



**Region 10 Tribal Consortium  
P.O. Box 689  
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March 10, 2020

Mary B. Neumayr, Chair  
Council on Environmental Quality  
730 Jackson Place NW  
Washington, DC 20503

***RE: Docket No. CEQ-2019-0003***

Dear Ms. Neumayr:

This letter is submitted on behalf of Tribal Caucus of the EPA Region 10 Tribal Operation Committee (“RTOC”) on the Council on Environmental Quality’s (CEQ) Notice of Proposed Rulemaking (“NPRM”) for the National Environmental Policy Act (“NEPA”), Docket No. CEQ-2019-0003. These comments are not sent on behalf of EPA or any EPA official.

The RTOC supports the requests submitted by many tribes for an extension of the comment period in order to more fully evaluate the impacts of the NPRM and the tribes’ requests to engage in government-to-government consultation with CEQ to discuss the impacts of the NPRM.

Like many tribes, the RTOC is extremely concerned about the impacts of the NPRM. The changes in the NPRM would significantly impact federal agencies informed, science-based decision-making from the NEPA environmental review process. The changes create significant risks for tribal communities that are already disproportionately harmed by pollution, flooding, and climate change.

NEPA is a critical tool for protecting the environment for the health, safety, and well-being of future generations. The existing CEQ regulations correctly implement NEPA’s action forcing procedures that include giving the public a voice in federal decisions that affect the environment, carefully reviewing the environmental impacts of proposed actions, and investigating less environmentally harmful alternative actions.

The NPRM would significantly impact the environmental review process by:

1. **Eliminating NEPA review for many projects:** The proposal attempts to exclude many projects from environmental review and public input under NEPA. Among other things, the NPRM creates new tests for determining whether NEPA applies at all to a project (including by changing the definition of “major federal action”) and allows agencies to exempt a project from NEPA review by determining that some other type of analysis would serve the same purpose. These changes could allow agencies to move forward with controversial projects – including building pipelines, roads, dams, floodgates, and levees – without any NEPA review or opportunity for public comment.

2. **Ignoring severe environmental, public safety, and health impacts:** The proposal would severely limit the types of impacts examined during a NEPA review. The NPRM's directive that analysis of cumulative effects "is not required" would eliminate review of a project's role in increasing climate change and many other types of harm. It would also dispense with review of rising sea levels, stronger storms, and other climate change impacts on the effectiveness and resilience of a proposed project. Agencies could also ignore many types of severe impacts based on the NPRM's elimination of all references to "indirect" effects, and its directive to review only impacts with a "reasonably close causal relationship" to the proposed action. These changes could let agencies ignore the long-term impacts of toxic pollution from gold or copper mines; the risks of diverting floodwaters onto downstream communities by building new levees upstream; and loss of wetlands caused by reservoir management practices that starve a river of the water flows needed to sustain those wetlands.
3. **Allowing projects to be approved even if critical scientific and technical information is missing:** The proposal would give agencies the green light to make decisions without scientific and technical information essential to making a reasoned choice among project alternatives. The NPRM specifically states that agencies "are not required to undertake new scientific and technical research to inform their analyses." This could let agencies approve navigation infrastructure, major river dredging projects, reservoir operating plans, and large flood projects without conducting the research needed to understand the impacts of those projects on flooding, habitat loss, or ecosystem health.
4. **Significantly weakening the review of alternatives:** The proposal would significantly weaken the assessment of alternatives during a NEPA review, dramatically undermining NEPA's fundamental purpose of exploring less environmentally harmful approaches to achieving the project purpose. The NPRM eliminates the requirements to "rigorously explore and objectively evaluate all reasonable alternatives" and to consider reasonable alternatives not within the jurisdiction of the lead agency. The NPRM instead directs a much less extensive review, requiring only that agencies "evaluate reasonable alternatives to the proposed action."
5. **Allowing agencies to disregard public input:** The proposal creates loopholes that could let federal agencies disregard public comments, effectively silencing the communities and individuals that could be harmed most by a federal action. The NPRM would let agencies ignore public comments that they deem are not "specific" enough or do not include reference to data sources or scientific methodologies. The NPRM improperly places the burden on the public to list *any and all* possible impacts of a proposed project; to provide specific language changes; and to "explain why an issue raised is significant" to the consideration of impacts to the environment, the economy, employment and potential alternatives. Comments most likely to be disregarded include those from the general public; those from tribal communities without resources to fund technical reviews; and those that rely on traditional ecological knowledge rather than technical data. The NPRM also creates new hurdles to challenging a flawed environmental review in court.
6. **Allowing project applicants to write their own environmental reviews without conflict of interest safeguards:** The proposal eliminates longstanding safeguards designed to protect the independence and integrity of environmental reviews. Under the current regulations, the federal agencies prepare NEPA reviews and agencies can only hire consultants to assist in a NEPA review after obtaining disclosures of any conflicts of interest or financial stakes in the project the contractor would be reviewing. The NPRM, however, lets companies prepare their own NEPA reviews – despite their clear interest in obtaining project approval. Agencies could also hire contractors without obtaining a conflicts of interest disclosure.

The changes proposed in the NPRM threaten tribal communities, cultural resource, fish, wildlife, and the environment in Alaska, Idaho, Oregon, and Washington. We urge CEQ engage in stop this effort, engage in tribal consultation on the NPRM, and retain the existing NEPA implementing regulations until meaningful consideration of tribal impacts has occurred.

Sincerely,

A handwritten signature in blue ink, appearing to read "Raymond Paddock". The signature is fluid and cursive, with a long horizontal stroke at the end.

Raymond Paddock  
RTOC Co-Chair