

# Trump rescinded a half-century of environmental rules. Here's what that could mean.

Dylan Matthews

If you pick through [Donald Trump's parade of executive orders](#) upon taking office on January 20, you'll discover many that revoke orders made by Joe Biden. But in one, Trump dug even further back: He [revoked an executive order issued by Jimmy Carter in 1977](#), nearly half a century ago.

[Carter's order](#) gave the Council on Environmental Quality (CEQ), a branch of the White House, the authority to issue binding regulations governing how federal agencies must comply with the [National Environmental Policy Act \(NEPA\)](#). Trump, by revoking it, takes away that power from the CEQ.

This may seem rather technical, but Trump in effect set off a process that could lead to very meaningful changes in the way the federal government handles environmental reviews for everything from oil pipelines to solar farms to highways to light rail systems to national parks.

NEPA is a law that governs federal agencies, telling them how and when to review the environmental impacts of federal projects. It is enforced, however, through private action: Individuals, companies, environmental groups, and so on can sue federal agencies for failing to conduct sufficient NEPA review, and courts can and do demand more review in response, delaying or killing the underlying project under review.

To the law's advocates, this provides a powerful method for conservationists and average citizens to fight back against polluting projects near them; the Natural Resources Defense Council [calls NEPA](#) the "environmental Magna Carta," [citing cases](#) where it's protected communities from water-contaminating drilling projects, or blocked oil pipelines that enable greenhouse emissions.

To critics, including [business groups](#) generally skeptical of regulation but also many [renewable energy developers](#) whose projects are often subject to NEPA, the law causes [pointless delays to beneficial projects](#), including ones necessary to building the clean energy needed for rapid decarbonization, and must be reformed if the US is to tackle climate change seriously.

Trump, of course, [does not care about climate change](#). He made that much clear when he paired his NEPA order with an [executive order](#) blocking all offshore wind turbines and any onshore turbines built with public funds or on public lands, and his Department of Interior followed it up a few days later with an [order suspending permits for all renewable energy projects](#), including solar in addition to wind. Trump's skepticism toward NEPA reflects the much older skepticism that business and extractive industries have always had toward the law. But given the new anti-NEPA turn [among some climate advocates](#), it's worth asking what exactly his changes will mean for the buildout of solar and other renewables.

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Trump's EO revokes the 1977 order giving CEQ authority to issue these regulations, and instructs the chair of CEQ to, within 30 days, "propose rescinding" all regulations the Council has issued to date. In lieu of these binding regulations, the Council is supposed to (also within 30 days) provide "guidance" as to how agencies should conduct NEPA reviews going forward. This creates something of a paradox, notes John Ruple, a law professor at the University of Utah and until last year senior counsel to CEQ under Biden. "President Trump ordered CEQ to 'propose rescinding CEQ's NEPA regulations,' but there does not appear to be a way for CEQ to do that since rescinding a regulation requires an agency to go through the rulemaking process—and Trump just told CEQ that it no longer has rulemaking authority," Ruple explained. "I don't know how CEQ can do what he directs."

This focus on CEQ's regulations is probably in part due to a recent court case, [Marin Audubon Society v. Federal Aviation Administration](#) (2024). The case involves a conservation group in California challenging the FAA's environmental review of proposals to conduct aerial tours of national parks. In November, two of three judges on a panel of the DC Circuit Court of Appeals ruled in the case that [CEQ lacked the legal authority to issue NEPA regulations](#), because NEPA itself did not explicitly give it that power. That sowed [no small amount of uncertainty about the status of CEQ and NEPA](#), and the Trump EO seems clearly meant to back up the judges' determination that CEQ not promulgate these kinds of regulations.

There are some immediate concerns that come to mind with Trump's EO. One is that there *isn't* a chair of CEQ: It's a Senate-confirmable position and Trump has not even nominated someone to it yet. It seems doubtful that the role will be permanently filled anytime soon; it took until [April 2021](#) for Biden's chair to be confirmed by the Senate, and Trump didn't have one [until two years into his term](#). In lieu of a formal chair, there's an acting chair, but having a temporary official propose a comprehensive overhaul of a half-century's worth of rules in less than a month is a tall order.

## What Trump's EO means

To some NEPA skeptics, rescinding CEQ's regulations opens up a world of possibility where the Council, and the agencies it advises, can embrace a different approach to environmental review, where fewer projects rise to the level of needing a concise Environment Assessment (EA) or a long, involved Environmental Impact Statements (EIS).

Thomas Hochman of the Foundation for American Innovation [laid out a few ways this could work](#) in a blog post. "Without those binding regulations in place, agencies are free to adopt much narrower definitions of terms like 'significance' and 'major federal action,' trim back their alternatives analyses, and treat factors like environmental justice or greenhouse gas emissions as optional rather than mandatory considerations," Hochman writes.

For instance, if NEPA review is required in cases where "major Federal actions significantly affecting the quality of human environment" are involved, then agencies could decide that, for instance, projects that the federal government provides only limited funding for are not "major Federal Actions," or that certain small activities do not "significantly" affect the quality of the human environment. "Repealing the EO creates a lot of opportunity but also a bunch of uncertainty and ultimately it'll come down to implementation and some court fights," Aidan Mackenzie of the Institute for Progress agreed.

Other experts I spoke to were not so sure. The [NEPA law itself](#) lays out how environmental review must proceed, and if an agency decided to adopt different interpretations of words like "major" and "significant" than it had used previously, it could be opening itself up to a lot of litigation risk. Suppose the FAA decides it doesn't think, say, the aerial tours of a national park in the Marin County case are likely to have a "significant" impact on the quality of the environment. All it takes is one judge to agree with a litigant that the impact is significant for that decision to send the FAA into

years of legal struggle, delaying the underlying project in the process. CEQ's regulations were meant, at least in part, to create a uniform set of standards that agencies could avoid those kinds of lawsuits by following. If they break with those standards, agencies could put themselves at risk.

"NEPA lays out the things that agencies have to consider in fairly exacting fashion," said Alex Mechanick, who until January 20 was senior counselor to the administrator of the Office of Information and Regulatory Affairs at the Office on Management and Budget, and thus a top White House official dealing with regulatory issues. "It's not clear to me how much juice they can get out of efforts to reduce burden via just weakening regulations, because those regulations could be held to be inconsistent with the statute."

One big question here is how exactly courts will respond to the fact that CEQ regulations are no longer binding. One plausible answer is that they don't respond at all: They're still required to hold agencies accountable to the text of NEPA, and the last half-century of regulations provides them with a known method of determining what's compatible with NEPA and what isn't. "Courts could ... look at CEQ's current regulations and say, 'All right, regardless of what Trump's EO does, we find this direction persuasive to us in interpreting and understanding requirements under the statute,'" Ruple told me.

Dourado at the Abundance Institute was more optimistic that the change would have meaningful effects: "It's a clean way to undo a lot of built-up procedure all at once — to say that 'we don't even have the authority to make these rules, and therefore we can just rescind them.'" But he of course agrees that ultimately, the agencies are bound by the NEPA statute, which has actually gotten somewhat more detailed in recent years.

The Fiscal Responsibility Act of 2023, the spending deal that Biden and House Republicans struck that year, included [changes to the law](#) that set page limits for environmental reviews and time limits for their authoring, but also laid out in more detail than NEPA had before exactly how reviews should proceed and what factors they should include. By getting more specific, the law gave regulators less wiggle room to change course than they might have previously had.

## You can't avoid legislation

Ultimately any serious changes to the law will have to come as part of another legislative package. That isn't unthinkable — in addition to the 2023 changes, [Biden signed a bill in October](#) limiting NEPA reviews of chip manufacturing plants, so Congress is capable of passing bipartisan NEPA reform — but it's probably not doable on party lines. Budget reconciliation, which lets Senate Republicans pass some legislation with 50 votes, probably isn't usable for permitting reform. That means any package will need Senate Democratic support, and while a comprehensive bipartisan package on permitting reform came close to passing in December, [it died](#) over disagreement about the NEPA reform portion.

If Trump's NEPA order has an ambiguous effect, at best, on the speed of renewable build-out, the wind executive order has a clearly negative one. Ironically, the order itself relies on NEPA: It calls for increased federal review of offshore and onshore wind projects for environmental impacts, and because most wind projects need federal permits and/or subsidies, most projects are subject to these new requirements. The rule also uses federal authority over coasts to block offshore wind projects entirely. Industry groups are declaring that it could [block more than half of existing wind projects](#) in the US.

Onshore wind is [roughly tied with solar](#) as the cheapest per-megawatt source of electricity in the US ~~is cheaper~~ <sup>is cheaper</sup> ~~than natural gas (if not as reliable — the wind doesn't always blow).~~ <sup>than natural gas (if not as reliable — the wind doesn't always blow).</sup> Offshore wind, which took a harder hit in the order, is significantly more expensive, and faces other

challenges, like the [Jones Act](#), which bans foreign-built ships from traveling between US ports. Because the US does not build ships capable of installing offshore wind itself, in practice projects have to sail from Canada or other neighboring countries all the way to, say, New Jersey, to install turbines.

On the plus side, projections suggest that [solar is getting cheaper faster than wind](#) is, meaning that wind buildout might be comparatively less important for decarbonization going forward, and the Trump EO is less destructive than it looks at first glance. But these [forecasts can be badly wrong](#), and it's hard to sugarcoat Trump's decision to block buildout of one of the cheapest clean energy sources there is, whatever the ultimate effects of his NEPA EO are. Moreover, the [Department of Interior action](#) this past week targeted solar just as much as wind.

Put it all together, and it's hard to avoid the boring but important conclusion here: Trump is not doing much of anything that will make clean energy easier to build in the near term, and is doing several things that will make it harder.