

**Regulatory Impact Analysis for the Final Rule, Update to the Regulations Implementing
the Procedural Provisions of the National Environmental Policy Act**

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June 30, 2020

The purpose of the National Environmental Policy Act, 42 U.S.C. 4321 et seq., (NEPA) is to ensure informed decision making by Federal agencies with regard to the potential environmental effects of proposed major Federal actions, and make the public aware of the agency's decision-making process. When effective and well managed, the NEPA process results in more informative documentation, enhanced coordination, resolution of conflicts, and improved environmental outcomes.

Over the past 40 years, the Council on Environmental Quality (CEQ) has issued more than 30 guidance documents to assist Federal agencies in understanding and complying with NEPA and its implementing regulations, 40 CFR parts 1500–1508 (“CEQ regulations” or “NEPA regulations”). Courts also have issued thousands of decisions addressing appropriate implementation and interpretation of NEPA and the CEQ regulations, resulting in a large body of case law interpreting NEPA and the 1978 regulations.¹ Additionally, Presidents have issued directives, and Congress has enacted legislation to reduce delays and expedite the implementation of NEPA and the CEQ regulations, including for transportation, water, and other types of infrastructure projects. Notwithstanding the issuance of guidance, Presidential directives, and legislation, implementation of NEPA and the CEQ regulations can be challenging, and the process can be lengthy, complex, and costly.

The final rule is the first comprehensive update to CEQ's NEPA regulations in over 40 years. It updates, modernizes, and clarifies the regulations to facilitate more efficient, effective, and timely NEPA reviews by Federal agencies in connection with proposals for agency action. The rule will improve interagency coordination in the environmental review process,

¹ References to the “1978 regulations” refers to the regulations in 40 CFR parts 1500 through 1508 as they exist before amendment by the final rule.

promote earlier public involvement, increase transparency, and enhance the participation of States, Tribes, and localities.

CEQ expects the impacts of these regulations to be economically significant, given potential cost savings to the Federal government as well as economy-wide impacts that will be catalyzed by this final rule. However, little quantifiable information exists on the costs and benefits of completing NEPA analyses. Agencies do not routinely track the cost of completing NEPA analyses, although the final rule establishes a government-wide requirement to do so for environmental impact statements (EISs). The following provides a largely qualitative summary of the scope and breadth of impacts CEQ anticipates to result from the final rule.

Time and page lengths

NEPA requires Federal agencies to evaluate the potential significant environmental effects of major actions they propose to carry out, fund, or approve (*e.g.*, by permit). Agencies prepare an EIS for proposed major Federal actions that would have significant effects on the environment. Based on the Environmental Protection Agency (EPA) weekly Notices of Availability published in the Federal Register between 2010 and 2019, Federal agencies published approximately 176 final EISs per year. For proposals unlikely to have significant effects, the CEQ regulations require a less comprehensive review and agencies prepare an environmental assessment (EA), unless the action is subject to a categorical exclusion (CE) under the agency's NEPA procedures. Agencies do not routinely track the number of EAs or CEs. CEQ has estimated that agencies apply CEs to approximately 100,000 Federal agency actions per year,² and prepare over 10,000 EAs per year.³

Actions requiring an EIS are a small proportion of all actions, but are typically the most complex and provide the greatest economic benefit and impact to affected communities.

² See Council on Environmental Quality, *The Eleventh and Final Report on the National Environmental Policy Act Status and Progress for American Recovery and Reinvestment Act of 2009 Activities and Projects*, (Nov. 2, 2011), https://ceq.doe.gov/docs/ceq-reports/nov2011/CEQ_ARRA_NEPA_Report_Nov_2011.pdf.

³ See Council on Environmental Quality, *Report on Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act (NEPA)*, (Oct. 4, 2016), https://ceq.doe.gov/docs/ceq-reports/Attachment-A-Fourth-Cooperating-Agency-Report_Oct2016.pdf.

According to some estimates, it will cost a total of \$4.6 trillion through 2025 to modernize infrastructure nationwide.⁴ Large infrastructure projects frequently require preparation of an EIS, and one estimate found that the cost of a 6–year delay in starting construction on public projects costs the nation over \$3.9 trillion, including the cost of prolonged inefficiencies and avoidable pollution.⁵

According to the most recent data,⁶ the average (*i.e.*, mean) time to complete an EIS, from notice of intent (NOI) to record of decision (ROD), was 4.5 years and the median was 3.5 years (Figure 1). One quarter of the EISs took less than 2.2 years, and one quarter took more than 6 years. The period from publication of an NOI to the notice of availability of the draft EIS took on average 58 percent of the total time. Preparing the final EIS, including addressing comments received on the draft EIS, took on average 32 percent of the total time. The period from the final EIS to publication of the ROD took on average 9 percent of the total time (Figure 2).

⁴ See American Society of Civil Engineers, *Infrastructure Report Card: A Comprehensive Assessment of America's Infrastructure*, (2017), <https://www.infrastructurereportcard.org/wp-content/uploads/2016/10/2017-Infrastructure-Report-Card.pdf>.

⁵ See Common Good, *Common Good Updates the Cost of US Infrastructure Delays: Costs Have Risen \$200 Billion Over Five Years to Nearly \$3.9 Trillion*, (May 2018), <https://www.commongood.org/wp-content/uploads/2018/05/Two-Years-Update.pdf>.

⁶ CEQ identified 1,276 EISs completed between 2010 and 2018. See Council on Environmental Quality, *Environmental Impact Statement Timelines (2010–2018)*, (June 12, 2020) (“CEQ EIS Timelines Report”), <https://ceq.doe.gov/nepa-practice/eis-timelines.html>.

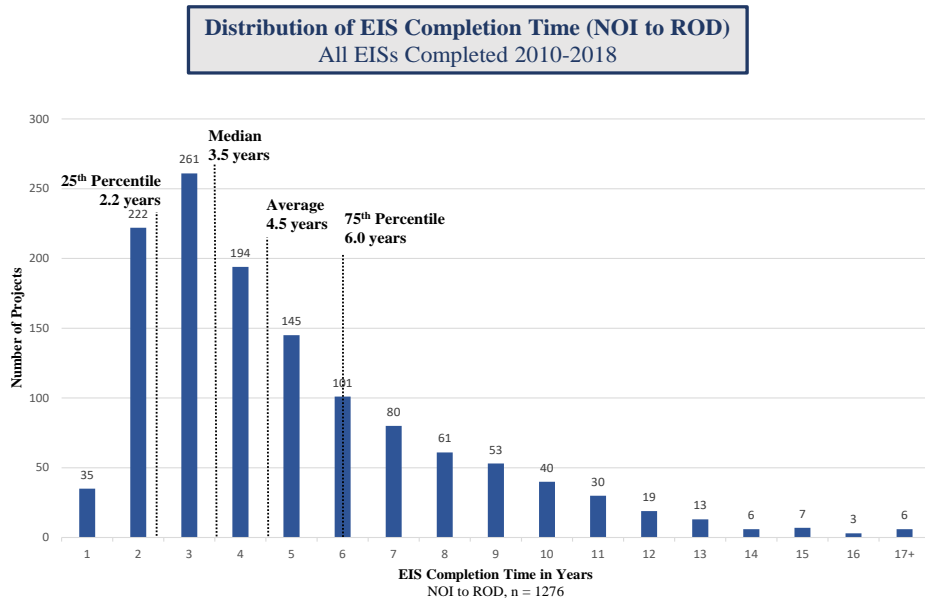


Figure 1. Distribution of EIS completion time (2010–2018).

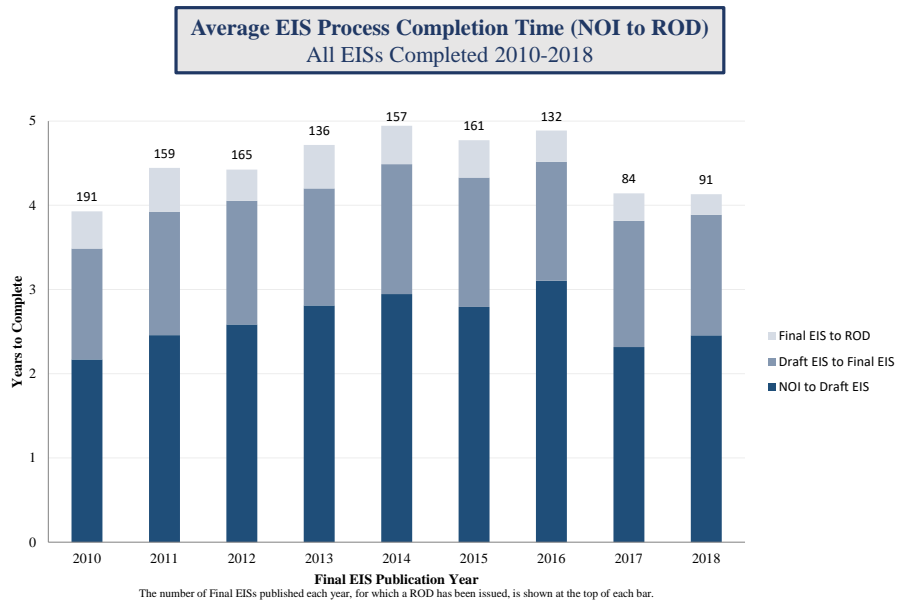


Figure 2. Average EIS process completion time (2010–2018).

The average length of final EISs was 661 pages and the median document length was 447 pages (Figure 3).⁷ One quarter of the final EISs were 286 pages or shorter (*i.e.*, the 25th percentile) and one quarter were 748 pages or longer (*i.e.*, the 75th percentile). Average page length across all Federal agencies varies considerably by year.

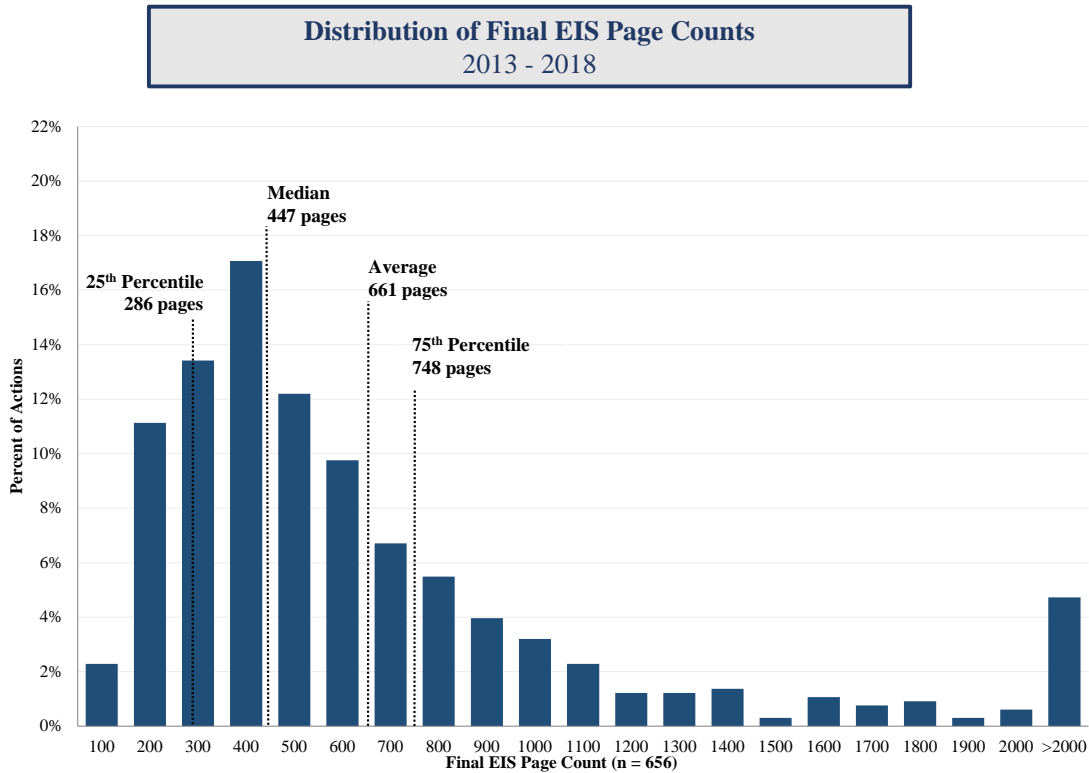


Figure 3. Distribution of final EIS page counts.

⁷ See Council on Environmental Quality, *Length of Environmental Impact Statements (2013-2018)*, (2020) (“CEQ Length of EISs Report”), https://ceq.doe.gov/docs/nepa-practice/CEQ_EIS_Length_Report_2020-6-12.pdf.

<u>Year</u>	<u>Average FEIS</u>
	<u>Page Length</u>
2013	563
2014	541
2015	722
2016	694
2017	821
2018	667
Average	661

Table 1. Average final EIS page length (2013–2018)

EAs are generally fewer pages and can cost significantly less to prepare than EISs. A previous study including the Departments of Agriculture, Energy, and the Interior found the average completion time within each agency for EAs ranged from 1 to 18 months.⁸ Analysis for the application of CEs generally takes only a few days to complete, and CEQ does not require agencies to prepare documentation. However, some agencies have been reported to create substantial documentation to support a CE determination and take up to six months because of associated consultations, reviews, and other determinations.⁹

Provision-by-provision analysis of the new regulations

In the final rule, CEQ makes various revisions to align the regulations with the text of the NEPA statute, including revisions to reflect the procedural nature of NEPA (See Appendix).¹⁰

⁸ U.S. Government Accountability Office, *National Environmental Policy Act: Little Information Exists on NEPA Analyses*, GAO-14-370, (Apr. 15, 2014), <https://www.gao.gov/assets/670/662543.pdf>.

⁹ *Id.* at 16.

¹⁰ CEQ does not intend this Regulatory Impact Analysis (“RIA”) or the Appendix that follows to affect the meaning of the final rule as adopted. To the extent there is any inconsistency between the meaning of this RIA or the Appendix and the final rule, the final rule controls.

CEQ also revises the regulations to ensure that environmental documents prepared pursuant to NEPA are concise and serve the purpose of informing decision makers regarding the significant potential environmental effects of proposed major Federal actions and informing the public regarding the agency's pending decision-making process. CEQ makes changes to ensure that the regulations reflect improvements in technology, to increase public participation in the process, and to facilitate the use of existing studies, analyses, and environmental documents prepared by States, Tribes, and local governments and agencies.

CEQ also makes its regulations consistent with the One Federal Decision policy ("OFD policy") established by E.O. 13807, Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects, for multi-agency review and related permitting and other authorization decisions. The E.O. specifically instructed CEQ to take steps to ensure optimal interagency coordination, including through a concurrent, synchronized, timely, and efficient process for environmental reviews and authorization decisions. To promote improved interagency coordination and more timely and efficient reviews, CEQ codifies and generally applies a number of key elements from the OFD policy in the final rule. These include development by the lead agency of a joint schedule, procedures to resolve delays or disputes, preparation of a single EIS and joint ROD to the extent practicable, and a two-year goal for completion of environmental reviews. Consistent with section 104 of NEPA (42 U.S.C. 4334), codification of these policies will not limit or affect the authority or legal responsibilities of agencies under other statutory mandates that may be covered by joint schedules, and CEQ includes language to that effect in § 1500.6 of the final rule.

CEQ also clarifies the process and documentation required for complying with NEPA by amending part 1501 to add sections on threshold considerations, determination of the appropriate level of NEPA review, and the application of CEs; revising sections in part 1501 on EAs and findings of no significant impacts (FONSI), and EISs in part 1502. CEQ further revises the regulations to promote more efficient and timely environmental reviews, including revisions to promote interagency coordination by amending sections of parts 1500, 1501, 1506, and 1507 including their relation to exhaustion, lead, cooperating, and participating agencies, timing of agency action, scoping, and agency NEPA procedures. To promote a more efficient and timely NEPA process, CEQ amends provisions in parts 1501, 1506, and 1507 relating to applying

NEPA early in the process, scoping, tiering, adoption, use of current technologies, and avoiding duplication of State, Tribal, and local environmental reviews. It also revises parts 1501 and 1502 to provide for presumptive time and page limits, and amends part 1508 to clarify the definitions.

Baseline for the analysis

Several of the changes made in the final rule codify long-standing agency practices and case law that have developed since CEQ issued the 1978 regulations. Practices based on long-standing guidance and case law would be included in the baseline for the rule; therefore, their codification would have marginal cost savings. Similarly, changes that clarify or otherwise improve the ability to interpret and implement the regulations would have little to no quantifiable impact. In evaluating the economic and environmental impacts, CEQ considered the NEPA statute and Supreme Court case law, and the 1978 regulations.

Administrative cost savings for the Federal Government

The revisions to CEQ's regulations are anticipated to significantly lower administrative costs because of changes to reduce unnecessary paperwork, improve coordination and management, and focus less on non-significant impacts. The cost of an EIS is highly variable and may be skewed by expensive outliers. In 2003, a CEQ Task Force found that EISs typically cost between \$250,000 and \$2 million.¹¹ If CEQ's new regulations shorten the time to complete an EIS, as expected, Federal agencies should incur substantial cost savings. The final rule establishes presumptive time and page limits to complete an EIS within 2 years and 150 pages, in most cases, including numerous efficiencies to achieve those limits. For example, of the 1,276 EISs completed from 2010 through 2018, the median EIS completion time was 3.5 years and only 257 EISs were completed in 2 years or less.¹² Based on the efficiencies and presumptive time limit for EISs in the final rule, the length of time to complete the 1019 EISs that took longer than 2 years could be reduced by 58 percent, assuming a 2-year completion time for all of those actions. Applying this potential time savings to the total administrative cost to

¹¹ See The NEPA Task Force, *Report to The Council on Environmental Quality, Modernizing NEPA Implementation* (Sept. 2003), <https://ceq.doe.gov/docs/ceq-publications/report/finalreport.pdf>.

¹² See Council on Environmental Quality, *EIS Timeline Data Excel Workbook*, (June 12, 2020), https://ceq.doe.gov/docs/nepa-practice/CEQ_EIS_Timeline_Data_2020-6-12.xlsx.

prepare those EISs taking in excess of 2 years could result in roughly \$744 million over the 9–year time period for an annualized savings of roughly \$83 million (2016 adjusted dollars).¹³ The amount of time required to prepare an EIS does not necessarily correlate with the total cost. However, for those EISs taking over two years to prepare, comparing the anticipated time savings with the respective administrative costs provides insight into the potential cost savings that an agency may generate under the final rule.

Indirect benefits to the economy

Time savings resulting from a more efficient and predictable NEPA process is expected to generate cost savings for non-Federal project sponsors. Delays will require additional resources to sustain projects and are especially impactful to those that are capital intensive with high upfront costs. Uncertainties will likely compound the effects of delays as well as create doubts on the expected returns from projects. Severe uncertainties may even result in reduction in future projects that will likely require EISs. Estimating the cost of delay requires analyses that can account for the diverse nature of projects, and detailed case studies may not be widely applicable. Building representative models may also be difficult due to the heterogeneous nature of capital projects. Delays may result in higher planning and design costs, changes in the option value of the project as well as higher construction costs. Anecdotally, one estimate found that the cost of a six-year delay in infrastructure projects across the electricity transmission, power generation, inland waterways, roads and bridges, rail, and water (both drinking and wastewater) sectors is \$3.7 trillion,¹⁴ which was subsequently updated to \$3.9 trillion in 2018.¹⁵

The economics literature has spent a considerable time examining the effect of uncertainty on investment. If investment is highly irreversible, regulatory uncertainties would negatively affect investment. Conversely, if investment is largely reversible, regulatory

¹³ This calculation uses the mid-point of the \$250,000 to \$2 million cost range found in the NEPA Task Force report adjusted to 2016 dollars (\$1.26 million) and assumes a 58 percent reduction in costs for those EISs taking longer than 2 years. The NEPA Task Force, *supra*, note 11. This number is consistent with the cost data from the Department of Energy, which found a median EIS cost of \$1.4 million. U.S. Government Accountability Office, *supra*, note 8.

¹⁴ Philip K. Howard, Common Good, *Two Years Not Ten Years: Redesigning Infrastructure Approvals*, (2017), <https://www.commongood.org/wp-content/uploads/2017/07/2YearsNot10Years.pdf>.

¹⁵ Common Good, *supra*, note 5.

uncertainties may not have significant effect.¹⁶ Investments that may require extensive environmental impact assessment may be skewed towards ones that are more irreversible than reversible. Bloom et al. state “uncertainty increases real option values making firms more cautious when investing or disinvesting.”¹⁷ They find that reducing uncertainty from the 75th percentile to the 25th percentile doubles the increase in investment.

Environmental impacts

NEPA is a procedural statute requiring agencies to disclose and consider potential environmental effects in their decision-making processes and inform the public. The final rule does not alter any substantive environmental law or regulation such as the Clean Air Act, the Clean Water Act, or the Endangered Species Act. Although some may view the changes in the final rule as reducing the number or scope of analyses, CEQ has determined that, using a baseline of the statutory requirements of NEPA and Supreme Court case law, there are no adverse environmental impacts (see Appendix). The summary table identifies a small number of changes that result in certain Federal activities no longer being subject to NEPA. CEQ has determined in the final rule that neither farm ownership and operating loan guarantees by the Farm Service Agency (FSA) pursuant to 7 U.S.C. 1925 and 1941 through 1949 and business loan guarantees by the Small Business Administration (SBA) pursuant to 15 U.S.C. 636(a), 636(m), and 695 through 697g meet the criteria for being a major Federal action. Under current practice, FSA prepares an EA before approving a loan guarantee. However, FSA loan guarantees require adherence to certain environmental statutes independent of NEPA. These impose restrictions on the use of highly erodible land and wetlands for the term of the loan guarantee. *See* Food Security Act of 1985, as amended, and section 363 of the Consolidated Farm and Rural Development Act (16 U.S.C. 3811 and 3821 and 7 U.S.C. 2006e). FSA sets out these statutory requirements in its loan guarantee regulations by stating: “[l]oans may not be made for any purpose which contributes to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.” *See* 7 CFR 762.121(d). These conditions are part of the baseline for determining impacts under E.O. 12866 and, because their application is

¹⁶ Dixit, Avinash K., and Robert S. Pindyck, *Investment under Uncertainty* (1994).

¹⁷ Bloom, Nick, Stephen Bond, and John van Reenen, *Uncertainty and Investment Dynamics*, 74 *Review of Econ. Stud.* 391-415. (Apr. 2007).

not affected by NEPA, the changes in the final rule are not anticipated to have environmental impacts.

SBA has developed a categorical exclusion for its business loans and guarantees program for loans of less than \$300,000, reflecting the fact that SBA has determined the entire category of actions does not have a significant effect on the environment.¹⁸ Given that SBA's business loan guarantee program does not have a significant environmental effect, CEQ's determination to exclude these programs is not anticipated to have an environmental impact under E.O. 12866.

A small number of activities may no longer be reviewed under NEPA by incorporating the Supreme Court presumption against extraterritorial actions. Whether NEPA may apply to a proposed action with effects exclusively in the U.S. Exclusive Economic Zone will depend upon the nature of the action, the relevant statutes, and other factors specific to the proposed action. Regardless of whether NEPA applies, E.O. 12114, Environmental Effects Abroad of Major Federal Actions, 44 FR 1957 (Jan. 4, 1979), which is based on independent authority, continues to apply and is part of the baseline under E.O. 12866.

Further, CEQ anticipates that a better coordinated NEPA process will improve environmental collaboration and conflict resolution (ECCR). ECCR has been demonstrated to produce more creative and durable solutions, while lowering the frequency of litigation and attendant costs.¹⁹

¹⁸ SBA, SOP 90 57, National Environmental Policy Act (1980), <https://www.sba.gov/document/sop-90-57-national-environmental-policy-act>.

¹⁹ Environmental Collaboration and Conflict Resolution (ECCR): Enhancing Agency Efficiency and Making Government Accountable to the People. Federal Forum on Environmental Collaboration and Conflict Resolution. May 2, 2018.

Appendix: Summary of Economic and Environmental Impacts

Section Number	Section Name	Description of Changes in Final Rule	Impact of Changes
PART 1500—PURPOSE AND POLICY			
1500.1	Purpose and policy	Clarifies that NEPA is a procedural statute and generally describes the intent of the regulations.	Supreme Court case law has established that NEPA is a procedural statute and does not mandate particular results or substantive outcomes. CEQ does not anticipate the changes to result in either economic or environmental impacts.
1500.2	[Reserved]	Deletes this section, formerly titled “Policy,” as duplicative of subsequent sections.	CEQ does not anticipate the changes to result in either economic or environmental impacts.
1500.3	NEPA compliance	Adds language related to judicial review on matters including exhaustion, timing of judicial review on final agency decisions, legal remedies for failure to comply, and severability.	The changes clarify CEQ’s intention regarding application of judicial review. The courts will determine their economic or environmental impacts in many respects. CEQ expects the exhaustion requirement to reduce the litigation costs that NEPA generates.
1500.4	Reducing paperwork	Technical changes, including conforming edits to cross-referenced sections.	Reduced paperwork will catalyze economic benefits. CEQ does not anticipate the changes to result in environmental impacts.
1500.5	Reducing delay	Technical changes, including conforming edits to cross-referenced sections.	Reduced delay will catalyze economic benefits. CEQ does not anticipate the changes to result in environmental impacts.
1500.6	Agency authority	Adds a savings clause to clarify that the CEQ regulations do not limit an agency’s other authorities or legal responsibilities, and cross-references § 1501.1.	The changes are clarifying in nature and therefore CEQ does not anticipate them to result in either economic or environmental impacts.

PART 1501—NEPA AND AGENCY PLANNING

1501.1	NEPA thresholds	Establishes the determinations an agency should make in assessing whether NEPA applies or is otherwise fulfilled, including whether the proposed activity or decision is expressly exempt from NEPA; whether compliance with NEPA clearly and fundamentally conflicts with the requirements of another statute or is inconsistent with Congressional intent; whether the proposed activity or decision is a major Federal action; whether the proposed activity or decision is, in whole or in part, non-discretionary where the agency lacks authority to consider environmental effects; and whether the proposed activity or decision is an action for which another statute’s requirements serve the function of compliance with NEPA.	The changes follow case law and current practice, and therefore CEQ does not anticipate them to have economic or environmental impacts. See related changes at § 1507.3 for impacts related to agency procedures that address threshold NEPA determinations and at § 1508.1(q) for impacts related to the definition of a major Federal action.
1501.2	Apply NEPA early in the process	Changes “shall integrate” to “should integrate” and “possible” to “reasonable.” CEQ proposes these changes to clarify that agencies have discretion to structure their NEPA processes in accordance with the rule of reason. Clarifies that agencies should consider economic and technical analyses along with environmental effects. Changes “State and local agencies and Indian tribes” to “State, Tribal, and local governments” consistent with applicable Executive orders.	Applying NEPA earlier in the process or otherwise in a manner more aligned with agency processes will improve the timeliness of analyses and thus catalyze associated economic benefits. CEQ does not anticipate the changes to result in environmental impacts.
1501.3	Determine the appropriate level of NEPA review	Clarifies the decisional framework by which agencies should assess the proposed actions and select the appropriate level of review. Simplifies	The new section captures all of the proper and efficient elements from the former definition of “significantly.” The final rule

		<p>and clarifies the operative language in the former definition of “significantly.” Changes “context” to “potentially affected environment” and “intensity” to “degree” to provide greater clarity as to what agencies should consider in assessing potential significant effects. Significance would consider proposed actions that violate Federal, State, Tribal, or local environmental laws but not merely actions that “threaten a violation.” Compared to the 1978 regulations, the section omits those effects that are highly controversial; highly uncertain or involve unique or unknown risks; or may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.</p>	<p>includes consideration of connected actions, the affected area including its resources, and applies the definition of effects (i.e., ecological, aesthetic, historic, cultural, economic, social, and health impacts). None of the omitted elements are informative. Agencies will consider effects that are highly uncertain or involve unique or unknown risks to the extent they fall within the definition of effects. Effects that “threaten a violation” may be more inclusive than effects that violate environmental laws, potentially changing the level of review under NEPA but not the applicability of any of the environmental laws. CEQ anticipates the changes in the final rule to be easier for agencies to implement in a consistent manner, and thus carry economic benefits, but does not anticipate them to result in environmental impacts. See § 1508.1(g) for impacts concerning the definition of effects.</p>
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1501.4	Categorical exclusions	Clarifies the process that agencies follow in applying a CE, including consolidating and reordering existing requirements. Retains the requirement for consideration of extraordinary circumstances once an agency determines that a CE covers a proposed action. Provides that, when extraordinary circumstances are present, agencies may consider whether circumstances that lessen the impact are sufficient to allow the proposed action to be categorically excluded. Strikes “individually or cumulatively.”	The language is largely consistent with the requirements previously at 40 CFR 1508.4. By clarifying that agencies may consider circumstances that lessen the impact of an extraordinary circumstance, there could be greater use of CEs in those agencies where this is not already standard practice. Increased use of CEs would lower administrative costs and accelerate the review of proposed actions and thus provide economic benefits. CEQ anticipates that it will be easier for agencies to implement the changes in a consistent manner, and does not anticipate them to result in environmental impacts. See § 1501.8(g) for information related to the definition of effects or impacts.
1501.5	Environmental assessments	Consolidates requirements to improve readability. Establishes a presumptive 75–page limit for EAs, but allows a senior agency official to approve a higher page limit. Clarifies that agencies may also apply to EAs certain provisions in part 1502 regarding incomplete or unavailable information, methodology and scientific accuracy, and coordination of environmental review and consultation requirements.	A presumptive page limit may improve the timeliness of EAs and reduce associated administrative burden and the project proponent’s costs. CEQ notes that the limit of 75 pages is longer than CEQ’s prior guidance on length of EAs of 10 to 15 pages; however, agencies have frequently exceeded that guidance. CEQ does not expect the changes to have environmental impacts. See §§ 1502.21, 1502.23, and 1502.24 for corresponding impacts.

1501.6	Findings of no significant impact	Consolidates requirements to improve readability, clarifies that an agency must include the authorities for any mitigation adopted and any monitoring or enforcement, and codifies the practice of mitigated FONSI.	The mitigated FONSI is consistent with agency guidance and practice. Consistent with the 1978 regulations, mitigation may be adopted to achieve a finding of no significant impact where there are means and legal authority. CEQ does not anticipate the changes to result in either economic or environmental impacts.
1501.7	Lead agencies	Clarifies the roles of lead and cooperating agencies to improve the efficiency and outcomes of the NEPA process for EISs and complex EAs. Adds a requirement that Federal agencies evaluate proposals involving multiple Federal agencies in a single EIS and issue a joint ROD or single EA and joint FONSI when practicable. Clarifies that the lead agency is responsible for determining the purpose and need and alternatives in consultation with any cooperating agencies. Requires development and adherence to a schedule for the environmental reviews and any authorizations required for a proposed action, and resolution of any disputes and other issues that may cause delays in the schedule. In paragraph (h)(2), deletes “consistent with its responsibility as lead agency.”	CEQ expects the changes to improve coordination and environmental outcomes, thereby reducing administrative cost and litigation. The provisions are consistent with current practices that agencies have adopted pursuant to various statutes and guidance, including 23 U.S.C. 139, FAST-41, and E.O. 13807. The clarification to paragraph (h)(2) may increase use of environmental analyses from cooperating agencies. CEQ does not anticipate the changes to result in environmental impacts.
1501.8	Cooperating agencies	Codifies practice that lead agencies may invite Tribal agencies to serve as cooperating agencies. Allows a Federal agency to appeal to CEQ when a lead agency denies a request to serve as cooperating agency. Directs cooperating agencies to jointly issue environmental documents with the lead agency to the maximum	CEQ expects the changes to improve interagency coordination, thereby reducing administrative cost and catalyzing both economic and environmental benefits.

		extent practicable. Makes additional technical clarifications.	
1501.9	Scoping	Allows agencies to begin the scoping process as soon as the proposed action is sufficiently developed for meaningful agency consideration. Consolidates, reorganizes, and clarifies all of the requirements for the NOI and the scoping process. Provides agencies additional flexibility in how to reach interested or affected parties in the scoping process. Provides a list of what agencies must include in a NOI to standardize the NOI format. Strikes the paragraphs on “similar actions” and “cumulative actions.”	CEQ expects the changes to produce more timely reviews and thereby reduce administrative costs by proactively soliciting comments on alternatives, impacts, and relevant information. The requirements to review connected actions, include in the baseline reasonably foreseeable environmental trends and planned actions (§ 1502.15), and the definition of effects § 1508.1(g) will provide adequate guidance on scoping. CEQ does not anticipate environmental impacts.
1501.10	Time limits	Establishes presumptive time limits of 1 year for an EA and 2 years for an EIS, with any extensions conditioned on approval by a senior agency official, who may consider a number of factors in determining time limits, and who may set time limits for certain constituent parts of the NEPA process.	CEQ expects the changes to produce more timely reviews and thereby reduce administrative costs. The flexibility for a senior agency official to extend the deadline will ensure that agencies comply with all other requirements. CEQ does not anticipate environmental impacts.
1501.11	Tiering	Technical edits to clarify the process for tiering EISs and EAs.	CEQ does not anticipate the changes to result in either economic or environmental impacts.
1501.12	Incorporation by reference	Technical changes.	CEQ does not anticipate the changes to result in either economic or environmental impacts.
PART 1502—ENVIRONMENTAL IMPACT STATEMENT			
1502.1	Purpose of environmental impact statement	Clarifies that the purpose of an EIS is to inform agency decision making and the public.	CEQ does not anticipate the changes to result in either economic or environmental impacts.

1502.2	Implementation	Technical changes.	CEQ does not anticipate the changes to result in either economic or environmental impacts.
1502.3	Statutory requirements for statements	Technical changes.	CEQ does not anticipate the changes to result in either economic or environmental impacts.
1502.4	Major Federal actions requiring the preparation of environmental impact statements	Clarifies that agencies must evaluate related proposals or parts of proposals in a single EIS. Reinforces that agencies may tier their analyses such that specific program elements are analyzed when ripe for final agency action.	To the extent the language increases the efficiency of tiering, it may reduce administrative costs. CEQ does not anticipate environmental impacts.
1502.5	Timing	Increases flexibility for agencies regarding when to commence preparation of an EIS.	CEQ does not anticipate the changes to result in environmental impacts or more than incidental economic benefits.
1502.6	Interdisciplinary preparation	Technical changes.	CEQ does not anticipate the changes to result in either economic or environmental impacts.
1502.7	Page limits	Establishes page limits of 150 pages for an EIS and 300 pages if the EIS is of unusual scope or complexity, unless a senior agency official approves a higher page limit.	CEQ anticipates the change to reduce administrative costs. The flexibility for a senior agency official to extend the page limit is intended to ensure that agencies have flexibility where necessary due to the unusual scope or complexity, or need flexibility to comply with all other requirements. CEQ does not anticipate environmental impacts.
1502.8	Writing	No change	N/A
1502.9	Draft, final, and supplemental statements	Clarifications to improve readability. Clarifies that agencies may determine that supplemental analysis is not necessary when the changes to the proposed action or new circumstances or information are not significant, and that agencies should document such finding.	To the extent that the number of unnecessary supplemental analyses is reduced, the changes will lower administrative costs. CEQ does not anticipate environmental impacts.

1502.10	Recommended format	Increases flexibility in formatting an EIS given that most EISs are prepared and distributed electronically. Eliminates the requirement to have a list of agencies, organizations and persons to whom copies of the EIS are sent since EISs are published online.	Minor reduction in administrative costs. CEQ does not anticipate environmental impacts.
1502.11	Cover	Removes the requirement to reference a “sheet” and adds a requirement to include the estimated cost of preparing the draft and final EIS, including the costs of agency full-time equivalent personnel hours, contractor costs, and other direct costs. In addition, agencies should include costs incurred by cooperating and participating agencies, applicants, and contractors as practicable or noted where not practicable.	CEQ anticipates providing information on costs will increase transparency concerning the cost of the NEPA process to the Federal Government. CEQ does not expect environmental impacts.
1502.12	Summary	Technical changes.	CEQ does not anticipate the changes to result in either economic or environmental impacts.
1502.13	Purpose and need	Clarifies that agencies should base the purpose and need of the EIS on consideration of the relevant statutory authority and the goals of the applicant, where applicable. It strikes “to which the agency is responding in proposing the alternatives including” in order to clarify this section and focus on the proposed action.	Increased focus on the purpose and need of the proposed action and reasonable alternatives may improve the quality of analysis and timeliness of review, both reducing administrative costs while improving environmental outcomes.

1502.14	Alternatives including the proposed action	Simplifies and clarifies the language, and aligns with the format of related provisions at part 1502. Deletes “all” before “reasonable alternatives.” Strikes the requirement to include alternatives not within the jurisdiction of the lead agency. Directs agencies to limit consideration to a reasonable number of alternatives.	Agencies may continue to apply the rule of reason in determining the number of reasonable alternatives it analyzes, as well as alternatives under other agencies’ authorities where necessary for the decision-making process. CEQ anticipates the changes will reduce administrative burden and improve environmental outcomes through greater focus on analyzing feasible alternatives.
1502.15	Affected environment	Explicitly allows combination of the sections on affected environment and environmental consequences. Clarifies that the affected environment includes reasonably foreseeable environmental trends and planned actions in the area(s).	Some agencies currently combine these two sections. To the extent more agencies adopt this change, it may reduce administrative burden. Inclusion of the reasonably foreseeable environmental trends and planned actions ensures that agencies consider predictable, underlying socio-economic and environmental trends when evaluating effects. CEQ does not anticipate environmental impacts as a result of the change.
1502.16	Environmental consequences	Adds a discussion of economic and technical considerations, including economic benefits, of the proposed action, as applicable. Removes references to direct and indirect effects. Moves the operative language that addresses when agencies need to consider economic and social effects from the definition of human environment to this section.	Agencies will continue to consider economic and social effects when interrelated with the environmental effects of the proposed action, consistent with current practice. See § 1501.8(g) for information related to the definition of effects or impacts.

1502.17	Summary of submitted alternatives, information, and analyses	Adds a summary of all alternatives, information, and analyses submitted by State, Tribal, and local governments and other public commenters for consideration by the lead and cooperating agencies in both the draft and final EIS. Requires agencies to append to the draft EIS or otherwise publish all comments or summaries thereof received during the scoping process and invites comment on the summary of all alternatives, information, and analyses.	CEQ anticipates the addition of a summary will result in a small increase in administrative burden. Publishing comments received is consistent with current agency practice. CEQ does not anticipate environmental impacts.
1502.18	List of preparers	Technical changes.	CEQ does not anticipate the changes to result in either economic or environmental impacts.
1502.19	Appendix	Requires agencies to append to the draft EIS or publish all comments or summaries thereof received during the scoping process.	CEQ does not anticipate the changes to result in either economic or environmental impacts.
1502.20	Publication of the environmental impact statement	Eliminates the option to circulate a summary of the EIS to reflect current practice of publishing EISs electronically. Removes an obsolete requirement to extend the deadline by 15 days if the agency circulates the summary.	CEQ does not anticipate the changes to result in either economic or environmental impacts.

1502.21	Incomplete or unavailable information	Adds “but available” to paragraph (b) to distinguish incomplete information, which is the subject of the paragraph, from unavailable information. Replaces “exorbitant” with “unreasonable,” in reference to the overall costs of obtaining information that is essential to a reasoned choice among alternatives.	The word “unreasonable” is more consistent with how agencies have interpreted the terminology in practice. Agencies were never required to obtain unavailable information, so the clarification of adding “but available,” does not change how agencies have been implementing the provision. For this reason, any impacts on a specific environmental review are uncertain, and CEQ does not anticipate the changes to have environmental impacts. See § 1502.23.
1502.22	Cost-benefit analysis	Technical changes.	CEQ does not anticipate the changes to result in either economic or environmental impacts.
1502.23	Methodology and scientific accuracy	Directs agencies to use reliable existing data and resources. States that agencies are not required to undertake new research to inform analyses, and clarifies that the language is not intended to prohibit compliance with other statutes pertaining to scientific and technical research.	Section 1502.21 maintains the requirement from the 1978 regulations to include certain information that is essential, with a minor change eliminating reference to costs not being “unreasonable.” The requirement at 40 CFR 1502.22(a) did not apply to unavailable information, which would necessitate the conduct of new research. Agencies may nonetheless conduct new research under other authorities and at their own discretion. For these reasons, the clarifying language regarding new research is not anticipated to result in either economic or environmental impacts. See § 1502.21.
1502.24	Environmental review and consultation requirements	Technical changes.	CEQ does not anticipate the changes to result in either economic or environmental impacts.

PART 1503—COMMENTING ON ENVIRONMENTAL IMPACT STATEMENTS

1503.1	Inviting comments and requesting information and analyses	Encourages agencies to use electronic communication to publish documents and structure public participation and make the comment process accessible to affected persons.	CEQ anticipates increased usage of electronic communication to reduce administrative burden and increase public participation. CEQ does not anticipate the changes to have environmental impacts.
1503.2	Duty to comment	Technical changes.	CEQ does not anticipate the changes to result in either economic or environmental impacts.
1503.3	Specificity of comments and information	Adds direction for public comments to ensure they promote informed decision making. Adds requirement that all comments and objections to § 1502.17 must be raised within the comment period on the draft EIS, consistent with § 1506.11 or § 1503.1(b) (if applicable). Adds the requirement that, should an agency request comments on the final EIS, all comments and objections must be raised within the comment period, consistent with § 1503.1(b). Comments not provided within the comment period(s) are considered unexhausted and forfeited, consistent with § 1500.3(b).	To the extent the changes improve the specificity of public comments, it may improve environmental outcomes. See § 1500.3(b) for impacts related to NEPA compliance.

1503.4	Response to comments	Simplifies and clarifies that agencies must consider substantive comments that are timely submitted during the public comment period, and that agencies may respond to comments either individually or collectively. Clarifies that agencies must append substantive comments or summaries thereof to the EIS.	CEQ does not anticipate the changes to result in either economic or environmental impacts.
PART 1504—PRE-DECISIONAL REFERRALS TO THE COUNCIL OF PROPOSED FEDERAL ACTIONS DETERMINED TO BE ENVIRONMENTALLY UNSATISFACTORY			
1504.1	Purpose	Technical changes.	CEQ does not anticipate the changes to result in either economic or environmental impacts.
1504.2	Criteria for referral	Changes the timing of referrals to CEQ from “possible” to “practicable.” Adds economic and technical considerations to the list of factors that an agency should weigh. Though infrequent, adds a referral process for EAs.	CEQ does not anticipate the changes to result in either economic or environmental impacts. As a matter of practice, agency referrals to CEQ are rare. Consideration of economic and technical factors is consistent with the statute.
1504.3	Procedure for referrals and response	Makes technical clarifications to the referral process. Eliminates the requirement that the referral letter request no action on implementation until the CEQ acts. Clarifies that the referral process is not intended to create any private rights of action or to be judicially reviewable because any resolutions do not represent final agency action.	CEQ does not anticipate the changes to result in either economic or environmental impacts.
PART 1505—NEPA AND AGENCY DECISION MAKING			
1505.1	[Reserved]	Section moved to § 1507.3(b).	See § 1507.3(b) for information on impacts.

1505.2	Record of decision in cases requiring environmental impact statements	Requires that agencies “timely publish” the ROD or joint ROD. Adds a requirement for the decision maker to certify he or she has considered all submitted alternatives, information, and analyses. States that this certification is entitled to a presumption that all such information was considered.	The certification is anticipated to result in a minor increase in administrative burden. CEQ does not anticipate any of the changes to result in environmental impacts.
1505.3	Implementing the decision	Technical changes.	CEQ does not anticipate the changes to result in either economic or environmental impacts.
PART 1506—OTHER REQUIREMENTS OF NEPA			
1506.1	Limitations on actions during NEPA process	Codifies the limitation on the types of actions that may be undertaken before completion of EAs, in addition to EISs. Expressly mentions several activities (e.g., acquisition of interests in land) that an agency may authorize an applicant to undertake to support an application for Federal, State, Tribal or local permits or assistance.	The planning for certain proposed projects may be accelerated, thereby producing economic benefits. However, certain limitations from the 1978 regulations remain. For this reason, CEQ does not anticipate environmental impacts.
1506.2	Elimination of duplication with State, Tribal, and local procedures	Adds “Tribal” throughout the section. Replaces “possible” with “practicable” throughout the section. Replaces “shall” with “may,” providing Federal agencies with the discretion to cooperate in fulfilling State, Tribal, and local government requirements while also allowing broad use of studies, analyses, and decisions developed by non-Federal agencies. Clarifies that agencies are not required to reconcile any inconsistencies with any approved State, Tribal, or local plan or law.	Any elimination of duplication produces at least ancillary economic benefits. However, as a matter of practice, agencies already cooperate with State, Tribal, and local governmental on non-Federal environmental documents to the fullest extent practicable. CEQ does not anticipate the changes to result in environmental impacts.
1506.3	Adoption	Expands adoption to EAs, or portions thereof, and CE determinations. Technical changes to	CEQ anticipates the changes to reduce administrative cost through shared use of EAs

		substitute “publish” for “circulate” to reflect use of electronic communication. Adoption may occur when the proposed action is substantially the same and the environmental effects will also be similar.	and CE determinations among agencies where the proposed action is substantially the same. When the proposed action is substantially the same, the environmental effects will also be similar. Therefore, CEQ does not anticipate environmental impacts as a result of the changes.
1506.4	Combining documents	Directs agencies to combine any environmental document with any other agency document to the fullest extent practicable.	Combining documents, where appropriate and practicable, should reduce administrative costs. CEQ does not anticipate environmental impacts.
1506.5	Agency responsibility for environmental documents	Authorizes agencies to allow a contractor or applicant to prepare an EIS, under the direction of the lead agency or cooperating agency. Establishes the agency as responsible for the accuracy, scope, and content of environmental documents prepared by the agency or by an applicant or contractor. Requires contractors or applicants that prepare EAs or EISs to submit a disclosure statement to the lead agency that specifies any financial or other interest in the outcome of the action but that need not include privileged or confidential trade secrets or other confidential business information.	In some circumstances, applicants and contractors may prepare NEPA documents more cost-effectively, thereby lowering administrative costs. CEQ anticipates that agencies will use their discretion to approve applicant-prepared documents where doing so will improve the overall NEPA process. The final rule retains requirements from the 1978 regulations that the responsible Federal official supervising a contractor document provide guidance, participate in its preparation, independently evaluate it prior to its approval, and take responsibility for its scope and contents, thereby minimizing adverse impacts to the analysis. CEQ does not anticipate environmental impacts.

1506.6	Public involvement	Removes the requirement to mail certain NEPA documents, reflecting near universal use of electronic communications. Authorizes agencies to use other opportunities for public engagement where appropriate. Updates the reference to the Freedom of Information Act and aligns the text with section 102(2)(C) of NEPA, including with regard to fees.	CEQ anticipates the changes that remove the requirement to mail documents, but consider whether access to electronic media is limited, will reduce administrative costs. Additional flexibility regarding public outreach may also lead to greater efficiency and public participation at lower administrative costs. CEQ does not anticipate environmental impacts.
1506.7	Further guidance	Updates the references to include recent Executive orders and removes outdated means of providing agency guidance. Clarifies that the provisions in the final rule apply where in conflict with pre-existing guidance.	CEQ does not anticipate the changes to result in either economic or environmental impacts.
1506.8	Proposals for legislation	Clarifies that technical drafting assistance does not by itself constitute a legislative proposal. Removes “or providing significant cooperation or support,” which narrows the language to only include legislative proposals.	The changes are consistent with current practice and are not anticipated to result in either economic or environmental impacts.
1506.9	Proposals for regulations	Adds a new section concerning the promulgation of regulations that allow an agency to substitute other procedures and documents to satisfy CEQ’s regulations. Agencies must identify the corresponding requirement(s) and consult with CEQ to confirm the determination.	CEQ anticipates the greater use of functionally equivalent documents will reduce administrative cost. The section requires the agency to ensure that such documents satisfy CEQ’s regulations, thereby ensuring there are no environmental impacts as a result of the change.
1506.10	Filing requirements	Removes the obsolete process for filing paper copies of EISs with EPA, and EPA’s delivery of a copy to CEQ.	The changes will reduce administrative costs and will not have environmental impacts.

1506.11	Timing of agency action	Makes technical changes and clarifications, including an acknowledgement of the statutory requirement of some agencies to issue a combined final EIS and ROD.	CEQ does not anticipate the changes to result in either economic or environmental impacts.
1506.12	Emergencies	Clarifies that alternative arrangements are still meant to comply with the statutory requirement at section 102(2)(C) to issue a detailed statement.	The change is consistent with CEQ's long-standing practice and therefore not anticipated to result in either economic or environmental impacts.
1506.13	Effective date	Applies this rule to all NEPA processes begun after the effective date, and gives agency the discretion to apply to ongoing activities.	CEQ does not anticipate the changes to result in either economic or environmental impacts.
PART 1507—AGENCY COMPLIANCE			
1507.1	Compliance	Strikes the second sentence for consistency with the changes to the provisions for agency NEPA procedures at § 1507.3.	CEQ does not anticipate the changes to result in either economic or environmental impacts.
1507.2	Agency capability to comply	Requires agencies to designate a senior agency official to be responsible for overall review of agency NEPA compliance, including resolving implementation issues. Adds references to E.O. 11991 and E.O. 13807 to codify agencies' responsibility to comply with the orders.	Increasing utilization of a senior agency official to supervise implementing procedures, as well as other aspects of this rule, may improve overall administration of NEPA, thereby catalyzing ancillary economic benefits. There are no environmental impacts.
1507.3	Agency NEPA procedures	Makes numerous technical changes and consolidates all of the requirements for agency NEPA procedures in this section to improve readability. Paragraph (a) states that these regulations supersede all conflicting provisions in agency procedures, except for CEs, which CEQ has determined to be consistent with these	Revision of each agency's NEPA procedures will impose a one-time cost to the Federal Government to implement the rule. Allowing agencies to identify in their NEPA procedures activities or decisions that are not subject to NEPA as a threshold matter rather than on a case-by-case basis may lower administrative

	<p>regulations. Paragraph (b) directs agencies to develop or revise procedures that implement these regulations within 12 months of the effective date or 9 months after establishment of an agency, whichever comes later, including to eliminate any inconsistencies with the final rule. Consistent with § 1500.1, clarifies that NEPA procedures must not impose additional requirements beyond what is set forth in these regulations, except as otherwise required by law or for agency efficiency. Paragraph (c) requires agencies' implementing procedures to require combination of relevant environmental documents. Allows for the substitution of one or more procedures or documents under other authorities, contingent on the agency identifying the corresponding CEQ requirement(s). Consistent with § 1501.1, paragraph (d) adds to agency procedures the identification of actions that are not subject to NEPA or otherwise satisfied. Paragraph (f)(2) clarifies that agencies may alter time periods when necessary to comply with the statutory requirements of lead or cooperating agencies. Paragraph (f)(3) codifies the existing agency practice to publish notices when there is a pause in an EIS or withdrawal of an NOI. Paragraph (f)(5) authorizes agency procedures to include a process to use a CE listed in another agency's NEPA procedures after consultation with the respective agency to ensure the use of the CE is appropriate, documentation of the consultation, and identification of those CEs that may be used.</p>	<p>costs, but does not change the applicability of NEPA. CEQ anticipates combining environmental documents and making greater use of functionally equivalent documents will reduce administrative costs for those agencies that have the opportunity but not presently doing so. Greater use of CEs developed by other agencies may also lower administrative costs for agencies that would otherwise need to develop their own CE or prepare an EA, and may accelerate the NEPA process for some applicants. The flexibility to use another agency's CE includes a requirement to consult with the respective agency to ensure use of the CE is appropriate and publishing documentation. All agency procedures require consultation with CEQ to ensure conformity with CEQ's regulations. CEQ does not anticipate environmental impacts.</p>
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		Eliminates the limitation on paraphrasing the CEQ regulations. Eliminates the recommendation to issue explanatory guidance.	
1507.4	Agency NEPA program information	Requires agencies in their implementing procedures to provide for a website or other means of publishing certain information on ongoing NEPA reviews and permitting and maintaining agency and public access to agency records relating to NEPA reviews.	CEQ does not anticipate the changes to result in either economic or environmental impacts.
PART 1508—DEFINITIONS			
1508.1	Definitions	The section makes numerous changes to the 1978 regulations, many of which are technical or clarifying in nature. Substantive changes are discussed below. New definitions added for clarity include “authorization,” “publish and publication,” and “senior agency official.”	See each amended definition below for the summary of economic and environmental impacts.
1508.1(d)	Categorical exclusion	Adds “normally” to clarify that there may be situations where an action may have significant effects on account of extraordinary circumstances. Strikes “individually or cumulatively” for consistency with the revisions to the definition of effects or impacts. Moves text to consolidate with § 1507.3.	Deleting “individually or cumulatively” does not change that the determination of a significant effect would continue to apply to a “category of actions” and include all effects that are covered under the definition. CEQ does not anticipate the changes to result in either economic or environmental impacts.
1508.1(g)	Effects or impacts	Replaces “direct,” “indirect,” and “cumulative” with the description “reasonably foreseeable and have a reasonably close causal relationship to the proposed action or alternatives.” Clarifies certain types of effects that are insufficient to make an agency responsible for a particular effect under NEPA, including those based on a “but for” causal relationship, remote in time,	Agencies will continue to analyze all of the effects that the statute requires to be analyzed. The changes may reduce administrative burden relative to the 1978 regulations by reducing those circumstances where agencies previously analyzed effects that were not reasonably foreseeable or did not have a reasonably close causal

		geographically remote, the product of a lengthy causal chain, and effects that would occur regardless of the proposed action. States that an agency’s analysis of effects must be consistent with the definition and repeals cumulative impact, defined at 40 CFR 1508.7 (1978).	relationship to the proposed action or alternatives. Because the rule does not preclude consideration of the significant impacts of a proposed action on any particular aspect of the human environment, CEQ does not anticipate the changes influencing environmental outcomes. Further, it is unlikely that analyzing effects that are not reasonably foreseeable and do not have a reasonably close causal relationship to the proposed action would have a meaningful impact on the overall analysis. A clear definition that follows Supreme Court case law may lower the amount of litigation under NEPA.
1508.1(q)	Major Federal action or action	Clarifies that a major Federal action is “subject to Federal control and responsibility,” and gives separate meaning to the term “significant.” Excludes extraterritorial activities or decisions. Excludes non-discretionary activities or decisions made in accordance with an agency’s statutory authority. Excludes activities or decisions that do not result in a final agency action. Eliminates failure to act from the definition. Further clarifies actions subject to Federal control and responsibility by excluding “non-Federal projects with minimal Federal funding or minimal Federal involvement where the agency does not exercise sufficient control and responsibility over the outcome of the project” and “loans, loan guarantees, or other forms of financial assistance where the Federal agency does not exercise sufficient control and	Several courts have held that non-Federal projects with minimal Federal funding or involvement where the agency cannot control the outcome of the project are not major Federal actions. Despite these decisions, agencies have developed CEs for such activities. Therefore, the changes may lower administrative costs, and CEQ does not anticipate them to have environmental impacts. A small number of activities may no longer be reviewed under NEPA by incorporating the Supreme Court presumption against extraterritorial actions. Note that activities or decisions originating in areas within U.S. jurisdiction that create effects in area with U.S. jurisdiction but also have transboundary effects are not extraterritorial actions.

		responsibility over the effects of the assistance.” References examples of certain loan guarantee programs administered by the Farm Service Agency and Small Business Administration.	
1508.1(s)	Mitigation	Specifies that mitigation must have a nexus to the effects of the proposed action. Clarifies that NEPA does not mandate the form or adoption of any mitigation.	CEQ does not anticipate the changes to result in either economic or environmental impacts. Current practices for mitigation under various authorities require that it have a nexus to the impacts. Therefore, CEQ does not anticipate the change to have an environmental impact.
1508.1(z)	Reasonable alternatives	Adds new definition that specifies that “reasonable alternatives” means a “reasonable range” that are “technically and economically feasible, meet the purpose and need for the proposed action,” and “where applicable, meet the goals of the applicant.”	The changes may reduce administrative costs and accelerate the timeliness of review by focusing on feasible alternatives. CEQ does not anticipate that it will have environmental impacts since analysis of infeasible alternatives is unlikely to improve environmental outcomes.
1508.1(aa)	Reasonably foreseeable	Adds definition based on what “a person of ordinary prudence” would take into account.	The language follows established Supreme Court case law. CEQ does not anticipate the changes to result in either economic or environmental impacts.
1508.1(cc)	Scope	Operative language moved to § 1501.9	CEQ does not anticipate the changes to result in either economic or environmental impacts.
1508.1(ff)	Tiering	Clarifies that agencies may use EAs at the programmatic stage as well as subsequent stages.	By allowing for the administrative advantages of tiering, ancillary economic benefits are expected. CEQ does not anticipate the changes to result in environmental impacts.
Deleted 1508.27	Significantly	Deletes definition and significance is discussed in § 1501.3(b)	See § 1501.3(b) for information on impacts.