

NEPA Reforms Can Fix Permitting Without Weakening Review

By **Timothy Sowecke and Tyler Self** (July 20, 2026)

The National Environmental Policy Act is continuing to undergo a period of structural recalibration. A combination of judicial decisions, executive policy direction and proposed legislation reflects a sustained effort to shorten permitting timelines for energy and infrastructure projects while preserving NEPA's core function as a procedural environmental review statute.

The emerging framework does not abandon environmental scrutiny; it refines and focuses it. Recent reforms and Sen. Alan Armstrong of Oklahoma's American Energy and Mineral Infrastructure Act of 2026, or S. 4944, introduced on June 24, signal a deliberate shift toward disciplined scoping, concurrent reviews and enforceable timelines designed to align environmental review with the practical realities of energy reliability, grid demand and project finance.

Armstrong, drawing on prior industry experience, introduced a practical, technically informed perspective to the legislative effort, which underscores the importance of energy and environmental IQ in designing reforms that are both legally durable and operationally workable. The trajectory of NEPA reform is therefore best understood not as deregulation, but as an evolution toward a more efficient and coordinated permitting system that does not sacrifice environmental assessment.



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The New Permitting Window

Energy permitting is moving into a faster, less uniform era. Recent and proposed statutory reforms reinforce that trajectory by formalizing timelines, narrowing the scope of required analysis, and emphasizing agency coordination. The federal government is ordering agencies to shorten environmental reviews. Congress has imposed page limits and deadlines. Courts have narrowed the outer edge of what agencies must analyze under NEPA.

S. 4944 would further codify these changes by requiring concurrent reviews, firm decision deadlines and greater deference to lead agency determinations. This trajectory also reflects the rescission of the Council on Environmental Quality's long-standing NEPA regulations as the bedrock of NEPA.

This creates an opportunity for energy and infrastructure developers. It also changes the risk profile. NEPA no longer operates under a single, centralized playbook. The recalibrated framework will depend more heavily on the lead agency, the project type and scope of activities, the site conditions, the procedural record, and public and stakeholder perception and engagement.

The result is not deregulation. It reflects a more tactical permitting environment that relies on sophisticated environmental due diligence and risk management early in project development. S. 4944 makes this explicit by codifying NEPA's procedural nature and limiting review to effects that are proximately caused by the project, thereby reinforcing discipline in

project definition and record development.

As this recalibration continues, projects will be able to move faster than several years ago, but only if the sponsor can define the project cleanly, select the right review path and build an administrative record that can survive scrutiny.

NEPA's Narrower — But Not Marginal — Scope and Impacts

NEPA remains a procedural statute. It requires federal agencies to consider reasonably foreseeable environmental impacts before acting. But it does not require a particular substantive outcome. Armstrong's proposed legislation to create NEPA statutory amendments would further codify that principle, expressly confirming that NEPA imposes procedural, not substantive, obligations and does not mandate particular environmental results.

The Supreme Court's May 2025 NEPA decision in *Seven County Infrastructure Coalition v. Eagle County* — among others — reinforces that the scoping of projects for direct environmental impacts is fundamental and critical to the NEPA process, and courts should not use NEPA to second-guess scoping choices committed to the agency, so long as the agency has taken "the requisite hard look" at the project before it.

The practical effect of these changes is a narrower review. Agencies have stronger support for focusing on the environmental effects of the project at hand, rather than remote upstream, downstream or attenuated collateral effects tied to separate projects outside the agency's control.

The proposed federal legislation would reinforce that limitation by directing agencies to consider only those impacts with a reasonably close causal relationship to the proposed action and to exclude speculative or attenuated effects. For energy projects, especially energy transportation projects that could be perceived as broad in scope, such as pipelines and transmission, that should reduce the risk of turning a project-specific permit into a broader referendum on energy policy, climate policy or market demand.

But a narrower review does not end risk of litigation and delay in project development. It changes where litigation will concentrate. In practical terms, the proposed legislation and ongoing permitting reform would reshape the litigation landscape by increasing judicial deference to agency decisions, narrowing available remedies — including limits on vacatur as a remedy — and imposing accelerated timelines for judicial review. Accordingly, opponents are likely to focus on record adequacy, alternatives analysis, segmentation, agency procedure, public participation, mitigation and compliance with parallel statutes.

A shorter NEPA document is useful only if it is disciplined. A short process with abbreviated analyses and conclusions without substantial support will create a vulnerable administrative record subject to litigation and delay.

S. 4944 also reflects a structural shift toward centralized and coordinated federal decision-making. For example, for natural gas infrastructure, the Federal Energy Regulatory Commission would operate as the sole lead agency, with authority to establish binding schedules, coordinate participating agencies, and drive concurrent environmental and authorization reviews. Federal and state agencies would be required to meet defined deadlines, with most authorizations issued on compressed timelines following completion of environmental review.

These provisions are designed to reduce serial — and often lengthy — review, eliminate duplicative analysis, and align interagency processes with project development realities.

Permitting Reform Is a Reliability Issue

Permitting reform is not only a legal development. It is also a reliability issue.

Demand is rising from data centers, artificial intelligence infrastructure, domestic manufacturing, liquefied natural gas exports and broader grid reliability needs. At the same time, natural gas and electricity systems are increasingly interdependent. Gas-fired generation is expected to support reliability, balance intermittent resources and respond quickly during high-demand periods. Those expectations require physical infrastructure: pipelines, compression, storage, generation, transmission, water supply and related facilities.

Market confidence helps with the speculation and finance necessary to move molecules or electrons, but infrastructure in the physical environment is what actually moves energy. A faster environmental review will not solve reliability constraints if the assets needed to serve demand cannot be sited, permitted, financed and constructed on a commercially reasonable timeline. And if the public cannot understand the needs and trust these processes, a lot of time and money will be wasted.

If federal review can be narrowed and compressed, projects that previously faced years of process risk may become more viable. But that window favors prepared sponsors. It does not rescue poorly scoped projects that lack public trust.

As a practical matter, one of the most effective ways to minimize excessive scrutiny and corresponding risk is through thoughtful design, particularly with respect to waste management and water reuse systems. That, in turn, requires better alignment with capital providers on environmental risk allocation and long-term operational sustainability.

The Permit Is Only as Strong as the Record

NEPA is not the whole permitting problem. Even under an accelerated framework, the statutory emphasis on coordination and timing does not relieve project sponsors of the obligation to develop a complete and defensible record, and in many cases compressed timelines increase the premium on early-stage diligence and technical and design rigor.

In many respects, NEPA functions as an actuarial review process that identifies potentially substantive environmental issues. If done correctly, it should reduce a project's risks of environmental attacks.

Yet other permits, controls and requirements at the federal, state and local level can still control — or disrupt — the project's schedule. A project can complete its NEPA review and still be delayed by tribal consultations, route changes, local opposition, or the need for wetlands, listed species, air, cultural resources, or water supply permits. For linear infrastructure, these issues often matter more than the nominal NEPA process.

The administrative record is therefore the center of gravity. The project description should match the engineering and be grounded in the physical environment. The purpose and need should match the commercial driver. The alternatives analysis should be focused, but not pretextual. Technical studies should support the agency's conclusions. Mitigation should be concrete, feasible and tied to identified impacts. Public engagement should occur early

enough to improve the project, not merely to defend a decision already made.

A permit is formal permission to proceed within a legal framework. It is not compliance itself, it is not construction, it is not operations. Construction and operations still require adherence to permit terms, mitigation commitments, monitoring duties, reporting obligations and environmental performance standards.

Great projects connect all dots, from the formal project development and permitting to construction and eventual operations. Compressed timelines do not excuse weak records. They expose them.

The Bottom Line

With permitting reform continuing to evolve, energy companies now have a better permitting window, but not a free pass. NEPA reviews should become faster, narrower and more focused, but agency-specific procedures now matter more than a single Council on Environmental Quality rulebook.

If enacted, S. 4944 will further institutionalize these trends by aligning agency incentives around speed, coordination and defensibility, while preserving environmental review as a disciplined procedural safeguard. The core strategy is to define the project tightly, identify the lead agency early, choose the right NEPA path and map parallel permits at the outset.

The companies best positioned in this environment will be those that use reform to impose discipline on the process while preserving a record strong enough to survive review. The trajectory of ongoing permit reform should be welcomed as a long-overdue recalibration that preserves NEPA's integrity while making it functionally compatible with the nation's energy and infrastructure needs in a way that is both practical and legally defensible.

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