



Memorandum

TO: Lands Committee
Minerals Policy Task Force
Coal Policy Task Force

FROM: Katie Sweeney, Executive Vice President & COO
Dominique Christianson, Associate General Counsel

DATE: July 21, 2025

SUBJECT: Teams Meeting on USDA's Interim Final Rule to
Revise Its NEPA Regulations

As part of a wider federal government effort, the United States Department of Agriculture (USDA) recently published an [interim final rule](#) (IFR) that makes major changes to the department's approach to implementation of its National Environmental Policy Act (NEPA) regulations. As detailed below, USDA is rescinding all its existing NEPA regulations and promulgating new ones via an interim final rule. USDA's changes have implications for mining projects on national forest lands as the department's action includes rescission of the U.S. Forest Service's NEPA regulations.

The IFR is effective immediately, but USDA agencies will have the discretion to determine which NEPA procedures apply to individual proposals. Agencies may continue to use the versions of USDA specific NEPA regulations in place before the IFR publication, as well as the 2020 version, for projects "that are at a certain stage in the NEPA process." Alternatively, USDA states that these new procedures can be used right away for new proposals or proposals in early stages.

Comments on the IFR are due on Aug. 4. To develop the association's comment strategy, the National Mining Association (NMA) has scheduled a Teams meeting for July 25, 2025 at 1:00PM Eastern. Click [here](#) to add the meeting to your calendar.

Background

Similar to the Department of the Interior's (DOI) IFR (see the NMA's July 7 [memorandum](#)), the USDA indicates its revisions 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. Unlike DOI, however, USDA will retain codified NEPA regulations rather than relegating NEPA procedures to a departmental handbook.

- USDA NEPA Regulations

USDA's NEPA procedures were initially established in 1974 pursuant to a memorandum issued by the Secretary of Agriculture (Memorandum No. 1695). The guidelines for the preparation of environmental impact statements (EISs) and compliance with procedural requirements of NEPA were eventually codified in 1979 and updated on occasion, culminating with the "current" set of regulations published in 1995. USDA regulations clearly articulate that the main departmental and component specific NEPA regulations were designed to supplement the CEQ regulations.

- 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 for 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.
- Recission of CEQ's NEPA Regulations

In February 2025, pursuant to Executive Order (EO) 14154, "[Unleashing American Energy](#)," CEQ proposed to 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. Responsibility Act of 2023 (FRA). Both the EO and CEQ's rule build off recent court decisions questioning the authority of CEQ to issue binding regulations in 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 NMA's June 6, 2025, [memorandum](#).

USDA's Interim Final Rule

The IFR is intended to update USDA's NEPA regulations to be a "more faithful implementation of the statute as amended in 2023 [by the FRA] than its old procedures." These procedures implement the major structural features of the 2023 amendments such as deadlines, page limits for environmental assessments (EAs) and EISs and provide that USDA will complete the preparation of both those documents within the maximum length of time prescribed by Congress. Additionally, the amendments made by USDA purport to be in direct response to President Trump's mandate in EO 14154, to prioritize efficiency and certainty over any other objectives.

Essentially, the IFR modifies the departmental NEPA regulations by consolidating USDA's current overarching regulations with additional sections from agency-specific regulations, including the Forest Service. The IFR retains the Forest Service's NEPA provisions currently codified at 36 CFR 220.6(d)(1) through (12) and (e)(1) through (25) and 220.4(b)(2) including previously codified Forest Service categorical exclusions. Furthermore, USDA is updating all categorical exclusions to allow any USDA agency to use any of the listed categorical exclusions as well as non-USDA exclusions adopted by any other USDA agency.

If you have any questions regarding the IFR, please contact Katie at ksweeney@nma.org.