

Navigating the New NEPA Landscape:

*An Overview of the 2024 Phase 2 Regulations
and Recent Statutory Changes*

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Why The Study Was Needed

To provide a comprehensive analysis of the current state of NEPA, focusing on the most recent changes to the law and regulations. This paper aims to help practitioners, scholars, and students navigate this complex and evolving landscape by providing a detailed examination of key provisions of the Phase 2 Rule and their implications for environmental decision-making.

About The Study

The National Environmental Policy Act (NEPA) has been a cornerstone of environmental decision-making in the United States since its enactment in 1970.¹ Over the past few years, the NEPA regulations and statute have undergone a series of substantial changes. These rapid changes have left many struggling to keep up and understand the current state of NEPA law and practice.

What The Researchers Concluded

The past few years have seen a whirlwind of changes to NEPA implementation and practice, from the Trump Administration's comprehensive 2020 revisions to the regulations, to the Biden Administration's phased approach to revising the rules, to the enactment of the FRA with its NEPA-related provisions. The 2024 Phase 2 NEPA Rule, in particular, represent a significant shift in the interpretation and implementation of NEPA, with a greater focus on addressing climate change and environmental justice, and a move towards more substantive environmental outcomes.

¹ The National Environmental Policy Act of 1970, 42 U.S.C. § 4321 (2023).

NEPA Statute and Regulations *TIMELINE*

NEPA was enacted and signed into law by President Nixon

1970

Council on Environmental Quality (CEQ) promulgates first comprehensive NEPA regulations

1978

CEQ under the Trump and the Biden Administration completes first major NEPA regulatory rewrite in over 40 years.

2020

CEQ under Biden Administration completes Phase 1 NEPA regulatory rollback.

2022

Congress passes BUILDER Act, including first substantive NEPA changes in 53 years.

2023

CEQ under Biden Administration completes Phase 2 NEPA Rule.

2024

