

Key NEPA Requirements	<u>1978 Rules</u>	<u>2020 Rollback</u>	<u>Phase 1 Final Rule (2022)</u>	<u>Phase 2 (proposed 2023)</u>
“Major federal action”	Action (or reviewable inaction) with “significant” effects that is “potentially” subject to Federal control	Action subject to Federal control	Not addressed	Action subject to “substantial” Federal control* (not defined) + permits, federal \$ assistance - Tribal activities w/o Federal \$ or involvement
“Significant”	Agencies must consider “context” and “intensity” of environmental effects to determine level of NEPA review. Intensity based on 10-factor inquiry.	Deletes definition of “significantly”	Not addressed	Restores “context” and “intensity” analysis from 1978 rules. Restores, revises 10-factor intensity inquiry to explicitly consider Tribal sacred sites, communities with EJ concerns, and rights of Tribal Nations.
“Effects”	Includes direct, indirect, and cumulative impacts	Direct, indirect, and cumulative Impacts with a “reasonably close causal relationship” to proposed action	Direct, indirect, and cumulative “ reasonably close causal relationship ”	+ “disproportionate and adverse effects on communities with EJ concerns” and “climate change-related effects”
Statement of “purpose and need”	In EIS, agencies must “briefly specify” purpose and need for the proposed action and alternatives	Agency must base purpose and need “on the goals of the applicant and the agency’s authority”	Restored 1978 provision.	Agency must “briefly summarize” purpose and need for the proposed action*

*Required under the Fiscal Responsibility Act (2023)