



## Memorandum

Lands Committee  
Minerals Policy Task Force  
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DOI Interim Final Rule Update of NEPA Regulations

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The Department of the Interior (DOI) last week published an [interim final rule](#) that makes major changes to the department's approach to implementation of its National Environmental Policy Act (NEPA) regulations. While titled an "interim final rule" and open for comment until Aug. 4, the rule is effective immediately, with the exception of "applications that are sufficiently advanced," where the preexisting procedures will continue to apply.

DOI is one of a dozen federal departments and agencies working in lockstep to update their NEPA regulations to eliminate the bureaucratic delays that plague infrastructure projects, including mining and energy projects. These updates are primarily motivated by three factors: (1) the congressionally-imposed NEPA requirements under the 2023 Fiscal Responsibility Act, (2) the administration's recent revocation of government-wide Council on Environmental Quality (CEQ) NEPA regulations, and (3) the U.S. Supreme Court's recent decisive NEPA ruling.

## Background

- DOI NEPA Procedures and Regulations

After NEPA's passage in 1969, DOI developed procedures to comply with the statute's obligations to assess the environmental impacts of federal actions. These procedures were incorporated into departmental manuals and handbooks. In 2008, DOI first formally promulgated the NEPA procedures contained in its department manuals to provide greater visibility on the department's compliance with NEPA itself as well as CEQ's regulations implementing NEPA.

- NEPA Provisions in the FRA

In June 2023, the Fiscal Responsibility Act of 2023 (FRA) was enacted, making the first changes to the statutory language of NEPA since its original enactment. The law included a series of provisions to address long-standing delays in federal permitting.

- Specifically, the FRA:
  - Limits the scope of environmental impact statements (EIS) and environmental assessments (EAs) to reasonably foreseeable impacts to the environment from a proposed project.
  - Amends NEPA to place 2- and 1-year limits on EISs and EAs with page limits that are enforceable by court action.
  - Establishes a process for determining a lead federal agency.
  - Allows the project proponent to contract or conduct their own EIS or EA under the supervision of the lead agency.
  - Limits analysis of reasonably foreseeable effects to establish guardrails and ensure a reasonably close causal relationship.
  - Establishes threshold determinations by the lead federal agency that would promote exclusion of nonsignificant projects from further analysis.
  - Allows tiering of environmental reviews with programmatic NEPA documents.
  - Establishes a narrow definition of what constitutes a major federal action that triggers an agency NEPA assessment.
- Rescission of CEQ's NEPA Regulations

In February 2025, pursuant to Executive Order (EO) 14154, "[Unleashing American Energy](#)," CEQ proposed an [interim final rule](#) to remove its NEPA regulations and issued initial [guidance](#) to federal agencies to expedite permitting processes and meet the FRA's NEPA deadlines. Both the EO and CEQ's rule build off recent court decisions questioning the authority of CEQ to issue binding regulations in the absence of specific delegation of authority by Congress. After the finalization of the rule removing its NEPA regulations, CEQ provided additional [guidance](#) to agencies on NEPA implementation in the absence of overarching federal regulations.

- Supreme Court Decision in *Seven County Infrastructure Coalition v. Eagle Co.*

In late May 2025, the U.S. Supreme Court issued an [opinion](#) in the case *Seven County Infrastructure Coalition v. Eagle Co.* regarding the scope of NEPA reviews by federal agencies and the deference afforded agencies. Noting that "some courts have assumed an aggressive role in policing agency compliance with NEPA," and "engaged in overly intrusive (and unpredictable) review in NEPA cases," the Court found "it important to reiterate and clarify the fundamental principles of judicial review applicable in [NEPA] cases." Op. at 8 and 12. Importantly, the Court instructed that NEPA is a "*purely procedural statute*" that "imposes no substantive constraints on the agency's ultimate decision to build, fund, or approve a proposed project." Additionally, the Court warned:

Citizens may not enlist the federal courts, "under the guise of judicial review" of agency compliance with NEPA to delay or block agency projects based on the environmental effects of other projects separate from the project at hand. Op. at 22.

For a detailed analysis of the decision, please see the National Mining Association's (NMA) June 6, 2025, [memorandum](#).

## **DOI's Interim Final Rule**

In the interim final rule, DOI is rescinding the majority of its NEPA regulations and will instead include departmental NEPA procedures in a revised [NEPA handbook](#). DOI provided the following rationale for this approach:

DOI has decided that the flexibility to respond to new developments in this fast-evolving area of law, afforded by using non-codified procedures, outweighs the appeal of maintaining its NEPA procedures as regulations going forward. Notably, in this digitized age, while DOI codified its procedures as regulations, in part, to provide "greater visibility" to the public, DOI can-and will-ensure such visibility simply by posting these procedures online, which removes the upside of codification. By contrast, not maintaining its procedures as regulations will enable it to rapidly update these procedures in response to future court decisions (such as *Seven County*) or Presidential directives.

DOI, however, identified certain provisions to retain and make targeted updates. These provisions relate to (1) emergency responses to ensure that DOI can respond timely to any such event and to avoid any confusion regarding the continued validity of this already-established provision for action in emergency situations; (2) categorical exclusions and their use to avoid any instability in these vital procedures or uncertainty about the continued validity of its already-established categorical exclusions; and (3) applicant and contractor preparation of environmental documents to provide a durable framework for the use of such documents.

## **Practical Implications**

As noted above, projects that are in the midst of NEPA review will continue to be evaluated under preexisting procedures. For future NEPA reviews, however, proponents can expect a renewed focus on DOI compliance with the FRA, particularly timelines and appropriate limits on the scope of issues and alternatives analyzed. More mining projects may qualify for EAs rather than EISs, as "whether an impact rises to the level of 'significant' is a matter for a bureau's expert judgment." As noted in [Appendix 1](#) to the revised NEPA Handbook, the Bureau of Land Management identifies very few actions as

presumably requiring an EA or EIS. The Office of Surface Mining Reclamation and Enforcement does include some mining-related actions on its list:

- Approval of a proposed mining and reclamation plan that includes any of the following: (a) Mountaintop removal operations. (b) Mining within high use recreation areas. (c) Mining that will cause population increases that exceed the community's ability to absorb the growth. (d) Mining that would require a major change in existing coal transportation facilities.
- Approval of a proposed mining and reclamation plan for a surface mining operation that meets the following: (a) The environmental impacts of the proposed mining operation are not adequately analyzed in an earlier environmental document covering the specific leases or mining activity; and (b) The area to be mined is 1280 acres or more, or the annual full production level is 5 million tons or more; and (c) Mining and reclamation operations will occur for 15 years or more.

Additionally, timelines for mining projects may be further expedited as DOI has stricter scoping requirements, no longer requires public comment on EAs or EISs and will allow exceptions to the FRA timeframes in very limited circumstances.

## **Next Steps**

DOI may make further revisions to its NEPA implementing procedures if DOI's review of any comments submitted suggests that further revisions are warranted. The NMA will schedule a conference call in the near future to discuss our comment strategy. In advance of the call, you may wish to review the DOI dedicated [webpage](#) for further details about this action.