

Comments: DOI Interim Final Rule - DOI-2025-0004

I am a private citizen, providing comments on this new Interim Rule. I have always been an Advocate for wildlife, our planet and a clean and healthy environment. I am committed to ensuring we make wise choices and prioritize good stewardship, leaving earth as a livable space for each other, our children and future generations.

I will submit my comments under the headings provided in DOI-2025-004 so they are easier for you to track. I am writing as I believe this Rule is extremely flawed and needs to be re-written. I have provided comments which I hope will aid you with that revision.

Before I begin my comments I should like to quote from NEPA as to it's purpose, as that wording is missing from any section in this Interim Rule and should be incorporated in the revised rule, to further clarify its purpose. The definition you provide under "A. National Environmental Policy Act" appears to be a modified definition of the legal definition. This should be corrected in the revised document to read:

"Title I of NEPA contains a Declaration of National Environmental Policy. This policy requires the federal government to use all practicable means to create and maintain conditions under which man and nature can exist in productive harmony.

Section 102 in Title I of the Act requires federal agencies to incorporate environmental considerations in their planning and decision-making through a systematic interdisciplinary approach. Specifically, all federal agencies are to prepare detailed statements assessing the environmental impact of and alternatives to major federal actions significantly affecting the environment. These statements are commonly referred to as Environmental Impact Statements (EIS) and Environmental Assessments (EA)."

I. Background

This section provides several reasons you provide for the changes. Three that stand out to me are: (A) Executive Order 14154 "Unleashing American

Energy,” (B) the recent Supreme Court decision “Seven County Infrastructure Coalition v. Eagle County, CO,” and (C) “DOI’S procedures will henceforth be contained in the Department of the Interior Handbook... but will not be codified in the CFR.” The following are comments on each.

(A) The document provides Executive Order 14154 “Unleashing American Energy” as one of the reasons for this new rule. I am in agreement that energy needs of the United States are important, but also know that mined and drilled resources are a limited commodity, come to market with environmental consequences, and their use and extraction is contributing to Climate Change.

One thing that is woefully, and perhaps criminally missing from this NEPA guidance is any mention of Climate Change, which should be as a mandatory element to balance the push for development under EO 14154.

There are so many sources I could cite here on why addressing Climate Change is critical, but for brevity I will only use one. According the United Nations guidance on Climate Change, “Humans are responsible for Global Warming.”

The United Nations further goes on to say “Climate scientists have showed that humans are responsible for virtually all global heating over the last 200 years. Human activities like the ones mentioned above are causing greenhouse gases that are warming the world faster than at any time in at least the last two thousand years.

The average temperature of the Earth’s surface is now about 1.2°C warmer than it was in the late 1800s (before the industrial revolution) and warmer than at any time in the last 100,000 years. The last decade (2011-2020) was the warmest on record, and each of the last four decades has been warmer than any previous decade since 1850.

Many people think climate change mainly means warmer temperatures. But temperature rise is only the beginning of the story. Because the Earth is a system, where everything is connected, changes in one area can influence changes in all others.

The consequences of climate change now include, among others, intense droughts, water scarcity, severe fires, rising sea levels, flooding, melting polar ice, catastrophic storms and declining biodiversity.”

Why is Climate change not one of the reasons the NEPA regulations are being updated in this Interim Rule? Future life on earth depends upon our choices and environmental decisions, and there is an urgent and time sensitive nature to addressing this crisis. I hope you are able to provide a robust discussion on this in the revision.

In addition, the Executive Order 14154 speaks directly to oil and mineral extraction. I realize those energy sources are located throughout the United States, but being an Alaskan, I know that the big untapped reserves in the in Arctic are at the heart of this Executive Order. I have lived and worked in the Arctic and have reviewed and provided comments on the Willow Project, proposed drilling on the Arctic National Wildlife Refuge, and the Ambler Road Project. Over and over again, the EIS documents have skirted and marginalized the environmental consequences to wildlife and their habitat. They have downplayed or not even discussed; the increased release of methane and CO2 gas, accelerating the melting of permafrost which further accelerates the release of methane gas and is now accelerating the leaching of minerals previously embedded in the permafrost. The process of “Rust Rivers” where these minerals leach into freshwater rivers and streams changes their ph and chemistry, which dramatically affect all life in those streams, and all species dependent upon healthy invertebrates and fisheries in those streams. What I am describing is called a cascade effect, whereby altering one element you may affect many more. This basic scientific principle of ecosystem dynamics needs to be strengthened in future NEPA analysis, not weakened. It is another component you can address in the revisions.

The continued emphasis on burning fossil fuels, which even a grade school student understands, is accelerating Climate Change and global warming. These are not “Acts of God,” “Natural Disasters” or normal evolution, these are caused by decisions such as the one you are proposing, to gut NEPA. These effects are triggering the melting of our earth’s ice caps and glaciers, raising sea levels, increasing the temperature of the seas and altering

climate patterns. Previous EIS's have also marginalized the potential health effects to those in villages near these drilling sites. A natural gas blow out at the Alpine well site in 2022, prompted ConocoPhillips to evacuate 300 employees from the site, but not the residents in the adjacent village of Nuiqsut, resulted in adverse health effects to residents. Documentation on this incident can be found in Alaska newspapers, Alaska Public Health Agencies and it was covered by the media. You would be wise in incorporate language in this NEPA revision to address how the analysis of proposed projects will affect humans.

(B) I think the Supreme Court (SCOTUS) basically threw the baby out with the bathwater in its decision in *Seven County Infrastructure Coalition v. Eagle County, Colorado*. The Court states "...but also must keep in mind that review of an agency's EIS is not the same thing as review of the agency's final decision concerning the project....The ultimate question is not whether an EIS in and of itself is inadequate, but whether the agency's final decision was reasonable and reasonably explained." SCOTUS took on an egregious case which arguably could have been over analyzed, thus delaying the project and applied those extremes to all future actions falling under NEPA.

I have reviewed and prepared NEPA analysis. I see this new guidance as a method for the Agencies to circumvent a thorough environmental review process, and put the needs of the developer and corporate interests above those of the intentions of NEPA to "create and maintain conditions under which man and nature can exist in productive harmony." I know that a broad range of expertise and perspectives are involved in preparing a thorough review before the decision process. The Public Comment review, public meetings and adequate comment periods are an important way for all concerned parties who may be affected by the proposed action, to ensure critical elements are adequately addressed so as to minimize adverse environmental impacts and reduce the potential for significant environmental impacts.

(C). "In 2008, DOI promulgated regulations codifying DOI's NEPA procedures..." This document states "DOI has decided that the flexibility to respond to new developments in this fast-evolving area of law, afforded by using non-codified procedures, outweighs the appeal of maintaining its

NEPA procedures as regulations going forward.” This change will allow modifications of the NEPA procedures without changes being published in the Federal Register for public review and comment. A Handbook will allow political and corporate forces to have a greater bearing on circumventing the intent of the law and making changes without any public involvement. I think this is a horrible idea, as it will most likely result in additional litigation and further slow the process of reviewing and issuing permits. These regulations should be kept as regulations, changes conducted through the Federal Register in order to allow a transparent and full review through the Federal Register process with includes, not excludes public comment.

III. Basis for Issuing and Interim Final Rule

C. DOI Solicits Comments. “As explained above, comment is not required because DOI’s NEPA procedures were and are procedural and because even if comment were otherwise required under the APA, good cause exists to forgo it. Nevertheless, DOI has elected voluntarily to solicit comment.” Wow, this language is rather an affront to the concept of soliciting public comment. It comes across as basically telling us not to waste our time, as you didn’t want or need our comments to gut the existing NEPA guidance? Did you also add this statement to prevent further legal challenges? Because by mentioning it here, you have put us on notice you will no longer solicit and incorporate public comments?

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Comment Periods. What this Final Rule proposes to do is go from one end of the spectrum to the other. It basically guts the public comment period. I think these rules should be rewritten to include a mandatory public comment period of at least 30-60 days after both the draft and final EIS is completed, allowing the public, scientists and subject matter experts, other agencies, and other businesses the opportunity to review, submit comments and provide guidance on where data and analysis may fall short of having the facts necessary to make an informed and educated decision. It should also require public meetings to present the project and have the opportunity for people to gather together as they have in the past and ask questions and provide comments on the draft. I have reviewed and provided comments on numerous EA’s and EIS’s and have often found that

key elements, necessary to consider the proposal were omitted from the drafts, as the project details only became known once the draft was completed. How can the public know whether or not the EIS will thoroughly cover the facts and analysis, during the public notice period, when only a brief description of the proposed project is provided? It makes absolutely no sense, unless of course the intent of this process is to exclude everyone except the applicant and the preparer (which could also be the applicant) from meaningful participation.

It appears the only time the agency is required to seek public involvement is during the Notice of Intent, in an EIS process. If I am reading this correctly, the public may or may not be notified once the EIS is prepared, nor prior to the decision process, which is the time period when we normally provide review and comments. And the length of any type of public comment period is limited to 30 days, "if that is practicable." Which means it may be less time. It further goes on to emphasize the word "may" instead of "shall."

"Public involvement **may occur at any point in the NEPA process or at multiple points during the NEPA process, and **may** include any or all of the following:**

Furthermore, even the wording regarding issuing a notice, provides two options not to. Notices should be mandatory in the revision.

"Issue a notice of the availability of an environmental document for public review or comment, **when appropriate, on a public website and through notice to participating agencies and interested parties, **as applicable**."**

Page limits are also addressed in the Handbook, EA's (75 pages) and EIS's (150 pages, or 300 for extraordinary complex EIS). The page limits may serve to limit a thorough analysis of the project, environment and potential impacts. The revision should include more discretion for increasing page limits for more complex documents.

In summary, there are other areas that need revisions in this document. Providing carte blanche to developers that wish to extract resources from our public lands without meaningful review, should be criminal. The new proposed categorical exclusions, written so you can drive a mining truck through them without blinking an eye, should be tightened up so that projects are not rubber stamped and approved without meaningful analysis. I am hopeful you will consider the revising this rule so it once again provides protections as the NEPA legislation intended.

Thank you for the opportunity to provide comments. I hope we don't lose the opportunity to provide input and comments in future NEPA review of projects on our public lands.