

Lawsuit against Trump Administration over 'Reckless and Unprecedented' Gutting of Bedrock US Environmental Law

"This administration's insidious attack on one of our most important environmental laws is an attack on the democratic process itself."

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A coalition of 27 U.S. states, commonwealths, territories, counties, and cities filed a federal lawsuit on Friday challenging the Trump administration's "unlawful, unjustified, and sweeping revisions" to a 50-year-old law that the president claimed would "streamline" infrastructure projects by limiting environmental reviews.

After [revealing](#) plans to alter the National Environmental Policy Act (NEPA) in January, President Donald Trump [announced](#) what critics called "[reckless and unprecedented](#)" changes during a July campaign stop. The revisions, detailed in a [final rule](#) released by the White House Council on Environmental Quality (CEQ), swiftly provoked legal threats from advocacy organizations.

The [lawsuit](#) (pdf) filed Friday in the U.S. District Court for the Northern District of California, led by California Attorney General Xavier Becerra and Washington Attorney General Bob Ferguson, follows a similar challenge to the NEPA changes from national environmental groups, [filed](#) in the same court last month.

"NEPA is an unsung hero of environmental protection that protects our shared environment," Ferguson [said](#) in a statement. "NEPA allows our voices to inform public decisions, provides a tool for holding the government accountable, and builds transparency into the federal decision-making process to build trust."

"This administration's insidious attack on one of our most important environmental laws is an attack on the democratic process itself," the Washington attorney general declared. "I will fight to make sure the people are heard."

Becerra [put](#) the rollback and subsequent suit in the context of Trump's broader [deregulatory agenda](#) targeting environmental protections and how states and local governments—often led by Democratic elected officials—have fought against it.

"The Trump administration has spent the better part of four years trying to roll back critical protections and undo hard-fought progress, particularly when it comes to our environment, public lands, and natural resources," Becerra said. "But we haven't let this unlawful conduct go unchecked. We've fought back—and won."

“Today, we’re filing our 100th lawsuit against the Trump administration,” he noted. “With today’s challenge, our goal is simple: preserve the public’s voice in government decision-making as federal projects threaten to harm the health of our families in our own backyards.”

The Trump Admin spent the last four years rolling back critical protections and undoing hard-fought progress, particularly for our environment.

Now [@RealDonaldTrump](#) is gutting the National Environmental Policy Act—one of our bedrock environmental laws.

We’re suing. pic.twitter.com/nuje513IAx

— Xavier Becerra (@AGBecerra) [August 28, 2020](#)

David J. Hayes, executive director of the State Energy & Environmental Impact Center at New York University School of Law, said in response to the suit that “state attorneys general again are stepping up, this time to stop the Trump administration from going back on the basic ‘good government’ promise that before federal officials approve major projects, they must review potential adverse impacts, make them public, and hear the views of affected citizens.”

“We should not need to rely on our last line of defense—state attorneys general—to enforce the rule of law,” added Hayes, former Interior Department deputy secretary in the Obama and Clinton administrations. “But here we are again, needing to turn to state legal officers and the federal courts to right the latest national environmental wrongs that the Trump administration is imposing on the American people.”

In March, Becerra co-led a coalition of 20 attorneys general who argued in a letter that the administration’s proposed rule violated both NEPA and the Administrative Procedure Act (APA); relied on a deficient rulemaking process; restricted the scope of impacts considered in environmental reviews; and unlawfully and without justification limited the requirement that an agency evaluate reasonable alternatives.

Pretty remarkable quote from California AG [@XavierBecerra](#) on why so much of this case will be fought on procedural grounds. pic.twitter.com/9JnRO3W0VW

— Rebecca Beitsch (@RebeccaBeitsch) [August 28, 2020](#)

As the California attorney general’s office explained Friday, the lawsuit argues that the final rule violates NEPA and APA because it:

- is contrary to NEPA’s language and purpose and exceeds the Council on Environmental Quality’s statutory authority;
- is arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law; and
- was promulgated without preparing an Environmental Assessment or an Environmental Impact Statement evaluating the rule’s environmental and public

health impacts.

As Hayes put it:

“The administration’s final NEPA rule shatters that long-standing legal promise embedded in one of our nation’s earliest and most important environmental laws, the National Environmental Policy Act.”

“In particular, the final rule abandons any environmental review for broad categories of project approvals that will leave our most vulnerable citizens—including many already impacted by historic, unjust environmental harms—voiceless and at the mercy of an administration that favors industry profits over Americans’ health and well-being,” he said. “And when reviews are begrudgingly undertaken, the new rule enables officials to downplay or skip altogether serious analyses of climate impacts and health dangers associated with proposed projects and connected activities.”

Ferguson and Becerra were joined in the filing by the legal representatives for Colorado, Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, Nevada, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Wisconsin, the District of Columbia, the territory of Guam, the city of New York, the Connecticut Department of Energy and Environmental Protection, the New York State Department of Environmental Conservation, and Harris County, Texas.

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Featured image: Activists gather outside of the Alliance Center in Denver across the street from a public hearing by the Council on Environmental Quality’s proposed update to NEPA Regulations on February 11, 2020. (Photo: Aaron Ontiveroz/The Denver Post)

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