project impacts. Historically, many significant archaeological, historic or cultural sites were destroyed without benefit of a full and informed consultation with the descendent community. It is clear in the original legislation that impacts on communities and people were to be considered particularly when one group is having a disproportionally high and adverse effect on certain populations. The removal of the E.O. 12898 does not remove the responsibility of the human impact under environmental review. The words "Environmental Justice" do not need to be in place in order for the same level of analysis.

We appreciate your consideration. Again, I urge you to embark on a more thoughtful approach to NEPA that does not put cultural resource and environmental protection at risk. If you have any questions, please contact Dr. Allyson Brooks or the Director of Governor Ferguson's Washington, D.C. Office, Rose Minor at Rose.Minor@gov.wa.gov. Thank you.

Sincerely,



Allyson Brooks, Ph.D.
State Historic Preservation Officer

cc: Rose Minor, Governor Ferguson Federal policy, Washington DC - Rose.Minor@gov.wa.gov



March 26, 2025

The Honorable Katherine R. Scarlett
Chief of Staff
Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503

RE: Docket Number CEQ-2025-0002, removal of Council on Environmental Quality regulations implementing the National Environmental Policy Act (NEPA) from the Code of Federal Regulations

Dear Ms. Scarlett:

On behalf of the Puget Sound Partnership, I write to express our deep concern with the proposed rule to remove the Council on Environmental Quality's (CEQ) regulations implementing the National Environmental Policy Act (NEPA) from the Code of Federal Regulations. We urge you to withdraw this flawed rule.

Our state has long supported NEPA as a bedrock environmental law critical to protecting the environment and public health since its inception in the 1960s. While the Puget Sound Partnership does not oppose efforts to improve the NEPA process, we are concerned by the lack of information, consultation, and adequate time to understand the impacts of this proposal, especially given the scope and magnitude of the changes proposed. Indeed, though the memo accompanying this proposed rule change describes an intention to "expedite and simplify the permitting process," the practical effect will be precisely the opposite. Without uniform, reliable NEPA regulations applicable across the federal government, each individual agency will be obligated to promulgate its own procedures. This approach risks creating delays and uncertainty for projects subject to NEPA review, which may now face a patchwork of different processes from one agency to another. The resulting chaos will jeopardize the integrity of – and public confidence in – the NEPA process.

I am further concerned that "CEQ encourages agencies to use the final 2020 rule "Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act" as an initial framework for the development of revisions to their NEPA

implementing.” As we noted at the time, the 2020 rule could cause significant harm to natural resources, endangered species and human health in Washington state—outcomes completely contrary to the intent of the text of NEPA.

Below, please find a more detailed analysis of how the 2020 rule – which CEQ now encourages agencies to use as a framework for their individual NEPA procedures – would adversely impact our agency’s work. If CEQ wishes to truly improve the NEPA process, I encourage you to abandon this effort and instead embark on a more thoughtful approach to NEPA that includes adequate consultation with states and results in regulations that do not put environmental protection at risk.

Particularly concerning aspects of the 2020 rule – and their potentially deleterious impact to our ability to meet our statutory mission of accelerating our region’s collective effort to restore and protect Puget Sound – include:

Discontinuing consideration of environmental impacts that are “indirect,” “cumulative,” or “remote in time, geographically remote, or the product of a lengthy causal chain”

This almost certainly eliminates assessment of climate impacts from the NEPA process. However, consideration of climate impacts is essential to understanding the health of Puget Sound. Each of the State’s statutory (RCW 90.71.300) Puget Sound recovery goals (Healthy Human Population, Vibrant Human Quality of Life, Thriving Species and Food Web, Protected and Restored Habitat, Abundant Water, and Healthy Water Quality) are threatened by climate change impacts.

Of the 25 Puget Sound Vital Signs – measures of ecosystem health that guide the assessment of progress toward Puget Sound recovery goals – 19 are at high risk from climate change. Failing to evaluate and account for the impacts of climate change during a NEPA review process will inevitably yield deficient and misleading results and recommendations.

Cumulative impacts are difficult to identify, manage, and mitigate ahead of time. It is precisely for this reason that the evaluation of “cumulative” impacts that NEPA is so critical—especially for ecosystems like Puget Sound facing a “death from a thousand cuts.” Ignoring cumulative effects during a NEPA process, would preclude consideration of other critical environmental impacts relevant to Puget Sound recovery such as land use change, sedimentation and erosion, water quantity and quality, and ecosystem function.

For example, a project that installs a small amount of shoreline armoring may not significantly impair beach formation and nearshore habitat function by itself. However, dozens of “small” armoring projects could cumulatively do significant damage to the nearshore environment. Likewise, a project that clears and develops a small amount of previously intact riparian habitat may not, by itself, significantly increase stream temperatures. But again, dozens of such projects along the same stream reach will invariably raise stream temperatures significantly, to the detriment of endangered salmonids. These are precisely the type of environmental impacts that a comprehensive NEPA process should concern itself with.

Removing specific direction to consider impacts to listed species

As biophysical systems approach precarious tipping points and federally listed species like Southern Resident Killer Whales and Chinook salmon teeter on the brink of extinction, it is critical to evaluate effects of a project on iconic and protected species. Stripping language that specifically directs responsible officials to evaluate the “degree to which the action may adversely affect an endangered or threatened species or its habitat” undermines that goal.

Allowing private project applicants to prepare their own impact statements

Impact statements prepared by private parties – especially those with a financial interest in the outcome of the project – compromise the scientific objectivity of the NEPA process and invite real and perceived bias into reports and recommendations that affect Puget Sound.

Restricting public input by burdening citizens with difficult-to-meet commenting standards

Prescriptions directing commenters to “include or describe the data sources and methodologies supporting the proposed changes” creates barriers to citizens who wish to weigh in on draft reports and recommendations but may not have the time or expertise necessary to describe the research methodologies informing their perspectives. Recommendations like this are exclusionary and erode public confidence in the outcome of assessments.

Ultimately (and as the original text of the law makes clear), the purpose of the NEPA process should be to comprehensively and uniformly assess environmental impacts of projects before they happen in order to provide policymakers, regulators, and the general public with the data and analysis needed to make informed decisions. CEQ’s proposed actions do not serve this purpose.

We appreciate your consideration. Again, I urge you to abandon this rule and embark on a more thoughtful approach to NEPA that does not put environmental protection at risk. If you have any questions, please contact the Special Projects Assistant for the Puget Sound Partnership, Ahren Stroming, at Ahren.Stroming@psp.wa.gov or the Director of Governor Ferguson's Washington, D.C. Office, Rose Minor, at Rose.Minor@gov.wa.gov. Thank you.

Sincerely,



Larry Epstein
Deputy Director



STATE OF WASHINGTON
RECREATION AND CONSERVATION OFFICE

March 26, 2025

The Honorable Katherine R. Scarlett
Chief of Staff
Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503

RE: Docket Number CEQ-2025-0002, removal of Council on Environmental Quality regulations implementing the National Environmental Policy Act (NEPA) from the Code of Federal Regulations

Dear Ms. Scarlett:

On behalf of the State of Washington Recreation and Conservation Office, I write to express our concern with the proposed rule to remove the Council on Environmental Quality's (CEQ) regulations implementing the National Environmental Policy Act (NEPA) from the Code of Federal Regulations. We urge you to withdraw this proposed rule.

The Recreation and Conservation Office provides statewide leadership and funding to protect and improve Washington's natural and outdoor recreation resources including the recovery of threatened and endangered salmon. Our state has long supported NEPA as a foundational environmental law critical to protecting the environment and public health since its inception. While we do not oppose efforts to improve the NEPA process, the lack of consultation and adequate time to understand the impacts of this proposal is concerning, especially given the scope and magnitude of the proposed changes.

The removal of CEQ's role and the current implementing regulations will reduce federal agency consistency and coordination and will weaken environmental protections. The CEQ currently manages coordination and helps to determine a "lead agency in NEPA review processes." In the absence of clear federal leadership and coordination, states and partners will be left to manage conflicting priorities or processes across numerous federal agencies. This will lead to inefficiencies and inconsistencies that will increase the cost and time of review and degrade the integrity of the environmental review.

Of additional concern is that the proposed rule encourages agencies to revert to the final 2020 rule "Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act" as an initial framework for the development of revisions to their NEPA implementing regulations." As noted in a previous letter dated March 9, 2020, the 2020 rule could cause significant harm to natural resources, endangered species and human health in



Washington state—outcomes contrary to the intent of NEPA as stated in the law under section 2 “...encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment...”

Below are some specific examples of how reverting to the 2020 rule would adversely impact the agency’s work and impact threatened and endangered species recovery:

Removing specific direction to consider impacts to listed species

Washington State has invested hundreds of millions of dollars to recover salmon and steelhead that are listed as either threatened or endangered under the federal Endangered Species Act (ESA). The success of these investments relies on the state’s ability to evaluate and understand the impacts of ongoing activities. It is critical to evaluate the effects of a project on ESA listed species. Replacing language (§ 1508.27(b)(9)) that specifically directs responsible officials to evaluate the “degree to which the action may adversely affect an endangered or threatened species or its habitat” undermines the ability to do so.

Repealing consideration of environmental impacts that are “indirect” or “cumulative”

Repealing the term “cumulative” from NEPA implementing regulations removes language that provides clarity around “effects or impacts” as defined in NEPA. Disregarding cumulative effects during a NEPA process will weaken environmental protection, is inconsistent with intent of NEPA, and would preclude consideration of other critical environmental impacts. These include indirect and cumulative impacts to habitat, water quantity and quality, and ecosystem function critical to the recovery of ESA-listed salmon and orca.

I appreciate your consideration. Please abandon this proposed rule and embark on a more coordinated approach to NEPA that includes adequate consultation with states and results in regulations that do not put long-standing Congressionally authorized environmental protections at risk.

If you have any questions, please contact Governor’s Salmon Recovery Office Director Erik Neatherlin at Erik.Neatherlin@gsro.wa.gov or the Director of Governor Ferguson’s Washington, D.C. Office Rose Minor at Rose.Minor@gov.wa.gov. Thank you.

Sincerely,



Megan Duffy
Director