

ENVIRONMENTAL PERMITTING REFORM

Reduce Bureaucracy – Not Environmental Protection – to Fast Track Infrastructure Improvements

Background:

The White House Council on Environmental Quality (CEQ) has proposed revisions to the National Environmental Policy Act (NEPA) implementing regulations that go well beyond NEPA’s original intent and could complicate and prolong infrastructure projects – jeopardizing the potential benefits of recent legislative acts (the 2021 Infrastructure Investment and Jobs Act, the CHIPS and Science Act of 2022, and the 2022 Inflation Reduction Act). What is more, the proposal overlooks the Fiscal Responsibility Act’s (FRA) aim for less complexity and unpredictability in the federal environmental approval process. Delays can increase project costs and even lead to project abandonment. Efficiency is essential for timely community benefits, resilience, and economic strength.

AGC Message:

Action Needed:

Tell Congress to support reforms to the environmental permitting process and hold federal agencies accountable via oversight for roadblocks and delays.

- **Stop CEQ’s latest attempt to layer on more requirements to drive specific policy outcomes that may diverge from NEPA’s core principles and hinder the efficiency and fairness of the environmental review process.** The current proposal creates duplicative layers of requirements for considerations like climate, environmental justice, and more throughout the regulations, potentially favoring certain projects and creating hurdles for others. This is contrary to NEPA, as interpreted by longstanding case law, which is designed to be a procedural statute for informed decision-making, rather than for forcing specific outcomes.
- **Direct CEQ to align its proposal with the FRA’s aim for less complexity.** Instead, the current proposal adds requirements and complexity to an agency’s ability to use another agency’s categorical exclusions, expands the definition of a “major federal action” (compared to FRA), and misses opportunities to further simplify processes – such as allowing applicant-prepared environmental documents and clarity on page and time limits.
- **Urge CEQ to retain key process improvements from prior regulations ensuring a focus on “reasonably foreseeable effects” rather than all possible effects, as intended by Congress.**
- **Prohibit revisions to the NEPA implementing regulations that would make reviews more complex.** The proposal’s inclusion of climate impacts and “innovative approaches” may result in uncertainty, litigation, and delays, potentially undermining NEPA’s purpose.