

COURT DISMISSES CHALLENGES TO COUNCIL ON ENVIRONMENTAL QUALITY'S 2020 NATIONAL ENVIRONMENTAL POLICY ACT REFORMS

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On June 21, 2021, the U.S. District Court for the Western District of Virginia dismissed plaintiffs' challenges to the Council on Environmental Quality's 2020 National Environmental Policy Act (NEPA) regulations reforms. In his opinion, Judge James Jones noted that "...NEPA does not provide for preimplementation judicial review..." and that plaintiffs' claims are unripe because the regulations' implementation deadline is still months away, plaintiffs lack standing because any harmful outcomes from the reforms are currently attenuated and speculative, and the Administration is actively reconsidering the reforms at the heart of the lawsuit. Of note, the Department of Justice asked the Court to leave the 2020 reforms in place while the Administration completes its ongoing review of the regulations.

Judge Jones' opinion concluded with the following:

"...I am left with the firm conviction that the claims asserted in this case by these plaintiffs are not appropriate for judicial resolution at this time. "That the [plaintiffs'] claims are not currently justiciable does not mean that they never will be so." South Carolina, 912 F.3d at 731. But whether because the claims are unripe or because the plaintiffs lack standing, the case before me is not presently justiciable."

Plaintiffs have not publicly expressed their intent to appeal the decision from the 21st, but are expected to renew their challenge to the 2020 NEPA regulatory reforms when their claims become ripe.

The full text of Judge Jones' opinion is available [here](#). The case is *Wild Virginia et al v. Council on Environmental Quality et al*, U.S. District Court for the Western District of Virginia, No. 3:20-cv-00045.

If you have questions regarding this opinion, the 2020 NEPA regulations, or about NEPA on a specific project, please contact regulatory lawyer James Voyles.

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