



SOCIETY FOR AMERICAN ARCHAEOLOGY

July 24, 2020

The Society for American Archaeology (SAA) continues its strong opposition to the administration's new regulations for implementing the National Environmental Policy Act (NEPA), which were published by the Council on Environmental Quality (CEQ) on July 16. As we stated in our [March filing](#) during the official comment period, SAA believes that this new rule is a misguided effort that will not only fail to protect irreplaceable environmental and cultural resources, but will also fail to accelerate project completions.

The SAA is an international organization that, since its founding in 1934, has been dedicated to research about and interpretation and protection of the archaeological heritage of the Americas. With nearly 7,000 members, SAA represents professional and avocational archaeologists, archaeology students in colleges and universities, and archaeologists working for Federal, state, and Tribal agencies, museums, universities and the private sector. SAA has members throughout the U.S., as well as in many nations around the world.

SAA remains convinced that the new regulations are deeply flawed, and, if fully implemented, will reduce the amount of avoidance, minimization, mitigation, and remediation work needed to ensure sound environmental and cultural resources stewardship. It is clear from the document that the core problem that the SAA pointed out in the draft—that the entire effort was designed to limit the applicability of NEPA and the scope of its reviews from the public and professional sector—remains in the final version.

For example, the threshold applicability analysis (1501.1) poses a series of questions to determine if NEPA is applicable to an undertaking, questions that collectively narrow the horizon of NEPA consideration and that would encourage agencies to seek out reasons to not activate the NEPA processes. The section on categorical exclusions (1501.4) contains similar language intended to incentivize agencies to exempt an ever-broader range of undertakings from having to comply with the statute. In addition, the types of environmental outcomes to be considered by agencies are reduced, with the removal of "indirect" and "cumulative" impacts from the final rule, even though SAA and many others pointed out during the comment period that, over time, it is often precisely those kinds of impacts that have the greatest effect on heritage resources.

Finally, the SAA believes that the provisions on stakeholder input (1500.3) are still too restrictive in terms of time limits. The difficulties presented by the current economic situation and the pandemic have resulted in many state and local governments being simply overburdened and understaffed. They will struggle to provide meaningful and informed feedback on NEPA reviews of undertakings under the new rule. The situation facing many Tribal governments is even more acute.

As we stated in our earlier comments, SAA supports infrastructure and other forms of development. Many of our members help advance transportation and construction projects by ensuring efficient and effective NEPA compliance. It is their livelihood. Building the infrastructure we need while saving our cultural and environmental heritage are not incompatible goals. We can and must do both. SAA once again urges the administration to withdraw these regulations and enter into extensive consultations with all stakeholders in order to devise a more balanced and effective set of changes.