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## Litigation Update

# Environmental Groups Challenge Interior Department's New NEPA Procedures

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Environmental groups recently challenged the U.S. Department of the Interior's new, flexible approach to implementing the National Environmental Policy Act (NEPA). Applicants seeking to use federal lands for natural resources and infrastructure projects should take concrete steps now to defend their federal authorizations and permits against potential legal challenges under NEPA.

### Overview

The U.S. Department of the Interior manages the nation's public lands and minerals, including 480 million acres of public lands, 2.5 billion acres of the Outer Continental Shelf and 700 million acres of onshore subsurface minerals. Consistent with its statutory mandate, the department often authorizes applicants to use these public lands for projects such as oil and gas leasing, mining, forestry, power transmission and road construction, among other activities. When the department authorizes these actions, it must comply with the [National Environmental Policy Act](#), which requires it to identify and evaluate the impacts of "major Federal action significantly affecting the quality of the human environment." For decades, the department has relied on the Council on Environmental Quality's (CEQ) and its own implementing regulations to define the scope of its responsibilities under NEPA.

### Recent Developments

Consistent with President Trump's Executive Order 14154, "[Unleashing American Energy](#)," CEQ [rescinded](#) its NEPA implementing regulations in early 2025. The department, in turn, largely rescinded its NEPA implementing regulations through an "[Interim Final Rule](#)" in July 2025, explaining that it would maintain the majority of its NEPA procedures in its "[DOI NEPA Handbook](#)" as non-binding guidance. The guidance allows for greater flexibility in tailoring the NEPA process to individual projects. It also, among other streamlining changes, scales back public comment requirements during the NEPA process.

In December 2025, the Center for Biological Diversity and the Sierra Club filed [suit](#) in the U.S. District Court for the Northern District of California challenging the department's new approach to NEPA. The plaintiffs allege that the department's rescission of its NEPA regulations fails to comply with notice and comment procedures under the Administrative Procedure Act. They also allege that the department unlawfully removed opportunities for public participation from its NEPA regulations, including the requirements for public comment on draft environmental impact statements and for public involvement in the preparation of environmental assessments. The plaintiffs request that the court vacate the department's Interim Final Rule so that the department has to operate under its prior NEPA implementing regulations.

## How to Prepare

Given this evolving NEPA landscape, and that plaintiffs seek nationwide relief, project applicants throughout the country should take a number of concrete steps to insulate their federal authorizations or permits from litigation risk:

1. **Build redundancy into NEPA documentation.** Applicants should build redundancy into their NEPA documentation to ensure that it will survive the evolving NEPA legal landscape. For example, even if public comment on a draft environmental assessment might not be required under the department's new NEPA procedures, the department still has the discretion to provide for it. If an applicant anticipates strong opposition to its project, it should consider working with the department to build appropriate opportunities for public comment into the NEPA review process. That strategy would be consistent with the department's flexible approach to NEPA and would help strengthen any subsequent federal authorization or permit against future legal challenges.
2. **Work closely with the agency.** The agency is often the best source of information for applicants on current developments and requirements in the law. With the assistance of counsel, applicants should closely follow the agency's directions and carefully adhere to all available agency guidance and procedures. Applicants should also take advantage of opportunities to engage with the agency during the NEPA process. For example, the department's [regulations](#) permit applicants, or contractors directed by applicants, to prepare environmental impact statements and environmental assessments under agency supervision. Such involvement can enable the applicant to take steps to ensure that the record underlying the NEPA document is sufficiently robust to withstand litigation challenge.
3. **Monitor developments in the law.** The law surrounding NEPA is changing quickly. Court decisions and administrative actions could change NEPA requirements at any time. Applicants should closely monitor these developments to ensure they are complying with the law.

We will continue to track these changes; feel free to contact the authors or any of your Paul Hastings contacts for more information.

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