

NEPA in Transition: CEQ's Guidance and the New Landscape for Federal Permitting

By: Tim Sowecke, Win Colbert, & Tyler Self

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On [September 29, 2025](#), the Council on Environmental Quality (CEQ) published an updated [guidance](#) memorandum regarding implementation of the National Environmental Policy Act (NEPA). The guidance reflects and incorporates recent developments in NEPA caselaw, including *Marin Audubon Society v. Federal Aviation Administration*, *Seven County Infrastructure Coalition v. Eagle County, Colorado*, and other federal decisions, along with executive orders and policy directives advancing the Trump Administration and EPA Administrator Zeldin's broader permitting reform agenda and overhaul of NEPA implementation. (For good background on recent NEPA changes, see what we wrote [here](#) and [here](#).)

CEQ's memorandum provides updated guidance for federal agencies to ensure that their NEPA procedures are consistent with this evolving legal and policy framework. It includes a [template](#) for agencies to use in establishing or revising their agency-specific NEPA procedures. CEQ characterizes the template as nonbinding guidance but clearly intends it to align agency practice with the Administration's emphasis on expedited project delivery and streamlined environmental review. This guidance supersedes and replaces CEQ's February 19, 2025, guidance, which was issued in response to [Executive Order 14154](#), *Unleashing American Energy*, and days before CEQ published its [Interim Final Rule](#) rescinding its own NEPA implementing regulations (effective April 11, 2025).

What the CEQ Guidance Template Changes and Why it Matters

For project sponsors and their counsel, the substance of CEQ's new guidance template matters in three interrelated ways:

- 1) **Scrutinizing the "major Federal actions" threshold:** How agencies define the universe of "major Federal action" and identify connected actions subject to NEPA review;
- 2) **Reducing the scope of analysis:** How agencies evaluate indirect and cumulative effects after the U.S. Supreme Court decision in *Seven County Infrastructure Coalition v. Eagle County, Colorado* (145 S. Ct. 1497 (2025)); and

- 3) **Expediting Review:** What procedural timelines, management tools, and accountability mechanisms agencies implement to meet the Trump Administration's accelerated permitting objectives.

The CEQ template provides direction on scoping thresholds for Environmental Assessments (EAs) versus Environmental Impact Statements (EISs), lead-agency coordination, and public comment procedures. Of special note for commercial projects, it incorporates the new statutory “sponsor opt-in” provision for expedited review, which allows applicants to request an accelerated timeline in exchange for a fee.

These provisions are designed to reduce the scope of analysis for downstream or remote impacts (*i.e.*, indirect and cumulative effects) and offer a reduced timeframe for review. These changes streamline procedures and shorten timelines but do not relax NEPA requirements that agencies take a “hard look” at the environmental consequences of their actions. Courts will continue to scrutinize whether such analysis is adequate, even under accelerated review timelines.

Implications for Project Sponsors: Opportunity and Transition Risk

These planned changes create opportunity and risk for project developers, particularly in heavy industry, energy, and infrastructure sectors that routinely undergo NEPA review. On the one hand, agencies that closely adopt CEQ's template and standardize internal practices around clear scoping, narrower thresholds for indirect effects, and stronger project management review timetables should produce shorter, more predictable reviews for pipelines, LNG terminals, large industrial sites, and similar projects.

For example, a pipeline NEPA analysis that no longer treats every downstream refinery expansion as a reasonably foreseeable indirect effect can be prepared more narrowly and efficiently. Likewise, broader use of programmatic agreements and tiering could allow federal and state agencies to reuse prior environmental analyses for similar corridors, reducing time and cost.

However, the near-term effects of CEQ's guidance may be less certain. Each agency must promulgate or revise its own NEPA implementing procedures, typically through notice-and-comment rulemaking under the Administrative Procedure Act, and may do so on different timelines and through varying processes. This staggered implementation will likely create a patchwork of rules across agencies and regions. Projects that are mid-review may be particularly vulnerable to procedural mismatch, where older NEPA practices continue to be applied to ongoing projects while new rules are being finalized. Note, CEQ's guidance advises that “although CEQ rescinded its NEPA implementing regulations [], agencies should consider voluntarily relying on those regulations in completing ongoing NEPA review or defending against challenges to reviews completed while those regulations were in effect.”

The new CEQ guidance will likely play a large part in opposition litigation, which could result in simultaneous attacks on the substance of any new procedures and the process by which agencies adopted them. The course of litigation that follows rule adoption is exactly where the practical risk lies, creating uncertainty for significant project investments.

Industry Specific Considerations

Industry-specific impacts are likely to vary based on agency preferences and project-specific details and needs. For pipelines and transmission projects, expect narrower indirect-effects scopes and greater use of corridor-level or programmatic analyses that speed subsequent permitting. For LNG export facilities and terminals, agencies will likely push back on expansive downstream market analyses and instead focus on foreseeable infrastructure within the agency's control.

For mining and large site developments, programmatic NEPA and closer coordination with state permitting can shorten timelines, but developers should closely watch for any new documentation or monitoring conditions. Across sectors, the sponsor opt-in expedited review offers a real commercial lever, e.g., if timing is paramount, willing sponsors can pay to accelerate an EA or EIS under the statute's terms, which will require early, careful coordination with CEQ and the lead agencies to make sure the accelerated path is feasible and defensible.

Practical Steps Businesses Should Take Now

CEQ's guidance makes this a rulemaking and documentation game. Businesses should act now by preparing targeted comments on draft agency procedures, documenting how agencies are currently managing scoping and administrative records, and identifying potential litigation risks tied to projects in progress. For projects on the horizon, early engagement with agency contacts will be critical.

Businesses should evaluate whether to use the new expedited review mechanism, plan timelines accordingly, and structure filings to withstand judicial scrutiny. These planning and anticipatory opportunities are best taken before procedures harden and litigation strategies form around them. We can assist clients by monitoring agency revisions, drafting effective comments, and strengthening administrative records to reduce exposure.

Conclusion

The CEQ guidance opens the door to faster permitting but also ushers in uncertainty as agencies adopt new rules at different speeds. Projects will move more smoothly for sponsors who act early, shape the procedures that matter most to their industries, and preserve strong records for future reviews. Now is the time to prepare. Our team can help businesses track agency actions, file effective comments, and position projects to navigate both opportunity and risk during this transition.

The GableGotwals [Environmental and Natural Resources Team](#) is available to help businesses track agency actions, file effective comments, and position projects to navigate both opportunity and risk during this transition.



Tim Sowecke
405-568-3308
tsowecke@gablelaw.com



Win Colbert
346-200-6439
wcolbert@gablelaw.com



Tyler A. Self
405-235-5589
tself@gablelaw.com

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