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EXPECTATIONS OF GROWTH STABILIZE AS THE TRANSITION EFFECT WANES

Uncertainties still affect environmental companies and their clients as agency rhetoric and response are inconsistent

The history of the environmental industry has seen many political transitions and changing administrations, but perhaps none as dramatic as 2025. That may be understandable given the increasing polarization of the American population and the divide between the two major political parties, but periods of market uncertainty are certainly not unfamiliar to the environmental industry when the political winds change in Washington DC.

The 1970s and 1980s saw a pretty consistent roll out of environmental regulations and compliance enforcement in air, water, waste, natural resource protection, hazardous waste and remediation, but the 1990s brought the first most impactful debates on environment vs. economics that still exist today. The 'value of the environment' discussions and early cost/benefit analysis of regulations coincided with the 1991 recession, leading to an impactful wave of uncertainty to environmental markets. The adjustment period served as what we at EBJ called a 'wake up call' for the industry that steady sailing and a consistent stream of new market drivers, new clients and new projects were unlikely to continue.

The transition from the Bush I administration to the Clinton administration represented less of an ideological divide than we've perhaps grown accustomed to today, and resulted in only a transitional wave of market uncertainty that didn't much benefit the environmental industry. Similarly subsequent transitions to Bush Jr. and to Obama led to a reset but little overall impact to the environmental industry.

Trump I should serve as more of an example to what we may experience in the rest of 2025 and 2026, but circumstances are significantly different today than they were eight years ago. Not only were political forces more aligned in expectation of this transition, but have targeted undoing most of what the Biden administration set out to do. Most impactful to the environmental industry have been infrastructure funding and tax credits for renewable energy, and although the former seems relatively safe, the latter is clearly in jeopardy beyond even the cuts passed in the July 2025 budget bill.

PROACTIVE VERSUS REACTIVE

Few would argue against the protection of air, water and the environment, and indeed the current administration's Environmental Protection Agency has made clear its mission is to focus on the basics, but the ideological differences regarding climate change and our energy future have become increasingly apparent, and are likely to have an increasing impact on business planning for the rest of the decade.

The process of business planning, however, can be broken into the tactical

Inside EBJ: First 150 Days of Trump II

EBJ's review of the first 150 days of the Trump Administration reveals a wide spread of impacts concerning environmental executives, but many have adjusted or are still preparing for a new normal; EBJ survey on the impact of first 150 days on 2025-2026 revenues shows the shock of Q1 and adjustment in Q2 but a wary outlook.

or short-term resource allocation and the more strategic long-term strategic planning. And here we can acknowledge that it is understandable that more environmental industry participants are engaging in short-term response in reaction to month-by-month circumstances, more than the long-term structural issues they have been weighing over the last few years.

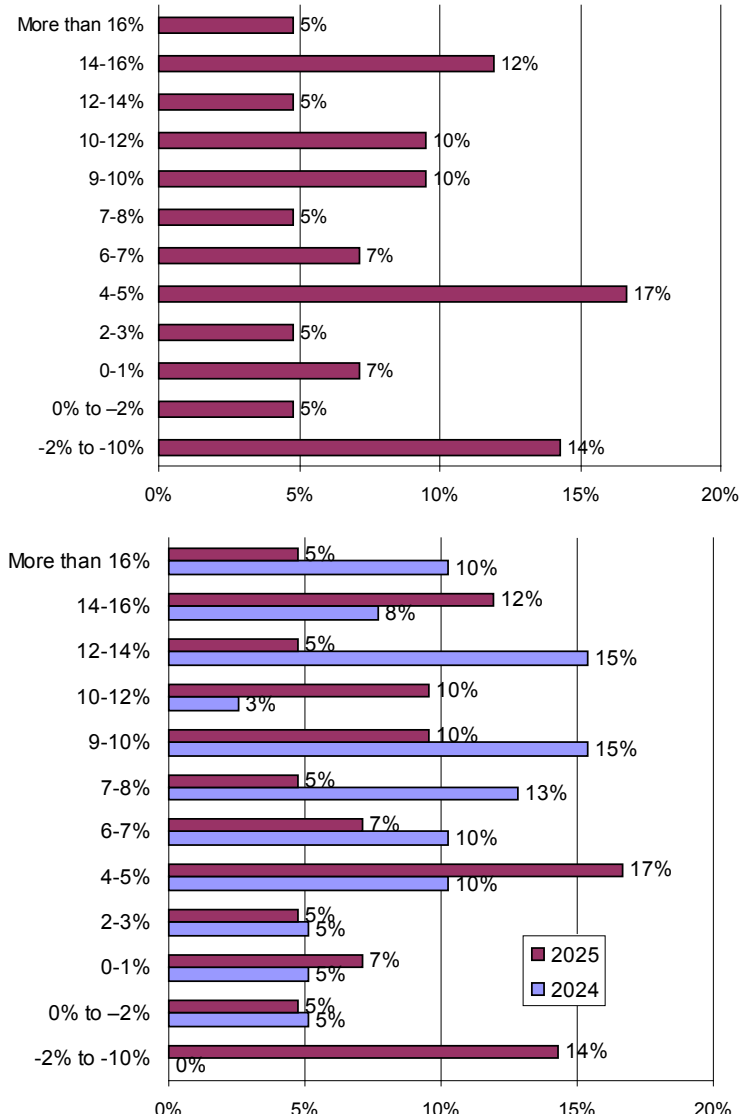
At EBJ we have long advocated more emphasis on longer term strategic planning and a proactive approach to the positioning of technical services in a more strategic business context, but like many in the client community today, these strategic approaches to environmental compliance and performance, and dare we say sustainability, have been paused until the dust settles a bit more on the new administration. But 150 days is already a bit longer than the usual transition's period of market uncertainty and corresponding adjustment. So we can't blame most of the environmental industry community from being in a reactive mode in the middle of 2025, and waiting for more clear signals from the administration, its agencies and the major client categories.

QUARTERLY EBJ SURVEYS SHOW ADJUSTING VIEWS

EBJ performed three surveys near the end of the last three quarters to gauge the perceived impact of the Trump transition on the revenue expectations of environmental companies. Each of the surveys had a question asking what annual growth each company had in recent years, as well as a short term forecast. The unweighted average is reported on the chart on page 3, showing an increase, and then subsiding amongst growing concerns about growth prospects. There were some common respondents to all three surveys, but each survey set was its own unique group, and each represented between 60 and 120 respondents.

The bar charts above illustrate the spread of annual growth reported in 2024 and 2025, highlighting a more consistent grouping in 2024, and an overall drop-off in 2025. Comparing the last 3 recent surveys shows average reported revenue growth for 2023 was about 10% and only

EBJ Survey: 2025 Company Growth Forecasts & Comparison to 2024



Source: EBJ Mid-Year 2025 Snapshot Forecast

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THE 'WIDENING VACUUM' OF NEPA LAW

A unanimous Supreme Court gutted decades of NEPA law, creating space the Trump Administration will gleefully fill

The Breakthrough Institute is a global research center that identifies and promotes technological solutions to environmental and human development challenges. The Breakthrough Institute is a 501(c)(3) nonprofit that explicitly states it accepts only charitable contributions from donors without financial interests in its work Its primary supporters include: Bellwether Foundation; Bernard and Anne Spitzer Charitable Trust; Breakthrough Energy (Bill Gates-backed); William and Flora Hewlett Foundation; Pritzker Innovation Fund; and The Rodel Foundation.

Marc Levitt joined the Breakthrough Institute to lead its work to reform environmental review and permitting. As Director of Environmental Regulatory Reform, Marc will guide our efforts to modernize the regulatory systems that govern environmental oversight, infrastructure permitting, forestry and land use, and clean energy development. Marc brings two decades of experience. Most recently, Marc served in senior roles in the U.S. Environmental Protection Agency, where he helped implement landmark provisions of the Inflation Reduction Act, including clean energy tax credits, the Methane Emissions Reduction Program, and the Climate Pollution Reduction Grants. Prior to his time at the EPA, Marc worked as an attorney, professor, and advisor to both the 2008 Barack Obama and 2016 Bernie Sanders presidential campaigns. In addition to Marc's varied experiences, he brings a deep expertise in statutory interpretation and environmental law that he can use to advance key debates in the environmental regulatory arena. At Breakthrough he will work to drive reform of the National Environmental Policy Act and other statutory authorities that can stand in the way of needed clean energy, transmission, and forestry projects. Marc holds a J.D. from Georgetown University and a B.A. from Brown University, and is a Fulbright scholar. Marc will be joining our office in Washington, D.C., where he currently resides.

In a seismic opinion in late May 2025, a unanimous U.S. Supreme Court significantly undermined decades of National Environmental Policy Act (NEPA) judicial doctrine. Paired with recent lower court decisions and the rescission of Council on Environmental Quality (CEQ) NEPA regulations, the Court's holding in Seven County Infrastructure Coalition v. Eagle County returns NEPA regulation and jurisprudence to a primordial state. Agencies now have little beyond the statute to inform their NEPA compliance. Indeed, the Court emphasized the need for judicial deference to agency choices, hoping this latitude makes for faster projects.

Whether these hopes become a reality remains to be seen. Federal courts already tend towards deference to agencies in NEPA litigation. But this deference has not stopped the flood of lawsuits nor the delays and uncertainties they impose for major infrastructure projects. Meanwhile, it's clear that the Court and the White House, and a growing chorus of reformers, agree NEPA guidance and procedure need to facilitate faster reviews.

But only so many efficiencies can be achieved through executive decree or even through a strong mandate from the Court. Without the clarity of Congressional reform, NEPA procedure and infrastructure development could remain open to litigation and delay.

NEPA Regulations and the Courts

Historically, agencies followed extensive CEQ regulations to write Environmental Impact Statements (EISs). Agencies also developed their own NEPA implementing regulations modeled on those CEQ regulations. Fifty years of court cases provided still more requirements for NEPA compliance. In order to minimize time-consuming lawsuits, agencies had to write overlong EISs to comply with both CEQ regulations and court doctrine. In 2020, the first Trump Administration amended CEQ regulations to narrow environmental review. The Biden Administration, in turn, twice amended CEQ regulations to codify an expansion of environmental review requirements.

In recent months, two federal courts cast this arrangement into uncertainty by ruling that CEQ has no authority to issue binding regulations. The current Trump Administration responded by rescinding CEQ rules altogether. In letter guidance, CEQ also encouraged agencies to revise their NEPA implementing regulations in line with the 2020 revisions. Magnifying this turbulence, Seven County narrowed the scope of environmental reviews, relieving agencies of having to account for environmental impacts of projects outside the geographic and temporal scope of the project under analysis.

Reforming NEPA Will Require Pragmatic Legislation

The near term may be chaotic. Broad agency discretion could yield disparate standards for completing NEPA reviews. Some agencies may write short reviews hoping to pass judicial muster. Others may write long reviews out of risk aversion. Some may cover subjects deemed essential by prior jurisprudence. Others may eschew such analysis. Without clearer guidance from CEQ, it's the Wild West in the federal bureaucracy. The resulting cacophony may lend an arbitrary appearance to agencies' collective output.

Notwithstanding the possibility for chaos, the Trump Administration's amply demonstrated impatience for drawn-out NEPA procedures gives us reason to expect the Administration will aggressively try to speed reviews. It further seems likely that Administration envelope-pushing will land some NEPA analyses in court. This may give courts an opportunity to fill in the jurisprudential gaps left by Seven County.

But it may take years to understand how the Court's opinion and the regulatory vacuum will play out. Although the Court has reduced the scope of judicial review of EISs, some court oversight appears

to remain, especially for clear procedural violations or bad faith. Further, agencies may use prolonged notice-and-comment rulemakings to craft new implementing regulations. The next phase of NEPA litigation will likely test how much discretion lower courts are actually willing to grant under the new regime. In its zeal, the Trump Administration may overreach, which could backfire and prolong project timelines. That dynamic could also delay efforts to provide agencies with legal certainty. Alternatively, a future Administration could choose to expand the scope of its NEPA reviews. That approach would be wholly consistent with Seven County and its emphasis on agency discretion.

But the challenges of deploying energy technologies, building transmission, managing the nation's forests, and pursuing other critical infrastructure projects remain present and urgent. The signals sent from the White House and the Court will likely be heard by judges, agencies, project developers, and other stakeholders, hopefully reinforcing the imperative to speed NEPA reviews. But meaningful reform will require that lawmakers pick up these signals as well.

Pragmatic legislation can provide both clarity and, more to the point, the added force of statute. Done right, such legislation should reduce NEPA's burden and provide certainty to project developers and financiers. Meaningful reforms would expedite agency review, narrow paths to litigation, and accelerate judicial proceedings. But without clear guidance from Congress, legal uncertainty and ongoing changes to NEPA implementing regulations could stymie a core goal of NEPA reforms—providing the stable, predictable regulatory environment we need to build big things. ◻

Marc is the newest member of the Breakthrough Institute. At BTI he leads their work to reform environmental regulations and permitting.

SUPREME COURT STEERS TOWARD GREATER PREDICTABILITY IN NEPA REVIEWS

By: K&L Gates LLP. partners Varu Chilakamarri, Ankur K. Tohan, David L. Wochner, Christine A. Jochim, David Wang, Falco A. Muscante II

K&L Gates is an integrated global law firm with lawyers in five continents. The firm represents leading multinational corporations, growth and middle-market companies, capital markets participants and entrepreneurs in every major industry group as well as public sector entities, educational institutions, philanthropic organizations and individuals. K&L Gates has 1,800 lawyers and policy professionals across nine core practice areas.

On 29 May 2025, the Supreme Court unanimously declared that a "course correction" was needed for cases under the National Environmental Policy Act (NEPA), holding that a law originally meant to be a procedural check to inform agency decision making has instead grown to paralyze it. Seven County Infrastructure Coalition v. Eagle County reversed a D.C. Circuit ruling that an agency had not done enough in its environmental impact statement (EIS) to review the potential upstream and downstream effects of a proposed railroad line. The Court roundly rejected judicial nitpicking of agency environmental reviews. The Court concluded that agencies are the factual experts when making determinations about environmental impacts, and therefore, should be afforded substantial deference by reviewing courts. Seeking to further streamline the process, the Court signaled that future NEPA actions should be narrower in scope, more concise, and take less time. This change in course will likely result in greater predictability for agencies and developers about the adequacy of NEPA reviews.

NEPA Is Not Meant to Be a "Substantive Roadblock"

When the federal government approves the development of an infrastructure project, NEPA obligates the relevant agency to complete an environmental review, such as an EIS, to identify significant environmental effects of the project and feasible alternatives to mitigate those effects. The purpose of a NEPA review is to inform agencies and the public about possible environmental consequences of a federal decision. In Seven County, the Court reinforced the principle that NEPA is a procedural cross-check, not a substantive roadblock, intended to inform agency decision making, not to paralyze it.

In 2020, the Seven County Infrastructure Coalition applied to the US Surface Transportation Board (the Board) for approval of an 88-mile railroad line connecting an oil-rich area of Utah to the national freight rail network to allow transportation of crude oil to refineries along the Gulf Coast. As part of its NEPA review, the Board prepared a 3,600-page EIS that noted—but did not fully analyze—the environmental effects of foreseeable increases in upstream oil drilling in Utah and downstream refining of crude oil in the Gulf. The Board approved the railroad line, but the adequacy of its NEPA review was challenged by a county and several environmental groups. The D.C. Circuit agreed with those challengers, finding that the Board should have more extensively considered the indirect upstream and downstream effects in its EIS and vacating the Board's approval of the railroad line.

In an 8-0 decision, the Court reversed. Justice Brett Kavanaugh, writing for five of the justices, seized the opportunity to recalibrate expectations around NEPA review, explaining that NEPA requires a process for an agency's environmental review, but it does not dictate the ultimate outcome. There are other "substantive" statutes (such as the Clean Air Act and Clean Water Act) that set emissions and effluent limitations and the like, but NEPA is not one of those statutes. Accordingly, the Court reemphasized that "review of an agency's EIS is not the same thing as review of the agency's final decision concerning the project."

And it stressed the need for deference to agency determinations at every level of the process—from assessing the significance of environmental effects, to considering feasible alternatives, to deciding what impacts to review.

As part of its level-setting endeavor, the Court pointed to the 2023 NEPA amendments that were part of the Building US Infrastructure through Limited Delays & Efficient Reviews Act (BUILDER Act), where Congress prohibited agencies' EISs from "going on endlessly" and imposed 150-page limits and two-year deadlines for EISs.

An Agency's NEPA Review Should Be Limited to the Project at Hand

As to the narrow question before it, the Court concluded that the Board did not have to consider upstream and downstream environmental effects that were "separate in time or place" from the railway project.

The Court noted that while indirect environmental effects of the project itself may fall within NEPA's scope (even if they might extend outside the geographical territory of the project or materialize later in time), the fact that the project might foreseeably lead to the construction or increased use of a separate project does not mean the agency must consider that separate project's environmental effects. In other words, "the separate project breaks the chain of proximate causation between the project at hand and the environmental effects of the separate project." This is particularly true where those separate projects fall outside of the agency's authority, as was the case for the Board, which did not have jurisdiction over upstream oil drilling or downstream oil refineries.

Justice Sonia Sotomayor, along with Justices Elena Kagan and Ketanji Brown Jackson, concurred in the judgment, noting that the majority opinion could have reached the same result without "unnecessarily grounding its analysis largely in matters of policy." But they too agreed that the D.C. Circuit had gone too far in imposing NEPA duties on agencies.

Courts Must Afford Agencies "Substantial Deference" in NEPA Review

Emphasizing the limited role of judicial review in NEPA cases, the Court explained that judges should afford "substantial judicial deference" to agencies in NEPA cases. The Court contrasted its decision in Loper Bright Enterprises v. Raimondo, where no deference is owed to agencies' legal determinations, with the highly factual issues that are at play in an EIS. These include whether a particular explanation in an EIS is detailed enough, the likely impacts of a project, whether those impacts are "significant," and what alternatives are really feasible. Such choices should not be micromanaged by the courts, so long as they fall within the zone of reasonableness.

Key Takeaways

Going forward, project developers may expect to see:

Shorter and More Concise NEPA Reviews: Agencies, particularly prompted by various Administration priorities, may begin to conduct shorter NEPA reviews, consistent with Congress' 2023 NEPA amendments.

Narrower Focus for EISs: Given the Court's clear direction that judges should defer to the agencies' decisions about where to draw the line when considering indirect environmental effects, some agencies may streamline the focus of their EISs.

Increased Deference by Courts to Agency NEPA Reviews: The "only role" for a court in an action regarding a deficient EIS is to confirm that the agency has addressed environmental consequences and feasible alternatives to the relevant project.

Fewer Agency Authorizations Being Vacated on the Basis of an Inadequate EIS: The Court stressed that the "ultimate question" under NEPA is not whether an EIS is inadequate in and of itself, but whether the agency's final decision is "reasonable and reasonably explained." Because an EIS is only one component of that analysis, a deficient EIS will not automatically require vacatur of the project's approval.

Looking Ahead

The Court has now joined the chorus of criticisms directed at interminable NEPA reviews, with all three branches of government in alignment that the old mode of NEPA must go. Although Congress already sought to streamline the EIS process through the BUILDER Act, given the lag between agency processes and judicial review, the lower courts have yet to internalize what it may mean to review a 150-page EIS conducted in less than two years. This decision also comes at a time when the Administration is seeking to accelerate permitting procedures for domestic energy projects and retooling its NEPA regulations. Given these shifts, the rigor of judicial scrutiny of such EISs may need to be adjusted. Seven County gives lower courts the leeway they need to make that shift—indeed, it seems to demand it. □

Varu Chilakamarri is a partner in K&L Gates' Environment, Land, and Natural Resources practice group, focusing on litigation services, particularly in appellate matters and in administrative, environmental, and energy law. Varu also counsels clients on government-facing matters, which often involve strategic analysis of legal risks and opportunities presented by statutory and regulatory frameworks.

Varu joined K&L Gates after a 17-year career at the US Department of Justice, where she was a federal district and appellate court litigator and served as Deputy Assistant Attorney General in the DOJ's Civil Division heading the Torts Branch, an office of over 230 litigators and staff who defend the United States in a range of suits for monetary damages—including toxic tort cases arising out of environmental regulatory actions, constitutional tort cases, and cases brought under unique statutory compensation programs. Before that, Varu was an appellate attorney in the Environment and Natural Resources Division, serving as lead counsel in civil and criminal appeals. These included facial challenges to the constitutionality of federal laws and regulations, and challenges to the validity of federal permitting and land use decisions (e.g., cases involving the NEPA, ESA and the Clean Water Act.

EBJ WEBCAST ON NEPA REFORM: RECENT DECISIONS AND MARKET IMPLICATIONS

2025's 'unleashing of energy' executive orders, the rescission of CEQ regulations, and a late May 2025 Supreme Court ruling on NEPA scope deferring NEPA implementation to agencies aims to accelerate federal permitting and project approvals, particularly for energy and infrastructure projects. Which markets will be most impacted, and what framework will govern the short-term future of NEPA and other environmental reviews was the subject of EBJ's monthly webcast in June 2025.

Webcast participants were EBJ Moderators: Grant Ferrier & Andy Paterson. Panelists: Varu Chilakamarri – Partner, Environment, Land, and Natural Resources – **K&L Gates LLP**; Marc Levitt – Director, Environmental Regulatory Reform – **Breakthrough Institute**; Peter Masson – Director, Planning, Permitting and Licensing – **TRC**; and Ross Pilotte – Strategic Growth Director – Client Services – **SWCA**

VARU CHILAKAMARRI OPENING REMARKS

Q: Grant Ferrier: You were at DOJ for 17 years—was most of the work prosecutorial or defense? Who were the typical targets of DOJ actions during your time? Was it mostly private sector or interagency?

A: Varu Chilakamarri: I spent those 17 years in the Environment and Natural Resources Division, and while we did have some criminal prosecutors who handled things like wildlife trafficking, most of my work was on the civil side.

My primary role was defending federal agencies when their decisions were challenged—typically under environmental statutes. For instance, if an agency issued a Section 404 permit under the Clean Water Act to a company, and an environmental group challenged that permit, I would defend the agency's action. In many of those cases, the company would intervene on our side to help defend the permit.

I also defended actions like biological opinions issued by the Fish and Wildlife Service when they were challenged in court. So overall, while we weren't usually the ones bringing cases, I was very involved in defending agency decision-making, often with private sector actors aligned with us in the litigation.

Q: Grant Ferrier: Can you put NEPA in context—based on your experience, are we at a monumental turning point now, or is this just another phase in how different administrations interpret environmental law?

A: Varu Chilakamarri: I really do think we're at a pivotal moment for NEPA. It's not just a shift from one administration—it's broader than that. Over the last few years, all three branches of government have signaled that NEPA has gotten out of hand.

It started with the 2023 amendments, when Congress explicitly said they wanted to limit the length and duration of environmental impact statements (EISs). Then, the Trump administration came in and vacated the Council on Environmental Quality's NEPA regulations, which are key to how EISs are carried out.

And most recently, we had the Seven County case from the Supreme Court, which made clear that NEPA reviews have become too long and overly detailed. The Court, especially the D.C. Circuit before this, was scrutinizing agency decisions to the point where just one flaw in a multi-thousand-page EIS could cause the whole thing to be reversed or vacated.

In that case, Justice Kavanaugh's opinion even walked through the history of NEPA and emphasized that it's meant to be a procedural check, not a substantive hurdle. He suggested it's now functioning more like a roadblock to federal action, which it wasn't intended to be.

More specifically, the Court clarified that when agencies conduct NEPA reviews, they should focus only on the direct effects of the action within their jurisdiction, not on all external or downstream impacts. So yes—I really do believe this is a major inflection point in how NEPA is applied and interpreted.

MARC LEVITT OPENING REMARKS

Q: Grant Ferrier: Tell us about the Breakthrough Institute—your mission, your role—and how you view the current moment in NEPA's history. Are we in a transformational phase?

A: Marc Levitt: The Breakthrough Institute is an independent research think tank that also engages in advocacy. We're philanthropically funded, which gives us the advantage of being nonpartisan. That independence opens up some unique opportunities for how we approach policy issues like NEPA.

Right now, I do think we're at a critical inflection point. As Varu pointed out earlier, all three branches of government have recently aligned in recognizing that NEPA needs reform. I believe the need for clear legislative action is more urgent than ever.

One of the major issues is the legal uncertainty that has emerged after the Seven County case. Historically, the Council on Environmental Quality (CEQ) played a central role in guiding agencies on how to implement NEPA. But now that the CEQ regulations have been rescinded, we've lost that unifying framework.

What we're seeing now is the administration trying to fill that vacuum by encouraging each agency to develop its own NEPA regulations. That's a big shift from the centralized model we used to have. And as a result, there's just a huge amount of confusion. If I were a federal agency today, I honestly wouldn't know exactly what's required to comply with NEPA.

The interaction between CEQ regulations and court doctrine has been complicated. Courts have historically leaned on CEQ guidance, but now, without that backbone and with the new Supreme

Court precedent, there's no clear direction. We're left trying to anticipate how courts will treat NEPA compliance moving forward. A few agencies are trying to issue interim final rules under the Administrative Procedure Act, but those depend on demonstrating "good cause," which is legally risky. Whether those rules survive court scrutiny remains to be seen.

Also, some of the Trump-era directives—like using emergency powers to speed up NEPA reviews—are still unresolved from a legal standpoint. And the page and time limits Congress added in the 2023 amendments haven't been clearly enforced yet, so it's unclear how binding they really are.

To make things more complicated, there's been a steady decline in agency staffing, meaning fewer people are available to process environmental reviews—just as the legal framework governing them has become more ambiguous and chaotic.

So from where I sit, without new, simple, clarifying legislation from Congress, it could take years before we really understand what NEPA compliance even looks like under this evolving body of law…. it feels like a moment of deep uncertainty.

Q: Grant Ferrier: It seems like the Administration is now letting individual agencies draft their own NEPA rules. Is that what's really happening? And are these agencies doing so in coordination with industry? Given the focus on LNG terminals, electricity transmission, nuclear, and FERC-related infrastructure—are these agency-level actions going to trigger court challenges from NGOs?

A: Marc Levitt: You're right to sense that there's a lot of legal uncertainty around this. One of the core questions that's emerged is whether agencies even have the authority to issue binding NEPA rules. There was a recent court decision in South Dakota that found CEQ doesn't have authority under NEPA to issue binding rules on other agencies. But NEPA also doesn't explicitly give that authority to the agencies themselves, so we're operating in a gray area.

There is some court doctrine about what to do in these odd situations, but right now I don't think anyone has a clear answer. And yes, anything these agencies do—especially if it accelerates project approvals—will likely be challenged in court by environmental groups.

When you mentioned the Administration's priorities—LNG terminals, transmission lines, nuclear—I immediately thought of the Department of the Interior. They've been among the most aggressive in pushing out expedited reviews.

A striking recent example is a case where the Secretary of the Interior issued an environmental assessment with a Finding of No Significant Impact (FONSI) for a uranium and vanadium mine. The EA was 80 pages long and reportedly developed in just two weeks. They claim it was thorough, but let's be honest—it's highly unusual for a mine to qualify as having no significant impact, and even more unusual for a mine approval to qualify as an emergency.

That sort of action is exactly where I see friction ahead. People are likely to sue, and I think those lawsuits will argue there were grave procedural errors, especially given how fast the review was completed. The Supreme Court's recent ruling leaves enough room for those kinds of claims to proceed. So, yes—agencies moving quickly to align with administration goals are stepping into significant legal risk, and we should expect pushback.

LEGAL CHALLENGES AHEAD

Q: Grant Ferrier: With all these NEPA streamlining efforts and court decisions, what does the litigation landscape now look like? Can environmental organizations still challenge NEPA reviews and permits effectively?

A: Varu Chilakamarri: Yes, absolutely. I think the basic process for challenging a NEPA review or a permit hasn't changed. Environmental organizations and other stakeholders can still bring suits. But what's different now—especially after the recent Supreme Court decision—is that the courts are being directed to show more deference to agencies.

The Court basically said to the D.C. Circuit, "you can't scrutinize these reviews so deeply"—especially when we're talking about 80-page Environmental Assessments versus massive, thousands-of-pages-long EISs, which the Court noted aren't supposed to be that long anyway.

So I think lawsuits will continue, but the chances of those challenges succeeding have likely gone down. The courts are more likely to uphold agency actions under this new guidance.

But there's another layer here—the growing use of emergency authorizations. Agencies and the White House may argue that because we're in an "emergency" (for energy, for example), they can skip or abbreviate NEPA procedures.

That's going to raise a different legal question entirely: can they lawfully bypass timelines and other procedural steps that are in CEQ's former rules or their own agency rules? That issue is going to be contested hard.

Marc Levitt: Agreed. When I talk about legal vulnerability, I'm really focused on the use of emergency powers, not on things like page limits or the level of environmental detail in a review.

We've seen other uses of emergency authority by this Administration get struck down in different legal contexts, and I think this is very similar. Invoking an emergency to fast-track something like a uranium mine is legally risky, because it's hard to justify that as an "emergency" in the traditional sense.

So in my view, the core legal risk isn't about the scope of NEPA analysis—it's about whether the use of emergency authority holds up in court. Based on what I've reviewed, it's an open and fragile question.

IMPLICATIONS OF CHEVRON

Q: Grant Ferrier: How does the Supreme Court's ruling on Chevron deference relate to what we're seeing with NEPA today? Is there a contradiction in how agency authority is being treated? And how do you connect the pieces?

A: Varu Chilakamarri: That's a really good question. On the surface, this recent Supreme Court decision on NEPA doesn't directly invoke or overturn Chevron, but it does bring up the idea of "deference" to agencies quite a bit. The Court repeatedly says that agencies should be given deference in how they frame their Environmental Impact Statements (EISs) or Environmental Assessments (EAs)—things like what alternatives to consider, and how far to extend the analysis of environmental impacts.

But here's the irony: just last year, the Court essentially said "no deference" to agencies in a major Chevron-related decision, asserting that agencies can't make law. Now, in this NEPA case, the Court is saying that if something is ambiguous—like the meaning of "reasonable alternatives"—then that interpretation is up to the agency. So yes, I do think there's some tension between these rulings.

Now, the Court would likely argue there's no contradiction—they'd say this is just about applying NEPA case by case. But to me, the shift in tone is significant: a lot of deference is being given here.

On top of that, we have the issue of regulations. NEPA operates under a layered system: the CEQ regulations sit at the top, but each federal agency also has its own NEPA procedures. Historically, many of those agency regulations just adopted the CEQ rules wholesale.

Now, with the CEQ regulations in legal limbo, agencies are left to figure things out on their own. That includes basic but critical details like: How long to give the public to comment? What counts as a "reasonable alternative"? Whether and how to incorporate environmental justice considerations.

Previously, CEQ offered uniform answers to these questions. Without that, agencies are relying on either their own rules (which are now outdated or ambiguous), or CEQ guidance, which isn't binding. And I'm not confident Congress will step in to fix this. The statute, as written, is fairly broad, and I think we may end up in a situation where each agency has its own playbook, with CEQ offering general guidance rather than prescriptive regulations. It's a legally and procedurally murky moment.

POSSIBLE NEW LEGISLATION?

Q: Grant Ferrier: What's the likelihood of seeing a pragmatic piece of NEPA reform legislation—something that simplifies definitions, passes both Houses, gets signed by the President, and actually helps accelerate energy strategy? Is that realistic in the near future?

A: Marc Levitt: It's possible. I've heard that we might see something folded into the 2026 transportation reauthorization, which would be a logical vehicle. There's definitely active discussion on the Hill about NEPA reform right now.

Earlier today, a NEPA-related provision in the Reconciliation Bill—which would have allowed project sponsors to essentially "pay for play" by buying their way out of judicial review—failed the Byrd Rule and was removed. For those hoping to streamline NEPA, that's disappointing. But in some ways, it's a silver lining.

Why? Because that version of reform was constrained by the rules of reconciliation, and likely wouldn't have achieved what true NEPA reformers were after. Also, had it passed through reconciliation, it would have closed the door to a bipartisan solution.

I'm regularly in touch with offices on both sides of the aisle, and I think—like Varu said—there's now broad recognition that the NEPA process has real problems that need to be fixed. So yes, I do think there's a real chance that bipartisan legislation could come together, possibly by late summer or fall. Something is definitely in the air.

FAST-41 EXAMPLE

Q: Grant Ferrier: Give us more context on the FAST-41 program, and how it shapes your perspective on permitting. Who started it, and what was its purpose? Who were the main players?

A: Ross Pilotte: FAST-41 was established under Title 41 of the Fixing America's Surface Transportation (FAST) Act, and at the time, it was housed within the General Services Administration. The goal was to create a centralized point of contact—what we called the Federal Permitting Improvement Steering Council—for developers of major infrastructure projects that met certain criteria: economic significance, a NEPA component, and a federal nexus, among others.

My role on the Permitting Council was to serve as that one-stop shop for developers—coordinating both with the private sector and federal agency partners. Over time, the Council proved effective. We were able to help agencies issue Records of Decision (RODs) roughly 18 months faster than similar projects outside the FAST-41 process.

I personally spent about five years helping implement FAST-41, literally from the ground up—bouncing between multiple federal buildings across D.C. The program received $350 million in funding through the Infrastructure Investment and Jobs Act (IIJA) and has made a meaningful impact. I oversaw around four dozen projects totaling nearly $1 trillion in economic value, and that's where most of my experience in generalist permitting comes from.

Q: Grant Ferrier: Is FAST-41 now seen as a model for the next phase of NEPA reform? Or is it more narrow in scope?

A: Ross Pilotte: At a basic level, yes—FAST-41 is forming the foundation for a lot of the NEPA-related discussions happening on Capitol Hill. While the program isn't perfect (and I was open about its flaws even while I was still there), it's become a model framework. In fact, four states have now replicated it by establishing their own state-level permitting councils.

So while it still needs refinements, FAST-41 has shown it can work effectively, both federally and at the state level.

DAY-TO-DAY NEPA PRACTICE

Q: Grant Ferrier: Given uncertainty about NEPA and any new statute coming, in the meantime, what does your day-to-day practice actually look like? Are you still getting calls to initiate pre-permitting reviews?

A: Peter Masson: Yes, definitely. We're still getting those calls every day. The reality is that agencies are handling things a bit differently, depending on their internal capacity and interpretation of what's going on. For instance, with DOE, we're getting some guidance, but a lot of what we're doing is still driven by our own professional experience with NEPA. We're pushing forward to keep projects moving.

I also work quite a bit with the Federal Railroad Administration (FRA), and even within that single agency, there's inconsistency. Some departments are sticking to their usual NEPA processes until they're told otherwise, while others are starting to update their approach and try new procedures. So it's a mixed bag. We're staying flexible—bringing both our expertise and working with agency staff, especially since many agencies have lost experienced personnel. Capacity is a challenge, but projects are still progressing.

NEPA & CEQA

Q: Grant Ferrier: You're based in California—how has CEQA, the state equivalent of NEPA, evolved over the past 15 years? Has the process changed in terms of length, complexity, or documentation?

A: Peter Masson: The core metrics—like page count and process length—haven't changed much, but we've had to bracket some of the more ambiguous areas, especially around greenhouse gas (GHG) emissions and climate impacts.

For example, we went through lengthy debates on how far offshore to start counting GHG emissions for ships entering Bay Area ports. Or with the Ballona Wetlands decision, we had to clarify whether we assess the project's impact on climate, or climate's impact on the project.

CEQA faced many of the same ambiguities NEPA is going through now, and it was really the California courts that eventually stepped in to provide legal boundaries and clarity. That's what I think will probably happen with NEPA too—some of the legal confusion post-Seven County decision will get ironed out through case law, just like CEQA did here over the past decade.

AGENICES TO LEAD REFORM

Q: Grant Ferrier: Which federal agencies do you think are most likely to lead on NEPA reform—especially since the May Supreme Court decision? Who's most likely to generate the early "test cases" that shape how this new permitting framework will evolve?

A: Ross Pilotte: There are definitely agencies that I'd call early adopters—the ones that consistently look for ways to streamline or experiment with new permitting approaches.

At the top of that list is the Department of the Interior, which is already pushing forward aggressively—as we've seen with the uranium and vanadium mine example. The Department of Transportation is another one; they've been operating under MAP-21 for years now and are very familiar with performance-based and expedited reviews.

I'd also add the Department of Energy (DOE). They're likely to embrace this evolving NEPA landscape because of their central role in advancing infrastructure, transmission, and clean energy projects.

That said, each agency will vary significantly in how they implement these changes. The variance between Interior, Transportation, and Energy will be huge, driven largely by agency capacity, internal leadership, and how willing they are to reinterpret longstanding practices.

And here's one that may surprise people: I think we'll also see the Department of Defense, specifically the U.S. Army Corps of Engineers, step forward. Traditionally, the Corps has been very rigid and slow to change, but with their current leadership, I'm seeing signs of a more adaptive mindset. I wouldn't be surprised if they become a major player in how this next generation of NEPA compliance unfolds.

IMPACT ON 2025 PERMITTING

Q: Grant Ferrier: So what does all of this mean for your next permitting job? How does the evolving NEPA landscape affect how you approach a project today?

A: Ross Pilotte: It really depends. And to build on what Varu said earlier—there's a false sense of comfort in assuming that judicial deference alone will protect your project. If you don't have early stakeholder engagement and clear scoping, you run the risk of NEPA becoming more about impressions than facts.

So I've started recalibrating our entire NEPA strategy. Instead of trying to litigation-proof every document, we're now focusing on producing fit-for-purpose review documents. That means helping clients write shorter, more focused EAs or EISs that stay tightly within the bounds of: What's reasonable; and What's foreseeable; And most importantly, what the agency actually has jurisdiction over.

We're leaning into agency discretion, but doing it thoughtfully. That means supporting our agency partners with clear, well-justified, and well-documented decisions—giving them the confidence to use their authority appropriately.

We're also building in early-stage risk assessments that reflect the new judicial deference standard we're operating under. So even though the rules are shifting, we're adjusting proactively—putting the emphasis on precision, clarity, and defensibility, rather than just length or volume.

AGENCY STAFFING SHORTAGES

Q: Grant Ferrier: Given the ongoing staffing shortages at federal agencies, are firms like TRC and SWCA going to take on more NEPA work? Agencies still have to review environmental documents—will they skip or abbreviate reviews, or how do we realistically get all these projects through the process, even with simplified forms?

A: Peter Masson: agency staffing shortfalls have been a persistent issue. I've been doing this for over 30 years, and we've always cycled through phases of more or less agency capacity. That affects NEPA reviews, permit processing, and more. So supporting the agencies is just part of the role we've learned to play.

In my experience, our job as consultants isn't just to write the documents, it's

to help agencies stay focused, especially as things shift. Even with some new regulatory boundaries being discussed, I don't see this moment as a huge departure from how we've been operating. I remember a big bridge project in Seattle where we worked in a multi-agency, multi-consultant setting, and the best thing we did was take a reader-friendly writing class together. It really drilled in the importance of clear, focused writing, which is crucial for both the public and for streamlining agency internal reviews.

We're still applying those lessons today. For example, we're currently working on a programmatic environmental document for the Arch2 Hydrogen Hub project. Right now, that work is being done in the absence of clear guidance from the agency, because they're still restructuring internally.

So the big unknown is: when the review phase comes, will the agency conduct a deep dive, or will it be lighter? We don't yet know. There's even a chance that new staff could come in midstream, change direction, and ask for significant rewrites. We've discussed internally how we'd respond if that happens.

But the good news is that agencies, despite their challenges, are showing a strong commitment to keeping projects moving forward. And many of our clients see opportunity in the current environment—especially in energy sectors. They recognize that even if there's uncertainty, the underlying economics of their projects are solid, and in some cases the regulatory shifts might actually streamline the process.

So while there's a lot in flux, I'd say we're seeing continued momentum and optimism, even as we navigate this evolving NEPA landscape.

PROJECT TRIAGE

Q: Andy Paterson: Instead of weakening climate review under NEPA, couldn't we imagine a triage system? One where projects are tiered by their climate impact—hydrogen hubs and CCS at one end, mid-level infrastructure like rail in the middle, and clearly high-emission projects at the other?

A: Ross Pilotte: NEPA reform opens the door for innovation in how agencies scope and structure NEPA documents, especially around cumulative impacts and climate analysis. But it also puts increased pressure on the initial administrative record.

We'll need to clearly define what counts as "streamlined but sufficient", especially for topics like climate impacts and GHG emissions. Agencies will have to make decisions that can withstand litigation, which means early documentation and justification become critical.

Early scoping is essential. I've always believed that 40–50% of the project's success is determined during the scoping phase. When we set clear parameters up front—what the project does, what it doesn't do, who needs to be consulted—it prevents scope creep and surprises later.

I've had clients who are hesitant to do early scoping—they want to stay private until the project is more fully baked—but I always encourage them to engage early with agencies and stakeholders. As a former agency staffer, I can tell you that kind of early collaboration builds trust and avoids major delays.Bottom of Form

NEW APPROACH TO NEPA

Q: Grant Ferrier: Are you treating this NEPA decision as a game-changer? Has it altered how you lead your team or approach permitting day-to-day?

A: Peter Masson: Honestly, I've always taken a pragmatic, steady approach to NEPA, and that hasn't changed. Over my 30-year career, we've gone through waves of change—greenhouse gases, wetlands jurisdiction, regulatory reversals—and I've found it useful to stick to core principles. I still draw on the original CEQ guidance I learned when I was first trained—back when EAs were expected to be around 300 pages and EISs 1,000.

So, while I'm watching how this ruling plays out, I don't see it as a monumental shift—at least not yet. For me, it's more of a bump in the road than a new mountain. The real test will be how it impacts programmatic reviews like we're doing with DOE for the ARCH2 Hydrogen Hub.

Q: Grant Ferrier: How are Hydrogen Hub projects progressing more broadly? Are any being delayed or scaled back due to any federal funding uncertainty?

A: Peter Masson: I'm not directly involved in all of them, but I've spoken with several clients working on other hydrogen hubs. So far, none of them have been hobbled. Everyone's still talking, still pushing forward.

I will say the pace of progress seems to depend a lot on the PMO (Project Management Office) team. For example, the ARCH2 PMO has been pretty active from the start, which I think has helped us stay ahead of the curve compared to other hubs. DOE recently requested status updates from all the hydrogen hubs—so all the PMOs are pulling together updates on their project development plans (PDPs). That's a positive signal to me that DOE is engaged, and the projects are moving forward. At this point, I feel optimistic—we're in a good position, and I haven't seen any significant slowdowns.

OTHR AGENCIES IN THE MIX

Q: Grant Ferrier: Beyond the Big 3—DOT, DOI, and DOE—which federal agencies do you think will be at the frontier of streamlined permitting? And can you give an example of how a project might play out differently before and after the Supreme Court's recent NEPA decision?

A: Ross Pilotte: Let me go back to the Department of the Interior, especially the Bureau of Land Management (BLM). They're going to have their hands full. Historically, BLM has been very rigid in how they review projects—there wasn't much variation from one line office to another.

That started to change a bit with things like the Instruction Memoranda (IMs) coming out of Nevada and Idaho for renewable energy projects, and the development of the REFAR (Renewable Energy Facilitation and Review) process. Now, after this court decision, BLM is becoming much more risk-aware. They're beginning to process projects with a clearer eye toward pre-litigation risk.

We're moving from a known world into an unknown one. Agencies are still catching up. And even though there's now more legal breathing room—a broader "zone of reasonableness"—there's still a risk that procedurally sloppy or bad-faith reviews will be challenged, especially on long, linear infrastructure projects like transmission lines and pipelines.

That said, I do think this moment opens a path for innovation. CEQ is pushing a Permitting Innovation Initiative, and agencies are starting to explore tools like AI-assisted document drafting and more flexible workflows. I expect we'll see variation in how quickly different agencies adapt, especially across BLM line offices in the West.

Right now, many of the BLM teams I work with haven't expressed deep concern—they seem to believe they'll be able to catch up and adapt to whatever the new guidance turns out to be. But we're definitely in a transitional period, and it's going to take some give and take from both public agencies and private developers to navigate it.

A: Andy Paterson (EBI): We need to look beyond the "Big 3." I'd definitely add the Department of Defense (DoD) to the first tier. We're going to see more permitting activity on military bases, especially with the coming deployment of Small Modular Reactors (SMRs). That's directly tied to the Administration's executive orders, and all of it will trigger NEPA reviews in some form.

Then there's a second tier of agencies that are part of the new National Energy Dominance Council—a cross-agency body chaired by Interior and Energy, with Vice Chair Chris Wright. It includes Transportation, Commerce, DoD, Agriculture (Ag), and EPA, among others.

The Energy Dominance Council has a mandate to streamline and accelerate project delivery, and NEPA is a core focus. They're aiming to "unleash" agencies to drive infrastructure forward—grid upgrades, SMRs, and broader industrial site development. Not all of it will be emissions-intensive; some of these projects will reduce carbon content. So this isn't necessarily an anti-climate agenda—it's more about speed and execution.

A: Ross Pilotte (SWCA): I'd add one more agency that's flying a bit under the radar: the National Telecommunications and Information Administration (NTIA). With the Middle Mile Broadband Initiative, NTIA is going to face real challenges adapting to the new NEPA framework, especially as they fund major fiber and telecom infrastructure.

On top of that, we're also seeing co-location of SMRs and microreactors at data centers, which adds the Nuclear Regulatory Commission (NRC) into the mix. This creates complex interagency coordination needs, particularly as NTIA, DOE, NRC, and DoD all intersect around these energy and infrastructure projects.

This is exactly the kind of environment where experience from FAST-41 becomes essential. We in the private sector—firms like SWCA and TRC—will play a crucial role in helping agencies implement this new wave of cross-cutting NEPA compliance under accelerated timelines.

INDUSTRIAL RESHORING & DATA CENTERS

Q: Grant Ferrier: We've talked a lot about energy and transmission, but what about industrial reshoring—the Administration's push to bring manufacturing back to the U.S.? That's clearly tied to energy infrastructure. Is it just secondary in this NEPA discussion, or are we overlooking it?

A: Peter Masson (TRC): I think industrial reshoring is completely tied into the energy discussion. In places like California, we're dealing with excess energy production, but not enough storage, which is a major hurdle. Energy storage solutions are key to making reshored manufacturing viable. You can't separate the two—power availability and reliability are essential to bringing projects back onshore.

A: Ross Pilotte (SWCA): From what I saw working with the CHIPS Act environmental team, this connection is real. We spent time walking foreign investors through NEPA—what it is, how it works—so that they could move forward with domestic manufacturing investments.

What's often overlooked is the enormous energy demand tied to these new facilities. I live in Fairfax County, Virginia, and there are 77 data centers nearby. Just one of them is being fed by a dedicated transmission line built by NextEra. Data centers currently use 4% of U.S. electricity but by 2030, that number will likely hit 15%

The grid is not ready for this. What we're seeing now is the resurgence of on-site energy: gas-fired generation, co-located SMRs, and even reviving old gas plants to directly power new data centers. This is happening in Florida, the Front Range, and Nevada/Arizona.

Q: Grant Ferrier: So are we shifting toward a more distributed energy model, with on-site generation for manufacturing and data centers?

A: Ross Pilotte (SWCA): Absolutely. Today, most of that on-site power is still natural gas, but SMRs (Small Modular Reactors) and MMRs (Micro Modular Reactors) are now part of the conversation—especially with hyperscale clients like Meta and AWS. We're seeing a new model emerge where these facilities are essentially self-powering.

That adds an entire new layer to the NEPA process—not just from an emissions or land-use standpoint, but in terms of stakeholder engagement. With shorter timelines and potentially fewer formal legal guardrails, consultants like us have to step up. We need to ensure public trust is maintained, even as we move faster. These projects are becoming more complex, cross-cutting, and interagency-dependent, and NEPA has to keep pace.

EXPERT WITNESS

Q: Grant Ferrier: Do your firms—SWCA or TRC—ever serve as expert witnesses in NEPA litigation, particularly in defense of agencies? Is that something you do, would consider doing, or does it complicate your client relationships?

A: Ross Pilotte (SWCA): Yes, SWCA has provided expert witness testimony in the past when asked. However, we haven't been directly involved as expert witnesses in the high-profile NEPA cases that reached the Supreme Court or the D.C. Circuit. But looking forward, I think expert witness work is going to become increasingly important.

As the courts offer less deference to agencies, we'll need technical experts—scientists, engineers, subject matter authorities—to come in and support the justification of streamlined reviews. It's not just about having a solid administrative record, it's also about being able to defend it publicly and legally, and that includes expert testimony.

Q: Grant Ferrier: So you might write a shorter EIS—say 300 pages instead of 3,000—but still conduct community outreach, and if the document gets challenged, you might end up being called to testify on either side?

A: Peter Masson (TRC): That may be the case. But I want to make one thing clear: shorter does not mean weaker. I've always advocated for concise, well-scoped documents, but they still have to be legally defensible.

That's why the upfront work—scoping, planning, and working closely with the agency—is so critical. If you set the right parameters early on and engage stakeholders meaningfully, you reduce legal risk down the line. We fully expect our documents to hold up in court, whether they're short or long.

So yes, if those documents are challenged, consultants like us could be called—whether by the agency, a developer, or in some cases even the opposition—but our goal is always to produce factually sound, defensible work from the beginning. ☐

SEC WITHDRAWS PROPOSED RULES ON ESG DISCLOSURES, SHAREHOLDER SUBMISSIONS

The rules were among 14 proposed Biden-era regulations the Securities and Exchange Commission said it would cease the rulemaking process for.

In Q2 2025 the **Securities and Exchange Commission** officially abandoned the rulemaking process for regulations requiring enhanced disclosures for ESG and similarly labeled funds and altering the shareholder proposal and resubmission process, the agency announced in mid-June 2025. The two rules were among 14 Biden-era agency proposals the SEC withdrew. The agency also stopped defending its climate risk disclosure rule in court this spring, as intervening states have looked to take up the case and continue the rule's defense in court.

The ESG disclosures rule was considered among the most endangered Biden-era regulations related to climate and ESG policies during Trump II. Other regulations on the list have also faced pushback, including a Department of Labor rule allowing retirement plan managers to consider ESG factors, a rule that DOL recently announced it would rescind and remake.

The SEC first proposed the rule to require enhanced disclosures from investment advisers and companies on ESG practices in May 2022, and Congressional Democrats had urged the SEC to finalize its 'anti-greenwashing' rule for ESG funds under the prior administration. The final rule was initially expected in April 2024, pushed to October 2024 and ultimately went unreleased before the change in administration. The rule would have required investment advisers and companies to make additional disclosures about their ESG strategies and practices in their prospectuses, annual reports and brochures; implemented a comparable disclosure approach for investors to easily compare ESG funds; and required environmentally-focused funds to disclose their portfolio greenhouse gas emissions. Other rules also rescinded include the SEC's cybersecurity risk management, strategy and governance disclosures rule.

Executive Opinion Q&A

EBJ: How does SEC withdrawal impact ERM's advisory work, or is most of it unrelated to any regulatory inducement or driver;

David Dusing, Partner, ERM: The SEC withdrawal has certainly created a slow down/change in the work. Our sustainability and reporting teams were busy helping clients to prepare for the SEC reporting. The withdrawal has not stopped that completely, but it certainly has put a hold on a lot of that work. Some companies are continuing to move ahead with this, but at a much slower pace. Overall the amount of work focused on this has decreased substantially. Many of our clients continue to focus on their goals and metrics, but again, with the current economy we see the speed and the spend reducing. Companies are not entirely moving away but they are certainly slowing. ☐

California Backs off: CEQA Changes Enacted in July 2025

On June 30 – July 1, 2025, California Governor Gavin Newsom signed AB 130 and SB 131 as part of the state budget—marking the most sweeping California Environmental Quality Act (CEQA) reform since 1970.

CEQA Process Streamlining Changes (2025)

1. Automatic CEQA Exemptions for Certain Projects

AB 130 and SB 131 carve out statutory exemptions—meaning no CEQA review is required—for key categories of projects, including:

- Urban infill housing (meeting zoning and affordability/location criteria)
- Public infrastructure like child-care centers, water recycling, wildfire resilience, and broadband
- Clean tech and manufacturing facilities (EVs, semiconductors, batteries)
- Farmworker housing, food banks, health clinics, and parks/trails

2. Faster Judicial Review Timelines

For large infrastructure and priority projects (e.g., clean energy, transit, water, manufacturing), the new law:

- Requires courts to resolve CEQA lawsuits within 270 days
- Prioritizes hearing scheduling and restricts appeals that delay construction starts

3. Limitations on CEQA Challenges

The reforms narrow the grounds on which lawsuits can be filed:

- CEQA challenges must now focus on specific environmental harms, rather than broad procedural claims
- Courts may give deference to agency findings if technical studies are on record

4. No CEQA for Zoning Changes in Housing Plans

Previously, when cities rezoned land to comply with state-mandated housing plans (RHNA allocations), they still had to complete separate CEQA reviews. Now:

- Rezoning for compliant housing elements is CEQA-exempt

5. "No Analysis of Already Studied Impacts" Rule

For many eligible infill and infrastructure projects:

- If a prior programmatic EIR or master plan exists, projects consistent with it need not repeat the full CEQA process
- Allows for addenda or streamlined environmental checklists

6. Centralized "Lead Agency" Discretion

Lead agencies (e.g., city planning departments) are now given more discretion in determining:

- Whether a project fits within an exemption or previous CEQA coverage
- Whether additional environmental documents are needed

CEQA REFORMED IN 2025 LEGISLATION

Tina Wallis is a land use attorney and authority on California's Environmental Quality Act guiding clients through entitlement and permitting processes, CEQA compliance, litigation challenging entitlements and permits, and due diligence for land use and environmental issues, representing private developers, public agencies, and environmental groups.

EBJ: CEQA objections have long been endured but where is most of the pressure coming from now, and do we anticipate short-term modifications or a more comprehensive reform or even a new piece of state legislation?

Tina Wallis: Two bills passed on June 30, 2025; these are significant changes to CEQA. The first bill, AB 130, streamlines infill housing projects by creating a new CEQA exemption for environmentally friendly housing projects. Infill housing that meets zoning, density, and objective planning standards will likely be exempt from CEQA compliance.

The second bill, SB 131, creates nine new CEQA exemptions: right-of-way of a local streets or roads for broadband; California's claimant adaptation strategy; public parks or nonmotorized recreational trail facilities if they are funded by a specific source; day care centers; a qualified health center or rural health clinic; a nonprofit food bank or food pantry; facilities for advanced manufacturing if the facility is located in industrial zoning; and agricultural employee housing, among other things.

I suggest that you read the legislation carefully because there are specific funding requirements for some of the exemptions and there are exceptions to the exemptions, such as development on environmentally sensitive sites and hazardous sites.

EBJ: How do you think this will change the process of how consultants go about obtaining permits, or applying for permits?

Wallis: For the newly exempt developments, including qualified housing, permits will be easier to obtain and the the specter of CEQA litigation is eliminated.

EBJ: Comment on areas of the community or the economy that you believe relaxation of these laws is aimed at? Recovery and rebuilding from disaster, yes, but what about oil and gas or mining or just general commercial residential or industrial development?

Wallis: These bills are aimed at facilitating housing production and removing barriers to housing. Even if the housing is subject to CEQA because it falls within an exception to the exemption, CEQA compliance is streamlined by limiting it to issues that removed the proposed housing from the exemption. Oil and gas were specifically excluded from these two bills and do not benefit from them.

EBJ: What was your original inspiration to get into your chosen field?

Wallis: In addition to being fascinated by environmental issues, as a student I was able to observe and tangentially work with gracious and talented attorneys who helped me understand that I, too, could become an attorney and practice in this dynamic and fascinating area of the law.

EBJ: What is the most compelling evidence of climate change that you have witnessed in your lifetime

Wallis: I live in California, where the risk of wildfires feels omnipresent. Everyone has been personally impacted by wildfires or knows someone who has. □

Changing the standard of CEQA review would make preparing them less legally risky, so consultants can have more confidence that MNDs will pass muster in the event of a court challenge.

CEQA History May Presage Other States

In 1970, then governor Ronald Reagan signed the California Environmental Quality Act (CEQA) into law at a time when the Republican party was much more aligned with environmental protections than it is today. It reflected a consensus among the state's leaders over the need to protect a vast array of wildlife and natural resources — forests, mountains and coastline — from being spoiled by rising smog, polluted waterways, congestion and suburban sprawl. But CEQA has been described even by some environmentalists as a good law that produced unintended consequences. The law was initially written to apply principally to government projects and non-urban enviroments; a 1972 court decision expanded it to apply to private projects as well.

The New York Times said that the dominant super-majority Democratic party recognizes that bureaucratic hurdles had made it almost impossible to build housing for its 40 million residents, resulting in soaring costs and persistent homelessness. Discussions about changing CEQA have repeatedly surfaced over the years, only to be thwarted by opposition from environmentalists and local governments, but 2025 was different.

Governor Gavin Newsom threatened to reject the latest state budget unless lawmakers rolled back CEQA. Democrats were also aware that voters nationwide blamed the party for rising prices. Newsom is nearing the end of his second and final term in office having made little progress on housing and homelessness, which were central to his first campaign in 2018. He has been skewered for the prevalence of homeless encampments throughout California and for a dip in population, driven in part by people seeking lower-priced homes in other states.

Newsom's shift shows how housing has risen as a priority for California voters. But it also reflects a broader reckoning for Democrats nationwide after Donald Trump's re-election in 2024.

Recent cases have come to symbolize what critics of CEQA saw as its unintended consequences. In San Francisco it threatened then just delayed a bike path. In Berkeley, a neighborhood group used CEQA to block the University of California from expanding its student population, contending it would lead to noise, trash and traffic; the Legislature stepped in and passed a bill overriding a court decision. Another group in Berkeley won a court order blocking construction of a new dorm because students would create "social noise" pollution; the Legislature again passed an overriding law. When the Sacramento Kings threatened to move out of the state, the Legislature granted an exemption for the construction of a new arena. Similar exemptions were given for stadiums in San Francisco and LA, as well as a major renovation of the State Capitol.

Matt Lewis, spokesman for California YIMBY, which supports the new legislation, told the New York Times that a law that had initially been intended to prevent projects like new freeways from plowing through neighborhoods had over the years been "Frankensteined" into a tool to block housing development. And the act, ultimately, has harmed the environment by limiting denser housing, which reduces pollution, he said. In 2016, then Governor Jerry Brown (who first succeeded Reagan in 1975-1983 in his Gov. Moonbeam days, and then resurfaced in 2011-2019) proposed exempting urban housing from CEQA. But that attempt failed under opposition from unions, environmental groups and other organizations. Observers say that California's moves could inspire other Democratic-led states to weaken their environmental regulations to address their housing shortages. Massachusetts, New York, Minnesota and several other left-leaning states have laws much like CEQA. □