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The Council on Environmental Quality Solicits Comments to Update NEPA Regulations

Insight — 06/20/2018

The Council on Environmental Quality (CEQ) opened a 30-day comment period today to solicit comments on potential revisions to its regulations for implementing the National Environmental Policy Act (NEPA). CEQ's NEPA regulations were originally issued in 1978 and have been substantively revised only once, in 1986, to eliminate the "worst case" scenario requirement. Thus, this comment period represents a significant opportunity, the first in 40 years, to attempt to modernize the regulations and, optimally, improve the NEPA process to become more efficient and effective.

CEQ has requested public input and recommendations on almost every aspect of the NEPA process, including interagency coordination; ways to increase the efficiency of the process; revisions to key defined terms (such as scope, purpose and need, effects, alternatives, significantly, and reasonably foreseeable); public involvement; the use of categorical exclusions, environmental assessments, and environmental impacts statements; supplementation; and programmatic reviews. Anything related to NEPA may be fair game.

To be effective, comments should be specific, include concrete recommendations, and provide a compelling empirical justification. Comments and recommendations from odd-bedfellows often receive particular attention. Many well-respected advisory committees, working groups, and task forces have developed recommendations for NEPA reform over the years. Comments on how those recommendations could be incorporated into regulations may find extra traction. Comments that overlook the statutory purposes of NEPA will likely encounter difficulty.

With comments due on July 20, that's a lot to tackle. But for those who have struggled through a multi-year NEPA review process for a project, the effort may be worthwhile to advocate for changes to the process. Comments can be submitted to the Federal eRulemaking portal (www.regulations.gov) using the docket identification of CEQ-2018-0001. For questions, please contact Sandi Snodgrass, Tom Jensen, Murray Feldman, Dessa Reimer, or any of our other NEPA and public lands specialists.

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