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U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

August 4, 2025

The Honorable Doug Burgum
Department of the Interior
1849 C Street, NW
Washington, DC 20240

SUBJECT: Docket ID No. DOI-2025-0004, National Environmental Policy Act Implementing Regulations.

Secretary Burgum,

We write to express our strong opposition to the Department of the Interior's (DOI) Interim Final Rule (IFR) and accompanying guidance implementing the National Environmental Policy Act (NEPA). These actions represent a sweeping and dangerous rollback of the public's ability to participate in federal decision-making and of our nation's commitment to environmental protection, government transparency, and responsible governance.

Enacted in 1970 with overwhelming bipartisan support and amended in 2023, NEPA requires federal agencies to identify and assess the impacts of "major federal actions significantly affecting the quality of the human environment" before making final decisions.[1] For decades, NEPA and its implementing regulations have improved the integrity of federal decision-making, fostered sustainable development, and empowered the public to shape projects that affect their health, communities, and environment. The administration's ongoing efforts to eviscerate NEPA under the guise of "efficiency" are already sowing regulatory chaos and legal instability—exposing communities to harm while increasing the risk of costly and protracted litigation.

Department of the Interior, Interim Final Rule

On February 25, 2025, the Council on Environmental Quality (CEQ) published an interim final rule (IFR) withdrawing its NEPA regulations from the Code of Federal Regulations pursuant to an earlier Executive Order.[2] Each agency was directed to update its own regulations or guidance in response. DOI published its IFR on July 3, 2025, which rescinded most of DOI's NEPA regulations and shifted most of its implementation procedures to a non-binding guidance document. The public was given just 30 days to comment on this sweeping overhaul, resulting in a process that is both unprecedented and inadequate for a rule of this magnitude.

The Administrative Procedure Act (APA) authorizes the use of an IFR in place of a formal notice-and-comment rulemaking only when such a rulemaking is impracticable or contrary to the public interest, typically in emergencies.[3] There is clearly no such emergency here that would

[1] Congressional Research Service, National Environmental Policy Act: An Overview, June 26, 2025.
[2] Federal Register, Removal of National Environmental Policy Act Implementing Regulations, July 11, 2025
[3] 49 CFR § 106.35 - Interim final rule.

justify bypassing the standard, legally required rulemaking process to overhaul a regulatory framework as consequential as NEPA. Proceeding under these conditions violates both the letter and the spirit of the APA and undermines the legitimacy of the entire rulemaking process.

The new guidance limits the actions that require NEPA analysis, limits opportunities for public comment, makes the publication of a draft environmental impact statement (EIS) optional, and restricts the scope and types of environmental effects that agencies are required to analyze. We, the undersigned Members of Congress, are strongly opposed to these changes.

Uncertainty and Litigation

With the administration's repeal of CEQ's unifying NEPA regulations, each agency is now in the process of publishing IFRs, guidance documents, or other regulations. The administration has stated that the goal for its NEPA action is "efficiency and certainty over any other objective."[4] While those are important objectives, they cannot be elevated above the statute's purpose and policy as written in the law—namely, "to encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation."[5]

Furthermore, if "efficiency and certainty" are the goals, a fragmented approach—with each agency adopting different and often conflicting rules—will produce the opposite result. Project sponsors, particularly those requiring approvals from multiple agencies, will face conflicting standards, new bureaucratic barriers, and more litigation. These outcomes will ultimately erode trust in the federal process and delay—not accelerate—important projects.

In addition, numerous studies consistently find that one of the most effective ways to reduce litigation risk is through upfront, transparent community engagement, not by shortcutting the process. When agencies engage the public early and consistently, they avoid unnecessary legal and political conflict. DOI's IFR moves in the opposite direction.

Public Comment

The cornerstone of NEPA is government transparency grounded in the principle that the public has a right to shape the decisions that affect their lives. Public comment is not a barrier to efficiency; it is how government agencies gain a full understanding of the environmental, cultural, and social consequences that their decisions will have on the public they serve. It is also how communities—especially those most affected by federal projects and actions—are given a voice in shaping outcomes that often profoundly impact their health, their environment, and their future.

A recent peer-reviewed study underscores the critical role of public comment in shaping federal decisions under NEPA.[6] It found that public comments resulted in substantive decision

[4] Executive Order 14154, Unleashing American Energy, Section 5. (c), January 20, 2025
[5] 42 U.S.C. § 4321
[6] Strava, A. et al. *Quantifying the substantive influence of public comment on United States federal environmental decisions under NEPA*, IOP Science, June 10, 2025

alterations in 62 percent of the reviews assessed, with 64 percent of cases showing modifications to alternatives, 42 percent showing modifications to mitigation plans, and 11 percent leading to the selection of entirely new preferred alternatives.[7] These are not marginal impacts. Time and again, public comment materially improves federal decision-making—enhancing legal durability, environmental outcomes and public trust.

Disturbingly, DOI's IFR and NEPA guidance document eliminate opportunities that make public engagement possible. Under the IFR and guidance, DOI's agencies are no longer required to publish a draft Environmental Impact Statement or to meaningfully respond to public comments.[8] Furthermore, it appears that DOI's guidance makes public comment entirely optional for an environmental assessment (EA).[9]

Public engagement is both a legal obligation and a proven tool for improving the substance, legitimacy, and durability of federal decisions. Abandoning it is a profound, costly and avoidable mistake.

Climate Change, Environmental Justice, and Cumulative Impacts

NEPA has long required federal agencies to assess the environmental consequences of their actions—including climate change impacts, cumulative effects, and unequal environmental pollution burdens on affected communities. These are not peripheral concerns. They lie at the heart of the statute's purpose: "to stimulate the health and welfare of man," to "assure for all Americans" a safe and healthful environment, and to protect "the environment and biosphere."[10]

For decades, courts have consistently upheld these obligations, confirming that agencies must consider the climate,[11] environmental justice,[12] and cumulative impacts[13] in NEPA reviews. The Interior Department's attempt to minimize or erase these requirements is not just a policy failure —it's a clear violation of the law. While the Supreme Court's *Seven County* decision may narrow NEPA's reach in certain cases, Justice Sotomayor's concurrence underscores a critical point: federal agencies must still "analyze environmental impacts for which their decision would be (at least in part) responsible."[14] That, of course, includes agency decisions with significant

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[7] Id.

[8] Department of the Interior NEPA Handbook, Section 2.1, Preparation of environmental impact statements

[9] Department of the Interior NEPA Handbook, Section 1.5 Environmental assessments, Section 1.8, Notices of intent and scoping,

[10] 42 U.S.C. §§ 4321, 4331(a), (b)(2), (b)(4), (c)

[11] *Vecinos para el Bienestar*, 6 F.4th at 1329–30; *350 Mont. v. Haaland*, 50 F.4th 1254, 1266–70 (9th Cir. 2022); *WildEarth Guardians v. U.S. Bureau of Land Mgmt*., 870 F.3d 1222, 1236–38 (10th Cir. 2017); *Sierra Club*, 867 F.3d at 1371–75; *Mid States Coal. for Progress*, 345 F.3d at 550.

[12] *Mid States Coal. for Progress v. Surface Transp. Bd*., 345 F.3d 520, 541 (8th Cir. 2003); *Sierra Club v. FERC*, 867 F.3d 1357, 13368 (D.C. Cir. 2017); *Coliseum Square Ass'n, Inc. v. Jackson*, 465 F.3d 215, 232 (5th Cir. 2006); *Trenton Threatened Skies, Inc., v. Fed. Aviation Admin*., 90 F.4th 122, 138 (3rd Cir. 2024); *City of Port Isabel v. FERC*, No. 23-1174, 2024 WL 3659344, at *7 (D.C. Cir. Aug. 6, 2024); *Vecinos para el Bienestar de la Comunidad Costera v. FERC*, 6 F.4th 1321, 1330–32 (D.C. Cir. 2021); *Standing Rock Sioux Tribe v. U.S. Army Corps of Eng'rs*, 255 F. Supp. 3d 101, 140 (D.D.C. 2017)

[13] *Hanly v. Kleindienst*, 471 F.2d 823 (2d Cir. 1972); *Sierra Club v. Morton*, 510 F.2d 813, 824 (5th Cir. 1975); *Henry v. Federal Power Commission*, 513 F.2d 395, 406 (D.C. Cir. 1975); *Swain v. Brinegar*, 542 F.2d 364, 369-70 (7th Cir. 1976).

[14] Seven County Infrastructure Coal. v. Eagle County, Colo., No. 23-975, slip op. at 6–7 (U.S. July 2, 2025) (Sotomayor, J., concurring), https://www.supremecourt.gov/opinions/24pdf/23-975_m648.pdf.

environmental consequences for the climate, environmental justice, and cumulative impacts directly tied to proposed projects.

Furthermore, ignoring these major environmental impacts will not make them disappear. It will merely blind the agency to their consequences, ensuring they remain unexamined, unaddressed, and unmitigated. And for communities that have long borne the brunt of environmental pollution —low-income communities, Tribal Nations, and historically overburdened communities of color —the consequences of the administration's actions will be immediate, compounding, and profoundly unjust.

Federal Agency Staff Capacity and Permitting Timelines

A major source of permitting delays is chronic underinvestment in federal agency permitting capacity. An experienced, adequately staffed workforce is essential for processing NEPA reviews in a timely manner. Increasing funding and staff for federal agencies' permitting offices, as well as agency workforce training, can significantly enhance the effectiveness and efficiency of permitting processes responsibly. Federal permitting experts and agency leaders have consistently pointed to insufficient staffing and funding—not environmental laws themselves—as the leading cause of delay, aside from slow or incomplete submissions by permit applicants. Enhancing permitting office budgets, increasing staffing levels, and investing in workforce training would significantly improve the efficiency and timeliness of NEPA reviews, while preserving the rigor and public accountability the law requires.

These delays have been exacerbated by the Trump administration's attempt to dismantle federal agencies. According to Politico, the Department of the Interior and the Army Corps of Engineers lost significant permitting expertise due to mass early retirements and buyouts encouraged by the administration.[15] More than 15,000 Department of Agriculture employees were forced out of the Department due to Elon Musk's Department of Government Efficiency proposals.

To tackle chronic understaffing in federal permitting offices—a key source of legitimate delays —the Inflation Reduction Act (IRA) contained a historic investment of over $1 billion for federal permitting offices across several federal agencies. This had a significant positive impact on environmental reviews and addressed legitimate, evidence-based challenges faced in the environmental review process.

As of January 2025, the $1 billion in the IRA, along with the utilization of other commonsense authorities, reduced the median time it takes to complete an EIS (from NOI to final EIS) by 28 percent compared to the previous administration. The median time was 2.2 years in 2024, compared to 3.6 years in 2019.[16] According to an earlier fact sheet from the Biden administration, the Department of Energy (DOE) halved the review timelines for EISs compared to those of the first Trump administration.[17] DOE began implementing a coordinated permitting effort specifically for transmission, which experts anticipated would cut permitting timelines in

[15] Greenwire, Federal exodus imperils Trump's permitting goals, PoliticoPro, July 2, 2025
[16] CEQ, Environmental Impact Statement Timelines, January 13, 2025
[17] Biden White House, FACT SHEET: Biden-Harris Administration Takes Action to Deliver More Projects More Quickly, Accelerates Federal Permitting, August 29, 2024.

half. The Department of Transportation (DOT) cut the average time it takes to complete an EA by more than one-third.

Despite the clear benefits of adequately funding federal agencies, this Administration proposes to slash agency funding, giving handouts to polluting industries while avoiding proper analysis and community input. The recently passed H.R. 1 rescinded unspent funds appropriated through the IRA, including for permitting staff and technology upgrades—which runs counter to this Administration's purported goals of speeding up permitting and implementing technological efficiencies.

DOI's Weaponization of Permitting Procedures

The Trump administration, particularly at DOI, has unmistakably chosen to weaponize the permitting process to pick winners and losers. Under the guise of a legally questionable Executive Order,[18] oil, gas, and mining projects can now use DOI's existing alternative arrangements to radically expedite reviews to 28 days for an EIS and 14 days for an EA, down from timelines that typically span a year or more.[19] As DOI's regulations state, these procedures are designed for actions that are "urgently needed to mitigate harm to life, property, or important natural, cultural, or historic resources."[20] Instead, DOI is misusing them to cut corners for energy projects that otherwise would require the most scrutiny. Within such brief timeframes, there is no way to meaningfully engage with the public or to conduct the required government-to-government tribal consultation. Invoking such mechanisms under false pretenses not only undermines legal compliance—it invites litigation, increases project risk, and erodes public confidence.

Meanwhile, wind and solar projects now need the Secretary of the Interior's personal sign-off for every single permit. These arbitrary and politically motivated actions threaten billions in clean energy investment, jeopardize gigawatts of power, and put nearly a million clean energy jobs at risk. They will drive up energy costs for American families and cede renewable energy innovation to our competitors. The Department's claims of cutting "red tape" ring hollow when it is actively blocking clean energy permits and erecting new permitting hurdles designed to delay —not deliver—clean American energy.

We remain committed to building America's critical infrastructure—including transmission and clean energy projects on public lands—faster, smarter, and without sacrificing environmental safeguards or public accountability. We can accelerate permitting to build needed infrastructure and protect the public at the same time. Instead, DOI's interim final NEPA regulations will constrain meaningful public comment, expose communities and ecosystems to harm, and increase the risk of litigation. At a time when the country needs clear, coordinated policy to meet its climate, economic, and energy goals, DOI's interim regulations take us in the opposite direction.

Sincerely,

[18] Executive Order 14156, Declaring a National Energy Emergency, January 20, 2025
[19] Press Release, Department of the Interior Implements Emergency Permitting Procedures to Strengthen Domestic Energy Supply Chain, April 23, 2025
[20] 43 CFR 46.150 (a)

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