Congress of the United States
House of Representatives
Washington, DC 20515-0906

November 22, 2021

The Honorable Brenda Mallory
Chair
Council on Environmental Quality
730 Jackson Place
Washington, DC 20503

Re: National Environmental Policy Act Implementing Regulations Revisions, 86 Fed. Reg. 55,757 (Oct. 6, 2021); Docket ID No. CEQ-2021-0002

Dear Chair Mallory:

On October 6, 2021, the Council on Environmental Quality (CEQ or the agency) published a proposed rule[1] to revise implementing regulations for the National Environmental Policy Act (NEPA or Act).[2] The proposed rule, Phase 1 of 2, will make sweeping reforms to the procedural provisions of NEPA; roll back commonsense revisions made in 2020 (Trump rules or 2020 rules); and restore provisions that led to immense delays in environmental reviews before 2020. The agency, pursuant to the Regulatory Flexibility Act (RFA), has certified that the proposed rule will not have a significant economic impact on a substantial number of small entities.[3] After finalizing this rule, CEQ noted that it plans to propose even broader changes to the 2020 rules in a planned Phase 2 rule.

During the Obama Administration, CEQ issued draft guidance on how agencies should consider the impact of greenhouse gas emissions and climate change when undertaking NEPA reviews.[4] The Trump Administration revoked that guidance and issued revisions to CEQ's implementing regulations, the first major revisions since 1978. The 2020 rules revised the definitions of "major federal action," "effects," and "reasonable alternatives" seeking to streamline the regulatory process by shortening the time for review and eliminating the requirement for consideration of cumulative effects. On January 20, 2021, President Biden issued Executive Order 13,990, which instructed CEQ to rescind the 2020 rules and update the

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[1] National Environmental Quality Act Implementing Regulations Revisions, 86 Fed. Reg. 55,757 (Oct. 6, 2021) [hereinafter "NEPA proposed rule" or "proposed rule"].
[2] 42 U.S.C. 4321 *et seq*.
[3] 86 Fed. Reg. 55,767.
[4] 84 Fed. Reg. 30,097 (June 26, 2019).

Obama guidance.[5] On January 27, 2021, President Biden issued Executive Order 14,008, which requires CEQ and the Office of Management and Budget (OMB) to "ensure that the Federal infrastructure investment reduces climate change, and to require that Federal permitting decisions consider the effects of greenhouse gas emissions and climate change."[6]

The signatory Ranking Members of the Committee on Small Business and the Committee on Oversight and Reform disagree with the agency's certification of the 2021 proposed rule and believe its significant modifications will increase delays and paperwork; create more confusion about NEPA's processes; and that small entities will be indirectly and adversely affected. NEPA currently requires an examination of the direct and indirect socio-economic impacts of major federal actions.[7] Since such actions could have a wide impact on small businesses, a change to the current NEPA standard could be deleterious. Although this does not require CEQ to perform an RFA, modification of that rule could prove harmful to an agency's full assessment of the impact of a major federal action as it performs the required analysis of environmental impacts under NEPA. Unfortunately, the agency did not do so and instead engaged in arbitrary and capricious rulemaking.

Instead of achieving the proposed rule's stated goal to "enhance clarity on NEPA implementation,"[8] and to "better effectuate NEPA's statutory requirements and purposes,"[9] the proposed rule will only increase confusion, complexity, and delays if finalized as drafted.

I. The National Environmental Policy Act (NEPA or Act)

Signed by President Nixon in 1969, NEPA was established to "declare a national policy which will encourage productive and enjoyable harmony"[10] between people and the environment; to promote efforts that will "prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare"[11] of people; and to "enrich the understanding of the ecological systems and natural resources important to the Nation."[12] Specifically, NEPA requires federal agencies to "take a hard look at environmental consequences"[13] of their proposed action; consider alternatives; and publicly disseminate such information before taking final action.[14]

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[5] Exec. Order No. 13,990 (Jan. 20, 2021), *available at* https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-protecting-public-health-and-environment-and-restoring-science-to-tackle-climate-crisis/.

[6] Exec. Order No. 14,009 (Jan. 27, 2021), *available at* https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/.

[7] 42 U.S.C. § 4332(2)(C); *see also* 40 C.F.R. § 1502.8(b); 40 C.F.R. § 1502.16.

[8] 86 Fed. Reg. 55,757.

[9] *Id.*

[10] 42 U.S.C. § 4321.

[11] *Id.*

[12] *Id.*

[13] *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989).

[14] *Id.*

NEPA also established CEQ, which issues the regulations and guidance determining how federal agencies must implement NEPA.[15] CEQ issued interim NEPA implementation guidelines in 1970, revised those guidelines in 1971 and 1973, and promulgated regulations implementing NEPA in 1978.[16]

On July 16, 2020, CEQ issued revisions to the 1978 NEPA regulations, which applied after September 14, 2020[17] (2020 regulations or 2020 rules). The 2020 regulations have been challenged by several states and stakeholder organizations, and have been stayed by the courts while the Biden Administration reviews and revises them.[18] On June 29, 2021, CEQ issued an interim final rule delaying by two years (until September 14, 2023) the deadline for federal agencies to implement procedural revisions of the 2020 rules.[19] The result is that the Trump Administration's 2020 rules are still in effect, but not being implemented by agencies while the Biden Administration revises the 2020 rules.

II. NEPA's Procedural Requirements

Since NEPA's enactment, CEQ has defined NEPA's procedural mandates in its regulations. NEPA's procedural mandates apply to proposed "major federal actions significantly affecting the quality of the human environment."[20] To determine if NEPA applies, federal agencies must analyze whether an action is "major," if its effects are "significant," and whether the action is otherwise exempt from NEPA. However, NEPA does not define "major," but limits "major Federal actions" to those "subject to Federal control and responsibility."[21] Importantly, the law does not require agencies to choose the alternative with the least environmental effect or to achieve a particular outcome. The law does require agencies to assess their actions and determine the possible effects of certain outcomes for people and the environment.

A. The 2020 Rules

The 2020 Trump rules narrowed the scope of major federal actions by detailing actions that qualify as major, those that do not qualify as major, and those that may or "tend to" qualify as major.[22] Actions that do not qualify as major are: 1) nondiscretionary or extraterritorial activities; 2) actions that do not result in final agency actions in the statute; 3) judicial or

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[15] 40 C.F.R. pts. 1500-1518.
[16] 43 Fed. Reg 25,230 (June 9, 1978).
[17] 85 Fed. Reg. 43,304 (Jul. 16, 2020).
[18] *See*: *Wild Virginia v. Council on Envtl. Quality* (W.D. Va., dismissed June 21, 2021); *Alaska Community Action on Toxics v. CEQ* (N.D. Cal., stayed Feb. 12, 2021); *Environmental Justice Health Alliance v. CEQ* (S.D.N.Y., stayed Feb. 16, 2021); *California v. CEQ* (N.D. Cal., stayed Feb. 12, 2021); *and Iowa Citizens for Community Improvement v. CEQ* (D.D.C., stayed Feb. 9, 2021). The court in the Virginia case denied a Biden Administration request for a stay, ruling that plaintiff's claims were not ripe and plaintiffs lacked standing. As a result, the case did not prevent the Biden Administration from moving forward with its review.
[19] 85 Fed. Reg. 34,154 (June 29, 2021).
[20] 42 U.S.C. § 4332.
[21] 40 C.F.R. 1508.1(q).
[22] 40 C.F.R. § 1508.1(q).

administrative enforcement; 4) funding where a federal agency does not control the use of the funds; 5) nonfederal projects with minimal federal involvement; and 6) loans, loan guarantees, and other financial assistance where the federal agency does not exercise sufficient control.[23]

The 2020 rule was designed to comprehensively update, modernize, and clarify the regulations to facilitate more efficient, effective, and timely NEPA reviews by federal agencies in connection with proposals for agency action. It was envisioned that the rule would improve agency coordination in the environmental review process; promote earlier public involvement; increase transparency; and enhance the participation of states, tribes, and localities.[24] Major judicial decisions interpreting NEPA were not reflected in CEQ's regulations, and needed to be integrated.

The 2020 rules also aimed to advance the original goals of the CEQ regulations to reduce paperwork and delays, and to promote better decisions consistent with the national environmental policy established by NEPA's Section 101.[25] Over time, the NEPA process became plagued by excessive paperwork and increasingly long delays.[26] As a result, the NEPA process slowed or impeded important infrastructure projects that require federal permits or approvals. In addition, activists often used the courts to extend the process and further delay projects.

In 2002, the Government Accountability Office (GAO) found it typically took from nine to nineteen years to plan, gain approval for, and construct a new, major federally funded highway project that has significant environmental impacts.[27] An independent study prepared for the American Association of State Highway and Transportation Officials in 2003 found environmental reviews required by NEPA and other federal laws account for between 19 to 40 percent of total delivery time for major highway construction projects, and the length of time required to move major projects from planning to construction takes between nine and nineteen years.[28]

In 2003, Federal Highway Administration (FHWA) project delays caused by Environmental Impact Statements (EIS) (the most rigorous NEPA review of a project's environmental impact) were substantial – averaging 43 months or three and a half years.[29] A 2020 CEQ review found FHWA projects took an average of seven years from notice of intent to EIS to issuance of a record of decision. In contrast, in 1981, CEQ predicted that federal agencies

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[23] *Id.*
[24] 85 Fed. Reg. 43,304 (Jul. 16, 2020).
[25] *Id.*
[26] *Id.* at 43,305.
[27] GAO, HIGHWAY INFRASTRUCTURE: PRELIMINARY INFORMATION ON THE TIMELY COMPLETION OF HIGHWAY CONSTRUCTION PROJECTS (GAO-02-1067T) (2002), citing 2002 Federal Highway Administration data.
[28] AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS, CAUSES AND EXTENT OF ENVIRONMENTAL DELAYS IN TRANSPORTATION PROJECTS (Dec. 2003).
[29] *Id.* at 1.

would complete most EISs in 12 months or less.[30] Compounding the problem, the reports required by NEPA's review process have become massive in size. In 2020, a CEQ review found that final EISs averaged 661 pages.[31] Final EIS's had become exceedingly comprehensive, voluminously responding to agency and public comments, developing alternatives, and explaining why comments did or did not merit changes or responses.[32] The 2020 rules suggested that a final EIS should be proportional to the project it analyzes, but should span no more than 100 pages, or 300 if unusually complex,[33] and should be completed within two years, unless the lead agency requests a longer period of time.[34] By 2019, stakeholders were begging for clarity and some type of limits. Even the Environmental Law Institute declared that "the [NEPA] process has become increasingly cumbersome, lengthy and frustrating…" and "the vagueness of CEQ's regulations means that agencies do not have any concrete limitations on their reviews" and "[w]e all need a set of regulations by CEQ that lays out for agencies how much is enough."[35]

These are just a few examples of the delays caused by environmental reviews. Litigation and other factors can also impede project progress and set back timelines. The result is that critically important and much-needed infrastructure projects – roads, bridges, highways, pipelines – are not being built or are not constructed in a timely manner, which causes a severe drag on American jobs and the nation's economy.

B. Supreme Court Decisions and Judicial Review of NEPA

It is not surprising that NEPA is the most litigated environmental statute in the United States.[36] Although NEPA does not expressly provide for judicial review, NEPA's legal challenges are subject to federal judicial review under the Administrative Procedure Act.[37] During the 51 years since NEPA was enacted, the courts have issued a substantial body of case law interpreting its provisions.[38] Notwithstanding how extensive and time-consuming NEPA reviews have become over time, the most common challenges claim that an agency has not sufficiently reviewed or documented its NEPA analysis.

The Supreme Court has interpreted NEPA and CEQ's regulations using the "rule of reason" to ensure that agencies take a "hard look" at environmental effects and determine whether and how to prepare an EIS based on the usefulness of the information.[39]

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[30] Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations, 46 Fed. Reg. 18,026 (Mar. 23, 1981), cited in 85 Fed. Reg. at 43,305.
[31] 85 Fed. Reg. at 43,305.
[32] 40 C.F.R. §§ 1503.4.
[33] 40 C.F.R. §§ 1502.2(c), 1502.7.
[34] 40 C.F.R. § 1502.10(b)(2).
[35] DAVA KAITALA AND JOHN LOVENBERG, ENVIRONMENTAL LAW INSTITUTE, NEPA: TIME FOR A TUNE UP (Dec. 27, 2019).
[36] JAMES E. SALZMAN AND BARTON H. THOMPSON, JR., ENVIRONMENTAL LAW AND POLICY 340 (5th ed. 2019).
[37] 5 U.S.C. § 551 et seq.
[38] In 2020, CEQ said there are "thousands of decisions interpreting NEPA and the current CEQ regulations…" 85 Fed. Reg. at 43,310.
[39] *Marsh v. Or. Nat. Res. Council*, 490 U.S. 360, 373 (1989).

It is settled law that NEPA prescribes only the necessary process for agency environmental reviews and does not mandate that an agency choose a particular outcome.[40] However, an agency's compliance with those procedures can necessarily influence and have some effect on the substance of its environmental reviews.

However, in that body of judicial decisions, various terms and requirements have been interpreted differently, creating challenges and complications for agencies in reviews. The 2020 rules codified major court decisions where there was a lack of judicial harmony, and clarified the meaning of certain NEPA and CEQ regulations, with the goal of easing agency coordination, speeding decision-making, and promoting greater clarity.[41]

III. The Proposed Rule

The Phase 1 proposed rule will make sweeping reforms to the procedural provisions of NEPA; roll back commonsense environmental revisions made in 2020 (Trump rules or 2020 rules); and restore provisions that led to immense delays in reviews before 2020. This means the confusion and lack of clarity from decades of environmental regulations and court decisions will be restored. And the changes proposed by CEQ in a planned Phase 2 rule are expected to be even broader.

The Phase 1 proposal essentially allows agencies to consider a wider range of factors in their reviews, lengthening the review process. Three major changes are proposed: 1) eliminating the 2020 rule's "purpose and need" language, essentially allowing the agency to review projects without considering the goals of achieving them; 2) reversing the language from the 2020 rule that required agencies to harmonize their regulations with CEQ's and eliminate inconsistencies between them; and 3) eliminating the 2020 rule's consideration of only reasonably foreseeable effects, and allowing agencies to revert back to considering direct, indirect and cumulative impacts.

A. Eliminating Purpose and Need Language

This proposed change would eliminate the 2020 rule's language requiring the agency to focus on the need for a project and allow it to instead focus on a myriad of other factors. The proposed rule states that under the 2020 rule, the agency might focus only on the project applicant's goal and exclude other factors. The 2020 rule, however, does not require that agencies focus only on the need for the project, but just consider it. Reverting to the pre-2020 language does not clarify the rule, but rather re-instates confusion and burdensome delays by encouraging the agency to consider regulatory requirements, conditions on the landscape, other environmental outcomes, local needs, and the public interest without due regard to the need for a

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[40] *Robertson v. Methow Valley Citizens*, 490 U.S. 332 (1989), citing *Strycker's Bay Neighborhood Council, Inc. v. Karlen*, 444 U.S. 223 at 227 (1980) ("Once an agency has made a decision subject to the procedural requirements of the National Environmental Policy Act of 1969, the only role for a court is to insure that the agency has considered the environmental consequences; it cannot interject itself within the area of discretion of the executive as to the choice of the action to be taken.")

[41] 85 Fed. Reg. at 43,310.

project. Introducing a host of possibly abstruse factors that may not be pertinent and may never apply will only encourage needless delays.

The proposed rule cites *Citizens Against Burlington, Inc. v. Busey*[42] as authority for encouraging agencies to consider a panoply of factors. However, this case cautions agencies against considering a weighty list of factors that will unreasonably protract the review and may never apply.[43] In fact, the implementing agency's obligation to discuss alternatives in its environmental impact statement is relatively narrow.[44]

B. Eliminating Agency NEPA Procedure Consistency

Agency NEPA procedures detail the process of how federal agencies comply with NEPA and CEQ regulations in their own agency programs and processes. The 2020 rule required agencies to harmonize their own existing NEPA procedures with CEQ's regulations to eliminate inconsistencies and reduce confusion. The proposed rule would eliminate that requirement and instead allow each agency's differing processes and procedures to complicate, prolong, and protract the review process.

The 2020 rules are clear and commonsense: they required agencies to develop or revise, as necessary, its procedures to implement the 2020 regulations, so they will comport with and not immeasurably conflict with CEQ's. The 2020 rules expressly allowed for situations where agency rules conflict with CEQ rules, stating that CEQ's rules would apply "unless there is a clear and fundamental conflict with the requirements of another statute"[45] or "unless otherwise required by law."[46]

There is no need for each federal agency's individually tailored and detailed NEPA procedures to complicate and delay environmental reviews. Unfortunately, the proposed rule will do just that.

C. Reinstating the 1978 Definition of "Effects" or" Impacts"

The NEPA expressly requires federal agencies to analyze:

(i) the environmental impact of the proposed action;

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[42] 938 F.2d 190 (D.C. Cir. 1991).

[43] 938 F.2d 190, 196 (D.C. Cir. 1991) ("Deference, however, does not mean dormancy.... Environmental impact statements take time and cost money. Yet an agency may not define the objectives of its action in terms so unreasonably narrow that only one alternative from among the environmentally benign ones in the agency's power would accomplish the goals of the agency's action, and the [EIS] would become a foreordained formality. Nor may an agency frame its goals in terms so unreasonably broad that an infinite number of alternatives would accomplish these goals and the project would collapse under the weight of possibilities.").

[44] *Izaak Walton League of Am. v. Marsh*, 55 F.2d 346, 372 (D.C. Cir. 1981).

[45] 85 Fed. Reg. at 43,340.

[46] *Id.*

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented;
(iii) alternatives to the proposed action;
(iv) the relationship between the short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and
(v) and any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.[47]

The statute, therefore, requires exactly what the 2020 rules stated: the contemplation and consideration of those effects which are reasonably foreseeable and have a reasonably close causal relationship to the proposed project. Moreover, the statute requires consideration of the short term uses of the environment as weighed against the maintenance and enhancement of long-term productivity of any uses of the environment.

The proposed rule will reinstate the 1978 rule's definition of environmental "effects" or "impacts" to include direct, indirect, and cumulative effects. This single change will roll back any effort to achieve clarity, and revert back to the prior rule's excessive complications and confusion that resulted in some agency NEPA analyses lasting as long as nineteen years.[48]

Simply restoring the terms "direct," "indirect," and "cumulative" to the definition of "effects" to "realign the regulations with longstanding agency practice" does not necessarily effectuate a desirable outcome. To the contrary, it will re-instill the confusion, complexity, and inefficiency that the 2020 rules removed. The proposed rule itself states that "courts have interpreted the NEPA statute to require agencies to analyze the reasonably foreseeable direct and indirect effects of a proposed action and alternatives."[49] The 2020 rule did not prohibit an agency from considering immediate and/or reasonably foreseeable impacts that could also be viewed as "cumulative," and agencies were free to do so.

CEQ claims that with the changes proposed in this rulemaking, it "seeks to reduce confusion and provide clarity on the effects that the agencies must consider and does not agree that removing the language on effects will directly result in delays."[50] In addition, CEQ posits that providing clarity to agencies and the public on what is required provides benefits to the environmental review process and outweighs any uncertain potential for shorter time frames.[51] Expressly widening the range of possible effects that agencies must consider would seem to increase, rather than decrease, the possibility that agencies will spend excessive time focusing on less important or speculative effects. The proposed rules feature twisted logic. If environmental reviews were lasting up to nineteen years under the 1978 rules with the many types of possible effects specifically listed in the rules, one would think that not specifically listing those many possible effects could reduce timeframes. The proposed rules claim a goal of clarity by listing the analysis of those many possible effects, but at best just introduce a platform for unnecessarily increased delays in review.

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[47] 42 U.S.C. 4332(2)(C).
[48] *Supra* note 26.
[49] 85 Fed. Reg. at 55,763.
[50] 85 Fed. Reg. at 55,767.
[51] *Id.*

IV. The Phase 2 Proposed Rule

Regrettably, CEQ's proposed evisceration of the 2020 NEPA rules doesn't end here. CEQ has also announced that it plans to issue a Phase 2 rule that will encompass significantly wider retrenchments on the 2020 rules.[52] In this proposed Phase 1 rule, CEQ said it aimed to focus on a narrow set of provisions that pose an immediate challenge for federal agencies and would have a major impact before the Phase 2 rulemaking is complete.[53]

CEQ said it will issue a Phase 2 rulemaking to propose additional revisions to ensure that the NEPA process provides for efficient and effective environmental reviews, provide regulatory certainty, and better decision making.[54] But if there is one thing the Phase 1 proposed regulations *won't* ensure, it's efficient and effective environmental reviews, regulatory certainty, and better decision making. It is readily apparent that this Administration places greater emphasis and greater importance on their issues of environmental justice and climate change than our nation's economy, small businesses, which are the lifeblood of our economy and the root of most jobs, and economic recovery following COVID.

V. Modification of the NEPA Rules is Taking Place without Sufficient Assessment of the Direct and Indirect Impacts of CEQ's Proposals Actions on Small Businesses; Failure to Do Adequately Assess them is Arbitrary and Capricious

NEPA currently requires an examination of the direct and indirect socio-economic impacts of major federal actions.[55] Since such actions could have a wide impact on small businesses, a change to the current NEPA rule standards could be problematic. Although this does not specifically require that CEQ perform a regulatory flexibility analysis under the RFA,[56] modification of the current rule may prove deleterious to an agency's full and complete assessment of the impact of a major federal action as it performs the required analysis of the environmental impacts under NEPA. Such a change could prevent an agency from obtaining the information needed to craft a rule better suited to achieving NEPA compliance – the ultimate goal under the statute.

In the proposed rule, CEQ asserts that its proposed rule would not affect or[?] directly regulate small entities; rather, it suggests that the rule would apply only to federal agencies.[57] CEQ then certified that the proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities.[58] Although it may be true that the proposed rule would not directly regulate small entities, that alone would not be sufficient to certify that the

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[52] 85 Fed. Reg. at 55,759.
[53] *Id.*
[54] *Id.*
[55] 42 U.S.C. § 4332(2)(C); *see also* 40 C.F.R. § 1502.8(b); 40 C.F.R. § 1502.16.
[56] [Insert citation to the RFA's IRFA and FRFA provisions.]
[57] 85 Fed. Reg. at 55,767.
[58] *Id.*

proposed rule would not have a significant impact on a substantial number of small entities. To properly certify that a proposed rule will not have a significant impact on a substantial number of small entities, there must be an adequate factual basis for the conclusion. In the proposed rule, the agency's statement in the certification fails to meet the statutory requirement.[59] Merely stating that the proposed rule does not directly regulate small entities is an insufficient factual basis.

In *National Association of Home Builders v. Army Corps of Engineers*, the issuance of certain permits under Section 404 of the Clean Water Act were challenged.[60] The Corps reduced the number of acres for which it would issue a nationwide permit without providing public notice and comment.[61] The Corps argued that modification in scope was not a rule because the only time an entity would be affected was when it had to apply for an individual permit.[62] The D.C. Circuit rejected that argument, saying that small entities were directly affected because they would need to modify their projects to meet the new nationwide permit rules or obtain an individual permit. In CEQ's proposed rule, small companies that need NEPA-conditioned permits are likely to require modifications to their permit applications to meet CEQ's proposed rule's new and expanded NEPA definitions.

VI. Conclusion

The proposed rule is flawed, arbitrary, and capricious. It would make unnecessary, sweeping reforms to the procedural provisions of NEPA; roll back commonsense revisions made in 2020; and restore provisions that led to immense delays in environmental reviews before 2020.

The proposed rule will not lead to better clarity and, conversely, will cause additional confusion and delays in environmental reviews. In addition, it could lead to protracted litigation, including challenges that might prohibit enforcement against small entities. For all of the above reasons, CEQ should withdraw the proposed rule.

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[59] 85 Fed. Reg. 55,767. As stated above, the signatories do not concur with CEQ's assessment.
[60] 417 F.3d 1272 (D.C. Cir. 2005).
[61] 417 F.3d at 1276-77, 1284-86. This meant the entities would have to seek and comply with more detailed rules on individual permits rather than relying on the general category of a nationwide permit.
[62] *Id.* at 1282, 1285.

Should you have questions concerning this letter, please contact David Planning, Staff Director with Ranking Member Luetkemeyer's Committee on Small Business staff, at 202.225.5821, or Daniel Flores, Senior Counsel with Ranking Member Comer's Committee on Oversight and Reform staff, at 202.225.5074.

Sincerely,

Blaine Luetkemeyer
Ranking Member
Committee on Small Business

James Comer
Ranking Member
Committee on Oversight and Reform