



The National Environmental Policy Act (NEPA) is a comprehensive law that requires all federal infrastructure and energy projects to undergo an environmental assessment and environmental impact study (EIS) in order for the project to be completed. NEPA was intended to protect the environment, but over the years has become overly burdensome, bureaucratic, and often counterproductive for clean energy development. NEPA slows down progress and drives up costs for clean energy and infrastructure projects that would benefit the environment.

In 2020, the Council on Environmental Quality (CEQ) introduced a [rule](#) to update its NEPA regulations with the goal of reducing the duration and litigation of environmental reviews. The Biden Administration and congressional Democrats have announced [plans](#) to increase infrastructure and clean energy spending to tackle climate change. To help them accomplish their goals, they should retain and further expand these necessary NEPA reforms.

Facts vs. Myths

- Strict regulations are always good for the environment. **MYTH**
- Streamlining and optimizing the regulatory process for infrastructure projects is harmful to the environment. **MYTH**
- Bureaucratic red tape unnecessarily slows down projects and drives up costs. **FACT**
- By making the approval process for infrastructure projects more efficient, we can protect our environment and bolster economic growth. **FACT**

The Problems with NEPA Prior to the Updated 2020 CEQ Ruling

- **The review process under NEPA slowed down key infrastructure projects.**
 - According to a recent CEQ [study](#), NEPA's review process takes an average of 4.5 years to complete.
- **The environmental review process under NEPA drives up costs.**
 - On average, NEPA adds an [estimated \\$4.2 million](#) to complete a review.
- **By slowing down the completion time** of key infrastructure and energy projects, NEPA review can be harmful to the environment.

Markets vs. Mandates

- Markets are ready to deliver clean energy and infrastructure projects, but NEPA slows down the process.
 - Taos Regional Airport's expansion project would improve runways and flight safety but was [delayed](#) by more than **20 years** due to NEPA review and litigation.
 - A Colorado vegetation management project that would improve fire resiliency and animal habitats on more than 1,000 acres was [stalled](#) more than three years due to NEPA litigation.
- Delaying projects with overly-burdensome regulation drives up costs, hurts investments, and disincentivizes progress.
 - A 2017 [analysis](#) from the American Action Forum found that 148 energy and transit projects were still under NEPA review, costing a total of \$229 billion.
 - Energy projects with a wait time greater than 2 years had an estimated cost of \$67.1 billion.
- The [New Source Review \(NSR\)](#), a regulation similar to NEPA, also limits the ability of industries to implement improvements to the efficiency of their facilities.
 - Under the NSR, a manufacturer that makes improvements to facilities can trigger new regulations since the total emissions can increase even if emissions relative to production becomes more efficient.

Contact us for more information

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NEPA Modernization 101

An Outdated Environmental Law that is Impeding Clean Energy Developments

- As a result, not many manufacturers update their facilities, and instead we import products from China or other countries, with even higher emissions.

Improving NEPA to Better Serve the Environment

- Reduce costly litigation.
 - According to [CEQ](#), NEPA is the most litigated environmental statute in the U.S.
 - The impact of NEPA litigation is not only seen in the courtroom through legal fees and due process, but also behind the scenes in the form of increased paperwork.
 - The likelihood of litigation [increases](#) the length of an EIS to an average of 575 pages.
- Reduce the statute of limitations for judicial review of agency actions.
 - [Judicial review](#) for NEPA projects is two years, which is more than other environmental statutes with limitations ranging from 60-120 days.
- Continue to support the CEQ's 2020 Final Ruling of NEPA Modernization.
 - CEQ changed the ruling that required an agency to [provide](#) *all* alternatives to a project during its EIS. This has reduced paperwork and red tape, expediting EIS.
 - Implemented [categorical exclusions](#) which are projects that do not have a significant impact on the environment and do not usually require a comprehensive EIS.
 - [Reduced](#) the timeline of EIS from 4.5 years to no more than one year.

In Summary

- The National Environmental Policy Act was implemented with the well-intentioned goal of protecting the environment. Instead, it has become a burden to key infrastructure and energy projects. It often seriously delays clean energy projects and efficiency improvements.
- Environmental Impact Studies and the review process under NEPA, prior to the 2020 CEQ Final Ruling on NEPA Modernization, slowed down these projects, drove up costs, and disincentivized progress.
- In order to successfully implement their infrastructure and energy plans, Democrats and the Biden administration should continue to find ways to streamline NEPA review. Other regulations, such as the New Source Review, should also be scrutinized.
- If this is not addressed, clean energy projects - and, as a result, the planet - will suffer.