



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

July 28, 2023

Dear Tribal Leader,

On July 31, 2023, the White House Council on Environmental Quality (CEQ) will publish a proposed rule in the *Federal Register* proposing revisions to its regulations for implementing the procedural provisions of the National Environmental Policy Act (NEPA), available at <https://www.federalregister.gov/d/2023-15405>. I am pleased to invite you to participate in a Tribal consultation session and provide comments on the proposed rule.

CEQ has been engaged in a multi-phased rulemaking process to revise its NEPA regulations to ensure that they provide for sound and efficient environmental review of Federal actions, including those actions integral to tackling the climate crisis, in a manner that enables meaningful public participation, provides for an expeditious process, discloses climate change-related effects, advances environmental justice, respects Tribal sovereignty, protects our Nation's resources, and promotes better and more equitable environmental and community outcomes. This proposed rule also implements amendments made to NEPA by the Fiscal Responsibility Act of 2023.

CEQ proposes a number of changes to provide for meaningful public engagement in the environmental review process. CEQ also proposes a variety of provisions related to Tribal rights, engagement, and consultation. To help ensure that Federal agencies respect and benefit from the unique knowledge of Indigenous people, CEQ proposes to clarify that Indigenous Knowledge is considered special expertise and as high-quality information in the environmental review process. Additionally, the proposal encourages agencies to consider the intensity of effects including effects upon the reserved rights of Tribal Nations through treaties, statutes, or Executive Orders. This proposed addition would clarify that agencies should consider how an action may impact the reserved rights of Tribal Nations.

CEQ also proposes a new exclusion for activities or decisions for projects approved by a Tribal Nation that occur on or involve land held in trust when the activities involve no Federal funding or other Federal involvement. Recognizing the unique circumstances facing Tribal Nations due to the United States holding land in trust, CEQ proposes this exclusion to clarify that activities or decisions for projects approved by a Tribal Nation on trust lands are not major Federal actions where such activities do not involve Federal funding or other Federal involvement. Tribal leaders raised this issue during consultations that CEQ held on its Phase 1 NEPA regulations in the fall of 2021 and raised concerns that the NEPA process placed Tribal Nations in a disadvantageous position relative to State and local governments because of the United States' ownership interest in Tribal lands.

Materials and Questions for Consultation

CEQ appreciates your input on the proposed rule. While we welcome any and all input on the proposed rule, I am enclosing a document that summarizes several of the Tribal-specific provisions included in the proposal. Further, we specifically seek input during the consultations, public meetings, or in writing on these questions:

1. Are there additional changes CEQ should consider on the proposed addition in paragraph § 1501.3(d)(2)(x) to include the effects upon the reserved rights of Tribal Nations through treaties, statutes, or Executive Orders as a factor to be considered by Federal agencies when analyzing the significance of an action?
2. Should CEQ include a definition of “Indigenous Knowledge” in the regulations? If so, how would you recommend CEQ define “Indigenous Knowledge?”
3. Do you have comments on CEQ’s approach to including the definition of environmental justice in the regulations?

Consultation Sessions

We hope that you are able to participate in one of the following consultations.

Wednesday, September 6, 2023 from 1:00 PM – 3:00 PM EDT

Please register in advance at:

<https://pitc.zoomgov.com/meeting/register/vJIIsd-qvpz0vG2VZNvrwUTJM6esEag3r0xE>

Tuesday, September 12, 2023 from 3:00 PM – 5:00 PM EDT

Please register in advance at:

https://pitc.zoomgov.com/meeting/register/vJItdOGvqzIsHgD9JzjMaWcTce_JC7D724c

Additionally, CEQ is holding four virtual public meetings in which we welcome your engagement. Further information on the public meetings is available in the proposed rule and on www.NEPA.gov. Finally, you may provide your written comments by September 29, 2023. You may submit comments, identified by docket number CEQ-2023-0003, by any of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments.
- Fax: 202–456–6546.
- Mail: Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503.

All submissions must include the agency name, “Council on Environmental Quality,” and docket number, CEQ–2023–0003, for this rulemaking. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Please do not submit electronically any information you consider private, Confidential Business Information (CBI), or other information, the disclosure of which is restricted by statute.

If you have any questions regarding this effort, please feel free to contact Megan Healy, Deputy Director for NEPA, megan.e.healy@ceq.eop.gov, or 202-456-4296.

Thank you for sharing your insight, knowledge, and ideas with us as we work to revise CEQ’s NEPA implementing regulations to facilitate better decision making and coordination with Tribes. We look forward to receiving your valued input.

Sincerely,

A handwritten signature in black ink that reads "Brenda Mallory". The signature is written in a cursive style with a large, looped initial "B".

Brenda Mallory
Chair

Enclosure