



# Council on Environmental Quality

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## **Final Rule: Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act**

85 Federal Register 43304-43376 (July 16, 2020)

<https://www.regulations.gov/document?D=CEQ-2019-0003-720632>



# Overview

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- National Environmental Policy Act (NEPA) Background
- EIS Timeline and Page Count Data
- Rulemaking Timeline
- Summary of Final Rule



# NEPA Background

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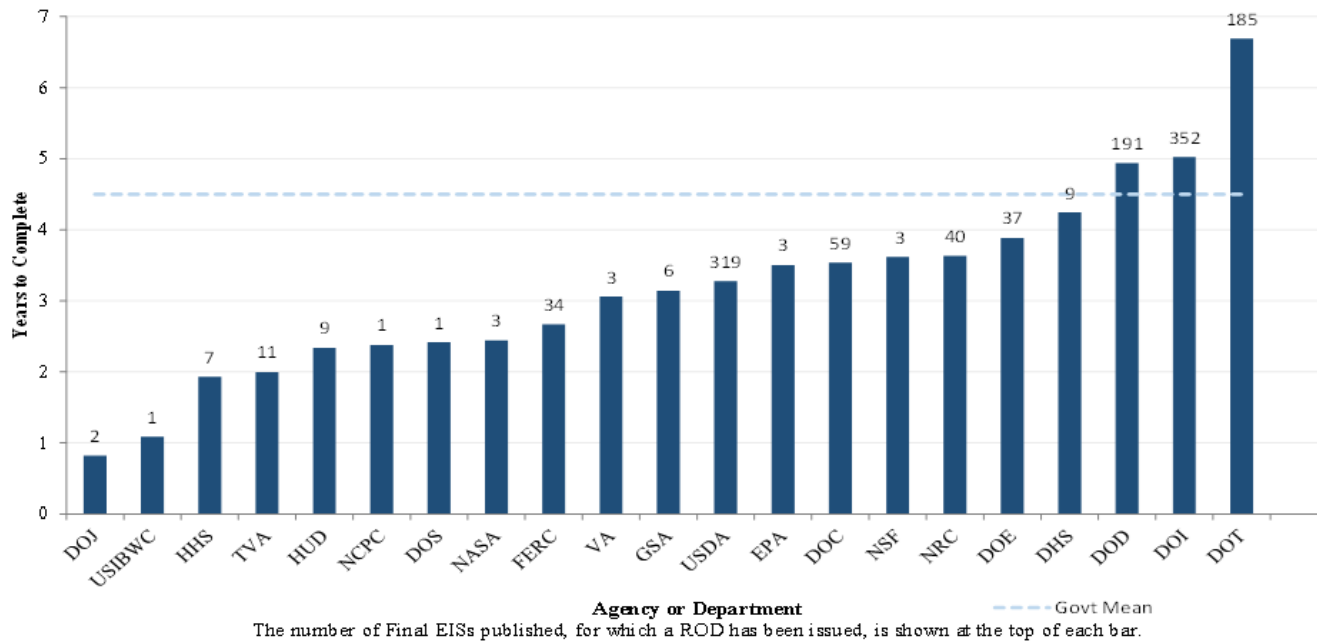
- NEPA was signed into law in 1970, and established the Council on Environmental Quality (CEQ).
- CEQ promulgated its NEPA implementation regulations in 1978 and made one substantive change in 1986.
- On August 15, 2017, President Trump issued E.O. 13807, *Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects*.



# EIS Timeline Data

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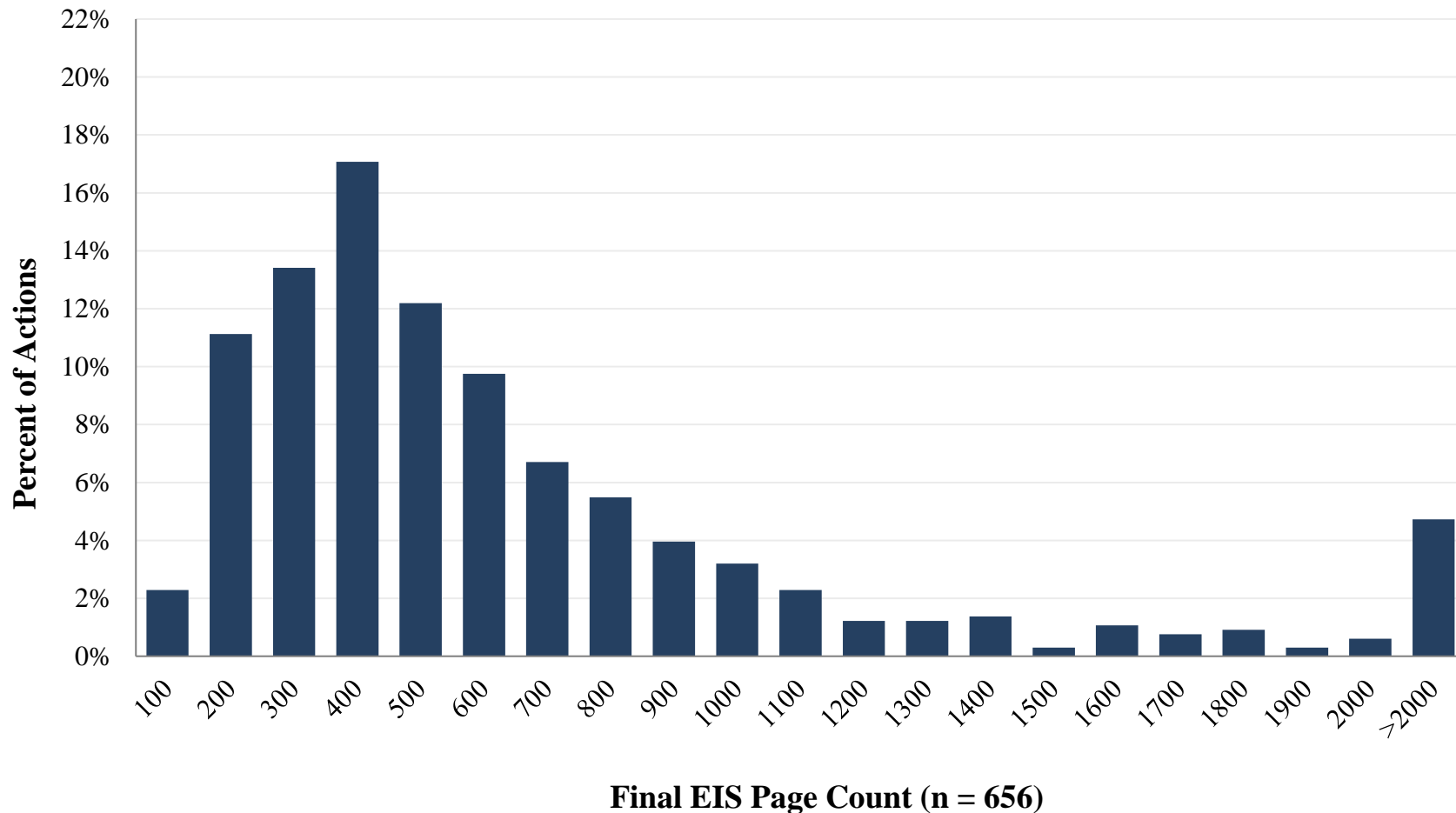
**Average Completion Time (NOI to ROD)**  
All EISs Completed 2010 - 2018, by Department





# EIS Page Count Data

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# Rulemaking Timeline

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- On June 20, 2018, CEQ published an advance notice of proposed rulemaking in the Federal Register.
  - CEQ received over **12,500** comments during the public comment period, which closed on August 20, 2018.
- On January 10, 2020, CEQ published a notice of proposed rulemaking in the Federal Register.
  - CEQ received over **1.1 million** comments during the public comment period, which closed on March 10, 2020.
- On July 16, 2020, CEQ announced its final rule titled “Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act.”



# Key Elements of the Updated Regulations

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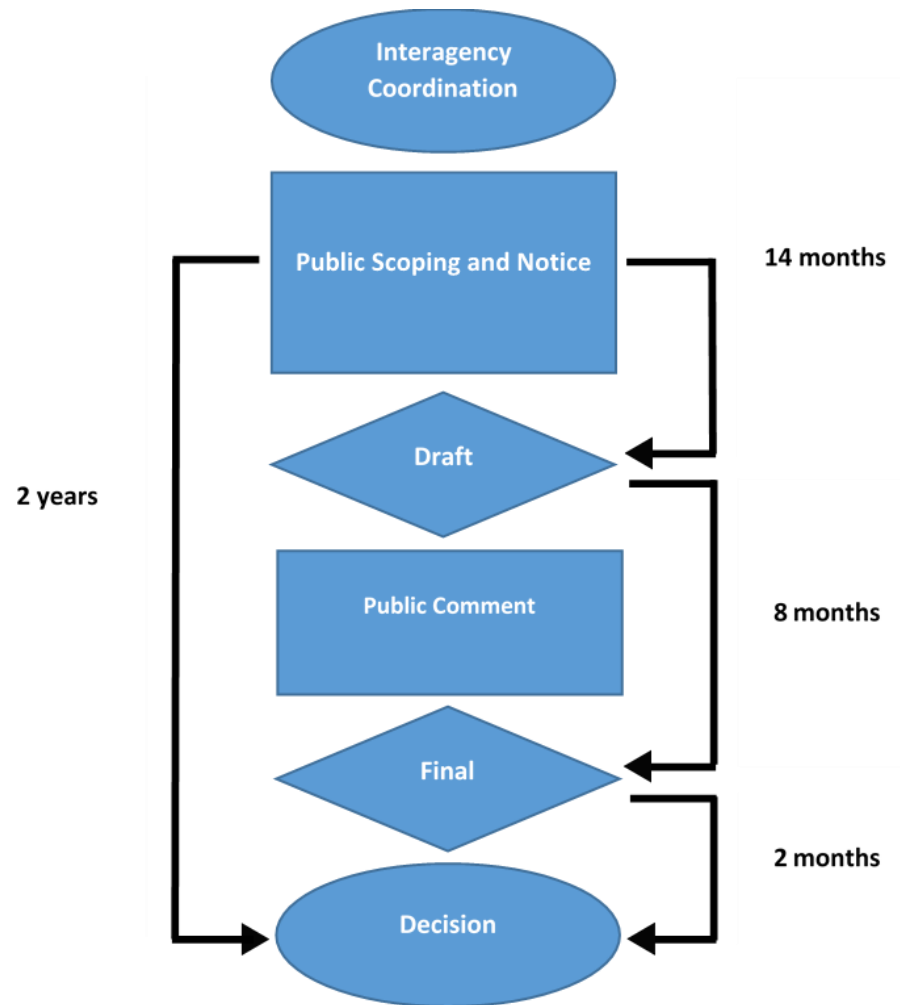
## Improves Management of the NEPA Process

- Sets presumptive time limits for completion of EISs in 2 years and EAs in 1 year.
- Specifies presumptive page limits for EISs of 150 pages (300 for proposals of unusual scope or complexity) and 75 pages for EAs.
- Applies One Federal Decision policy for an EIS involving multiple agencies.
  - Requires joint schedules, a single EIS, and a single record of decision (ROD) for EISs involving multiple agencies.
- Strengthens role of the lead agency and requires senior agency officials' involvement to oversee compliance and resolve disputes.
- Allows applicants/contractors to assume a greater role in EIS preparation with appropriate disclosure of interests and with supervision and independent evaluation by the agency.



# EIS Reviews Completed Within 2 Years

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# Key Elements of the Updated Regulations

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## **Expands Public Involvement and Improves Coordination with States, Tribes, and Localities**

- Requires agencies to provide more information to and solicit input from the public earlier in the NEPA process.
  - Requires more informative Notice of Intent (NOI) to the public when preparing EISs.
- Reduces duplication by facilitating use of documents prepared by State, Tribal, and local agencies to comply with NEPA.
- Enhances ability of Native Americans to participate and ensures appropriate consultation with affected Tribal governments and agencies.
- Eliminates provisions that limited consideration of Tribal interest to reservations.
- Promotes use of modern technologies for communication with the public about NEPA activities while considering potential barriers to access.



# Key Elements of the Updated Regulations

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## **Provides New Efficiencies and Codifies Relevant Case Law**

- Includes provisions to assist agencies in determining whether NEPA applies and the appropriate level of environmental review necessary.
- Requires consideration of **all** effects that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action.
- Aligns the definition of major Federal action with case law and excludes activities with minimal Federal funding or involvement.
- Directs agencies to analyze a reasonable range of technically and economically feasible alternatives.
- Reduces duplication by allowing use of procedures/documents required under other statutes that satisfy CEQ's NEPA regulations, as well as facilitating adoption where the actions are substantially the same, tiering, and use of CEs.



# Key Elements of the Updated Regulations

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## **Ensures Meaningful and Effective Environmental Reviews**

- Does not weaken any substantive environmental laws or regulations.
- Requires agencies to consider the affected environment, including environmental trends.
- Requires agencies to certify consideration of all submitted alternatives, information, and analyses.
- Clarifies that mitigation must avoid, minimize, or compensate for effects of the action.



# Additional Information

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- The rulemaking documents, including **final rule, regulatory impact analysis, response to comments, and redlines** can be found at:
  - <https://www.regulations.gov/docket?D=CEQ-2019-0003>
- Additional information is available at:
  - [www.nepa.gov](http://www.nepa.gov)
  - [www.whitehouse.gov/ceq](http://www.whitehouse.gov/ceq)