MORE FEDERAL AGENCIES STREAMLINE NEPA PROCEDURES TO EXPEDITE REVIEW AND PERMITTING

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By: Derek B. Kalbfleisch, Varu Chilakamarri, Tad J. Macfarlan, Varun M. Jain, John W. Northington Jr.

Building on our recent coverage of Federal Energy Regulatory Commission (FERC) and Department of Energy (DOE) NEPA reforms, three additional federal agencies have now announced sweeping updates to their NEPA procedures. The US Department of Transportation (DOT), US Army Corps of Engineers (Corps), and Department of the Interior (DOI) have each finalized significant changes to simplify environmental review in the wake of the Council on Environmental Quality's (CEQ) recission of NEPA rules, the Supreme Court's 29 May 2025 decision in *Seven County Infrastructure Coalition v. Eagle County*, and changes to NEPA passed by Congress in the Fiscal Responsibility Act of 2023 (FRA).[1] Additionally, as with FERC and DOE, DOI is transitioning from reliance on NEPA regulations to NEPA guidance documents in order to promote flexibility.[2]

Generally, these agencies have implemented changes that are designed to decrease the time for NEPA review and limit the scope of NEPA review. The most significant change that will decrease the time for NEPA review is the imposition of deadlines and page limits for Environmental Impact Statements (EISs) and Environmental Assessments (EAs).[3] Reviews that used to take on average 4.5 years, and sometimes over 17 years, now cannot take longer than 2 years.[4] Additionally, the agencies will no longer undertake new research as part of the review process unless it is essential to evaluating alternatives or the significance of the impact.[5]

Other changes limit or eliminate evaluation of certain projects or issues under NEPA. For example, NEPA review is no longer required where the federal agency lacks sufficient control, responsibility, and legal authority to warrant Federal review.[6] Incorporating findings from the Supreme Court in Seven County Infrastructure Coalition, the new rules state that environmental impacts should generally not be considered if they are remote in time, geographically remote, or the product of a lengthy causal chain.[7] Additional changes involve categorical exclusions, which are categories of actions that are excluded from NEPA review because the agency has determined they will not have a significant effect on the environment.[8] The new rules make it easier for the agencies to adopt categorical exclusions from other agencies and encourage their own departments to consider additional categorical exclusions, which has the potential to significantly expand the number of categorical exclusions that might be available for a given project.[9]

DOT UNIFIES AND ACCELERATES NEPA REVIEWS

On 30 June 2025, DOT released three significant revisions to its NEPA implementing procedures, including combining six separate protocols into a single unified framework (Order 5610.1D).[10] The Order is effective immediately but does not apply retroactively to affect any decisions made or final environmental documents

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issued prior to the effective date of the Order.[11] DOT is soliciting public comment on the Order and "may update it based on comments received."[12] In addition to the agency-wide guidance, DOT released Federal Aviation Administration specific guidance (Order 1050.1G) and Federal Highway Administration/Federal Railroad Administration/Federal Transit Administration specific regulations under 23 C.F.R. Part 771.[13]

In addition to the revisions identified above, to further narrow the scope of federal actions that are subject to NEPA review, the Order specifies what are considered "connected actions" that should be considered in the same NEPA document. These include actions that: (1) automatically trigger other federal actions which would independently require environmental review; (2) cannot proceed unless other federal actions are taken previously or simultaneously; or (3) are part of a larger interdependent federal action that includes separate federal action(s), which mutually depend on the larger federal action for their justification.[14] DOT's statement declares that these changes will "slash red tape, accelerate major infrastructure projects, minimize delays, and curb soaring compliance costs," aiming to ignite a "golden age of transportation."[15]

CORPS ISSUES INTERIM FINAL RULE FOR REGULATORY PERMITS

On 3 July 2025, the Corps implemented an interim final rule establishing new NEPA regulations under 33 C.F.R. Part 333, replacing NEPA implementing regulations from Appendix B of 33 C.F.R. Part 325.[16] These regulations govern Corps environmental review for applications submitted under Section 404 of the Clean Water Act (discharge of dredge or fill material) and certain sections of the Rivers and Harbors Act (generally involving the construction of structures and work in navigable waters). The Rule is effective immediately and applies prospectively to all submissions made from 3 July 2025 forward.[17] Although the Corps has stated that it is not legally required to provide for a public comment period, it is accepting public comments through 4 August 2025.[18]

The Corps Rule identifies specific agency activities, such as jurisdictional determinations, permit threshold decisions, construction of small piers and docks, and minor maintenance dredging, as categorically excluded from NEPA review.[19] It further states, that if a project's constituent parts can be covered by multiple categorical exclusions, the entire project can be exempt unless there are extraordinary circumstances that are likely to result in reasonably foreseeable significant environmental effects.[20] The Corps Rule also reaffirms that most projects subject to Corps NEPA review do not require an EIS, as "[m]ost activities requiring a Corps permit that are not otherwise covered by a categorical exclusion normally require only an environmental assessment."[21]

DOI PUBLISHES INTERIM FINAL RULE AND HANDBOOK

Also on 3 July 2025, DOI implemented an interim final rule amending its NEPA regulations in 43 C.F.R. Part 46 and released a new handbook.[22] The revised regulations retain only a small subset of NEPA regulations, which primarily concern the process to utilize applicant-prepared environmental review, emergency responses and categorical exemptions.[23] Instead, the majority of DOI NEPA procedures are now found in the new handbook.[24] DOI characterized the action as "a historic effort to fix America's broken permitting system."[25] Public comments are open through 4 August 2025.[26]

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WHY IT MATTERS

These moves by DOT, the Corps, and DOI implement direction from the Supreme Court, Trump Administration, and Congress to streamline NEPA review by expediting review and approval of federal projects and permits. With enforceable time limits, clarifications to the scope of NEPA review, and expanded categorical exclusions, agencies aim to reduce procedural ambiguity and expedite infrastructure and energy project approvals.

These developments further signal a coordinated federal strategy—rooted in Executive Order 14154 (Unleashing American Energy), recent court rulings, and CEQ's action—to modernize, centralize, and accelerate NEPA review processes.

Please reach out to our Environment, Land, and Natural Resources team, or our Energy, Infrastructure, and Resources team for tailored advice and preparation of comment letters and submissions as these federal NEPA regulations continue to evolve.

FOOTNOTES

[1] *See* National Environmental Policy Act Implementing Regulations, 90 Fed. Reg. 29498, 29498 (July 3, 2025) (codified 43 C.F.R. Part 46); Procedures for Implementing NEPA; Processing of Department of the Army Permits, 90 Fed. Reg. 29465, 29466 (July 3, 2025) (codified 33 C.F.R. Parts 320, 325, and 333).

[2] 90 Fed. Reg. at 29500 ("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.").

[3] Order 5610.1D, DOT's Procedures for Considering Environmental Impacts, at 14, 18-19; 33 C.F.R. § 333.15; 516 DM 1 – U.S. Department of the Interior Handbook of National Environmental Policy Act Implementing Procedures, 8-9, 15-16 (June 26, 2025), https://downloads.regulations.gov/DOI-2025-0004-0004/content.pdf ("DOI NEPA Handbook").

[4] ENVIRONMENTAL IMPACT STATEMENT TIMELINES (2010-2018), Council Env't Qual., 1 (June 12, 2020), https://ceq.doe.gov/docs/nepa-practice/CEQ_EIS_Timeline_Report_2020-6-12.pdf.

[5] Order 5610.1D, DOT's Procedures for Considering Environmental Impacts, at 5; 33 C.F.R. § 333.12(b); DOI NEPA Handbook, at 4.

[6] Order 5610.1D, DOT's Procedures for Considering Environmental Impacts, at 2; 33 C.F.R. § 333.18(c)(1)-(c)(2); DOI NEPA Handbook, at 2.

[7] Order 5610.1D, DOT's Procedures for Considering Environmental Impacts, at 27-28; 33 C.F.R. § 333.61(d)(2); DOI NEPA Handbook, at 25.

[8] 42 U.S.C. § 4336e(1).

[9] Order 5610.1D, DOT's Procedures for Considering Environmental Impacts, at 11-12; 33 C.F.R. § 333.14; DOI NEPA Handbook, at 6-7.

[10] U.S. Transportation Secretary Sean P. Duffy Unveils Sweeping Updates to NEPA at USDOT to Fast Track Roads, Bridges, & Other Key Infrastructure, U.S. Dep't of Trans. (June 30, 2025),

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https://www.transportation.gov/briefing-room/us-transportation-secretary-sean-p-duffy-unveils-sweeping-updates-nepa-usdot-fast ("DOT NEPA Update Notice").

[11] Order 5610.1D, DOT's Procedures for Considering Environmental Impacts, at 1.

[12] *Id.*

[13] DOT NEPA Update Notice.

[14] Order 5610.1D, DOT's Procedures for Considering Environmental Impacts, at 27.

[15] DOT NEPA Update Notice.

[16] Procedures for Implementing NEPA; Processing of Department of the Army Permits, 90 Fed. Reg. 29465, 29466 (July 3, 2025) (codified 33 C.F.R. Parts 320, 325, and 333).

[17] *Id*. at 29466.

[18] *Id*. at 29465.

[19] 33 C.F.R. §§ 333.11, 333.14(g).

[20] 33 C.F.R. § 333.14(e)(3).

[21] 33 C.F.R. § 333.12(a)(4).

[22] National Environmental Policy Act Implementing Regulations, 90 Fed. Reg. 29498 (July 3, 2025) (codified 43 C.F.R. Part 46).

[23] *Id*. at 29498-99.

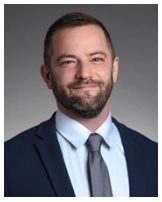
[24] *Id*.; *see also* 516 DM 1 – U.S. Department of the Interior Handbook of National Environmental Policy Act Implementing Procedures (June 26, 2025), https://downloads.regulations.gov/DOI-2025-0004-0004/content.pdf ("DOI NEPA Handbook").

[25] *Secretary Burgum Joins Historic Effort to Fix America's Broken Permitting System*, U.S. Dep't of Interior (June 30, 2025), Secretary Burgum Joins Historic Effort to Fix America's Broken Permitting System | U.S. Department of the Interior.

[26] 90 Fed. Reg. at 29498.

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KEY CONTACTS



DEREK B. KALBFLEISCH
ASSOCIATE

SEATTLE
+1.206.370.7644
DEREK.KALBFLEISCH@KLGATES.COM



TAD J. MACFARLAN
PARTNER

HARRISBURG
+1.717.231.4513
TAD.MACFARLAN@KLGATES.COM



JOHN W. NORTHINGTON JR.
GOVERNMENT AFFAIRS ADVISOR

HOUSTON, WASHINGTON, DC
+1.713.815.7318
JOHN.NORTHINGTONJR@KLGATES.COM



VARU CHILAKAMARRI
PARTNER

WASHINGTON, DC
+1.202.778.9165
VARU.CHILAKAMARRI@KLGATES.COM



VARUN M. JAIN
OF COUNSEL

WASHINGTON, DC
+1.202.778.9030
VARUN.JAIN@KLGATES.COM

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