

DOI New NEPA Regulations and Guidance – Advocating for Public Lands

On July 1, 2025, the Department of the Interior (DOI) posted [a new set of NEPA regulations and procedures](#), including new department-level regulations set out through an Interim Final Rule (IFR), NEPA Handbook and appendices providing guidance on implementing the new procedures. These regulations and the guidance significantly curtail the opportunities for public and Tribal engagement. This reference outlines the content of the regulations and guidance, opportunities still available for engaging in NEPA processes, and how to maximize those opportunities.

The new NEPA regulations and procedures include: [Interim Final Rule](#); [DOI NEPA Handbook](#); [Handbook Appendix 1 \(Actions Normally Requiring an EIS or EA\)](#); [Handbook Appendix 2 \(Bureau Categorical Exclusions\)](#); [Handbook Appendix 3 \(Implementation Guidance\)](#).

Notably, individual bureaus are expected to update their own NEPA regulations and guidance at later dates, as well.

DOI NEPA regulations

The Interim Final Rule (IFR) limits the DOI NEPA regulations to addressing:

- Emergency situations, when agencies will not apply NEPA or use alternative arrangements due to lack of time;
- The use of categorical exclusions (CXs) from NEPA and emphasizing the opportunities to use CXs established by other agencies, while retaining the use of some extraordinary circumstances when CXs will not apply; and
- Applicant and contractor-prepared environmental impact statements (EISs) and environmental assessments (EAs), noting at least that the federal agency still retains the ultimate decision-making responsibility.

DOI provided an opportunity to comment on the IFR, so there may still be some changes to the regulation.

NEPA Handbook

Most of the formal public participation requirements are now very limited. However, the Handbook does leave the BLM with discretion to craft broader approaches for specific projects. Elements of the updated DOI Handbook that have the most impact on public participation include:

- The Handbook seeks to limit when NEPA will apply by emphasizing the statute's use of the term major federal action should be read to limit both what is a "major" action and what is a "federal" action.
- For Environmental Assessments (EAs), there is no requirement for public participation of any kind other than making the completed documentation "available on a public website." However, the BLM already has a lot of discretion regarding public participation in EAs and there is no more in-depth discussion of public engagement – although an agency may decide to publish a notice of intent and seek input.
- For Environmental Impact Statements (EISs), there is a requirement to conduct a scoping process that includes publishing a notice of intent and seeking input from the public, local governments and Tribes. There is also a requirement to request comments at some unspecified time during preparation of the EIS that is "reasonable" and "seek to provide 30 days, to the extent practicable" for comments to be submitted. However, agencies are only *required* to seek comment from other federal, state, local and Tribal agencies and an applicant, but *may* also request comments from the public. For Tribes and government agencies, they must be authorized to develop and implement environmental standards, be affected by the proposed action, or request to receive statements on actions of the kinds proposed.
- The Handbook also emphasizes the time periods (which may be extended) and page limits (which may not be extended but do not include appendices) that were also set out in the Fiscal Responsibility Act – 1 year/75 pages for EAs, 2 years/150 pages (300 if complex) for EISs.
- For cooperating agencies, the BLM is still required to invite federal, state, local and Tribal entities to participate by virtue of jurisdiction or special expertise. While the Handbook discusses accommodating cooperating agencies' schedules and staff, and entering into appropriate agreements, it also emphasizes staying on schedule with the requirements set out above.
- The Handbook still includes previous language from NEPA regulations that limit actions agencies can take while considering a pending action that would limit the consideration of alternatives. In other words, the BLM should not foreclose the opportunity to adopt a decision being analyzed by approving an inconsistent decision in the interim.
- The Handbook reiterates that agencies must evaluate mitigation measures, although it emphasizes they are not required to select any specific measures.

Implementation Guidance

- This guidance is directed at all bureaus and emphasizes the discretion that is still afforded to different bureaus to shape the appropriate amount of engagement in evaluating proposed actions, with a detailed discussion of examples that still include public engagement such as notice and meetings.
- The guidance directs bureaus to consider what type of public review and input could be useful, looking at public interest, community insight, complexity of the matter, and efficiency.
- It also provides more detail on how agencies are to use existing documents and engage in tiering, which will be helpful in evaluating proposed actions and how agencies appropriately rely on other analysis (or not).

Key points to make that are not affected by the lack of regulation

- *Ensure sufficient NEPA analysis has been completed:* While the BLM may point to its emergency procedures to cut short time periods for input, these only apply once other sufficient analysis has been done, meaning the project is at the permitting stage.
- *Identify other laws that apply:* The emergency procedures can only apply to National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA) and Endangered Species Act (ESA), and only for certain types of energy/mining projects that have already completed preliminary analysis, such as permits. In addition, for these 3 laws, the time limits don't mean the substantive requirements of the laws can be ignored. For both scope and timeframe of analysis, other laws require public participation and evaluation of impacts to natural resources, cultural resources, and subsistence. These can be emphasized in different phases of commenting to advocate for more opportunities for public participation, evaluation of impacts, consideration of different alternatives, and decision space.
- *Continue to scrutinize CXs:* The BLM has already been focused on using CXs where possible, including formally adopting other agencies' CXs. Continue monitoring BLM's use of CXs and scrutinizing where extraordinary circumstances (such as the presence of endangered species) should apply.
- *Propose longer timelines or broader approaches to public participation:* The most useful highlight from the guidance is the detailed discussion of examples that still include public engagement, such as notice and meetings, and the emphasis on discretion that is still afforded to agencies to shape the amount of engagement in

evaluating proposed actions. Critically, the Handbook does provide that agencies *may* publish/make public draft, pre-decisional documents where it will assist in fulfilling their responsibilities under NEPA.

- *Submit conservation proposals during scoping:* The BLM's land use planning regulations specify that preparing a new land use plan or revising an existing land use plan requires preparation of an EIS. Therefore, BLM is required to conduct a public scoping process for all land use planning processes under the new NEPA guidance. Submit conservation proposals, such as ACEC nominations, LWC inventories, BCA proposals, citizen alternatives, and more during the scoping process so that the BLM is required to respond to those proposals as the land use plan moves forward.
- *Suggest specific alternatives or approaches:* During any comment periods that are provided, consider proposing specific approaches to a project such as alternatives and mitigation measures.
- *Request cooperating agency status:* If early on, local governments and Tribes can request cooperating agency status, which affords the opportunity to review draft documents and assist with developing alternatives. These entities may also need to be advised of this opportunity and require technical support.