



March 27, 2025

Megan Healy
Principal Deputy Director for NEPA
Council on Environmental Quality
730 Jackson Place, NW
Washington, DC 20503

**Re: Removal of National Environmental Policy Act Implementing Regulations
(Docket No. CEQ-2025-0002)**

Dear Ms. Healey:

The American Cultural Resources Association (ACRA), the trade association specializing in cultural resources management (CRM), is submitting comments on the Council on Environmental Quality's (CEQ; Council) interim final rule *Removal of National Environmental Policy Act [NEPA] Implementing Regulations* (Docket No. CEQ-2025-0002).

ACRA member firms undertake much of the legally mandated CRM studies and investigations in the United States and employ thousands of professionals, including archaeologists, architectural historians, ethnographers, historians, and an increasingly varied group of other specialists. To help guide smart, sustainable economic development and safeguard important historic and cultural heritage assets, ACRA members apply specialized research skills within a framework of federal, state, local, and/or Tribal law and facilitate an open dialog where every stakeholder has a voice.

NEPA is the nation's cornerstone law ensuring that federal agencies consider the impacts on the environment of any major action. The CEQ NEPA implementing regulations outline the process by which federal agencies are to implement the NEPA reviews for federal undertakings and actions. The process often works in tandem with other federal legislation, including the National Historic Preservation Act (NHPA).

ACRA supports efforts to make the NEPA process more efficient and effective. However, the elimination of CEQ's implementing regulations will invite more litigation, delay projects, prevent public engagement, and threaten historic and cultural places without consideration of how federal actions impact them. For these reasons, ACRA strongly opposes this interim final rule.

Delegating NEPA rulemaking to individual federal agencies will likely lead to inconsistent and uneven implementation of NEPA, causing confusion and delay as agencies and stakeholders are forced to navigate a patchwork of varying regulatory schemes. ACRA member firms report that among the biggest obstacles to timely and efficient environmental and cultural resource review is the vast disparity in how agencies – and even between different regional offices within agencies – interpret and enforce federal statutes. This will be especially difficult for smaller agencies lacking adequate staff or expertise, and may create an imbalance in the interpretation of the law. In

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addition, this challenge is likely to grow as federal agencies lose experienced subject-matter experts due to recent layoffs and resignations.

By eliminating CEQ NEPA regulations, the interim final rule will threaten the protection of our nation's historic properties. The current regulations uphold the law's intent to, among other purposes, "[p]reserve important historic, cultural, and natural aspects of our national heritage." (40 CFR § 1500.1) The current regulations require all federal agencies to consider, in analyzing the intensity of effects of a proposed action, the degree to which the "action may adversely affect unique characteristics of the geographic area such as historic or cultural resources, parks, Tribal sacred sites, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas" and the "degree to which the action may adversely affect resources listed or eligible for listing in the National Register of Historic Places." (40 CFR § 1501.3)

By eliminating these provisions, the interim final rule will drastically increase the likelihood that historic and sacred sites, along with our national parks and public lands, may be damaged or lost. This is particularly troublesome timing as the nation prepares to celebrate its 250th anniversary next year. By eliminating the CEQ regulations, this interim final rule runs counter to the spirit of President Trump's January 29, 2025, Executive Order *Celebrating America's 250th Birthday* (E.O. 14189), whose purpose is, among other things, "to honor the history of our great Nation."

By removing CEQ regulatory oversight, the interim final rule also will lead to confusion in how public scoping is to be conducted. Public consultation and engagement are a hallmark of NEPA. Such consultation ensures that projects move forward in a timely manner, reducing the risk of lawsuits and other actions that can stop projects in their tracks.

In particular, Tribal consultation is a central component of the federal government's trust responsibilities to Tribes. The interim final rule endangers the ability of Tribes to protect their heritage resources, including sacred places, leaving these resources at the mercy of vague, non-binding guidelines and individual agency decisions.

While the NEPA process as outlined in CEQ's regulations may not be perfect, stakeholders have proposed numerous ways to improve the process so that it can better balance the goals of building the infrastructure our country needs while safeguarding environmental and cultural assets. By leaving rulemaking to individual agencies, this interim final rule makes the work of improving NEPA significantly and needlessly more complex, time consuming, and expensive. The result will be a byzantine regulatory labyrinth that fosters confusion, inconsistency and inefficiency across the Federal government that will neither protect our heritage nor accelerate infrastructure projects.

When President Richard Nixon signed NEPA into law in January 1970, the intent was to protect our nation's environment, including our cultural and historic heritage, from harm without the input of stakeholders, including American citizens. As our nation prepares to celebrate our 250 years of existence, those ideals are more essential than ever.

For these reasons, we oppose this interim final rule and urge the Council to engage with stakeholders to foster a more predictable and consistent NEPA regulatory framework that keeps faith with the intent of the statute.

Sincerely,

A handwritten signature in black ink, appearing to read "Amanda Stratton". The signature is fluid and cursive, with a large initial "A" and "S".

Amanda Stratton
Executive Director