

# Recent NEPA Updates & FTA

## APTA Legal Affairs Seminar 2026

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### NEPA Updates: A Year of Momentous Change

- Megan Blum, Environmental Programs, FTA
- Jenn Allaire, Counsel, FTA



# Changing Legal Landscape

- *Statutory*

- Infrastructure Investment and Jobs Act, [Pub. L. No. 117-58](#), Div. A, Tit. I, § 11301 (Nov. 15, 2021)
- Fiscal Responsibility Act of 2023, [Pub. L. No. 118-5](#), Div. C, Tit. III, § 321 (Jun. 3, 2023)
- 2025 Budget Reconciliation Act, [Pub. L. No. 119-21](#), Tit. VI, § 60026 (Jul. 4, 2025)

- *Executive Orders*

- E.O. 14148, *Initial Rescissions of Harmful Executive Orders and Actions*, [90 FR 8237](#) (Jan. 20, 2025)
- E.O. 14154, *Unleashing American Energy*, [90 FR 8353](#) (Jan. 20, 2025)
- E.O. 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity*, [90 FR 8633](#) (Jan. 21, 2025)

# Changing Legal Landscape: Recent Actions (cont'd)

- *Regulations*
  - Removal of National Environmental Policy Act Implementing Regulations, [90 FR 10610](#) (Feb. 25, 2025) (CEQ Interim Final Rule)
    - Correction, [90 FR 12690](#) (Mar. 19, 2025)
  - Revision of National Environmental Policy Act Regulations, [90 FR 29426](#) (Jul. 3, 2025) (Part 771 Interim Final Rule)
  - Procedures for Considering Environmental Impacts, [90 FR 29621](#) (Jul. 3, 2025) (DOT Order 5610.1C Notice)
  - Removal of National Environmental Policy Act Implementing Regulations, [91 FR 618](#) (Jan. 8, 2026) (CEQ Final Rule)

# Changing Legal Landscape (cont'd)

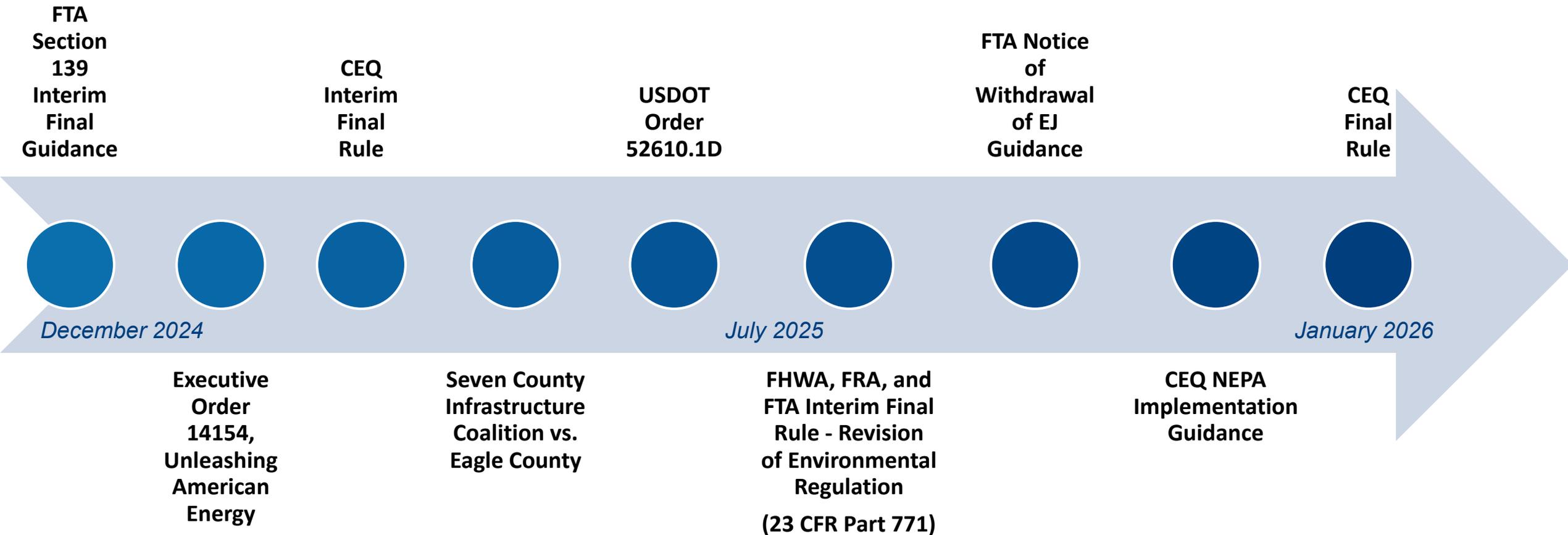
- *Guidance*

- [USDOT Memorandum for Secretarial Officers and Heads of Operating Administrations, Implementation of Executive Orders Addressing Energy, Climate Change, Diversity, and Gender](#) (Jan. 29, 2025)
- [CEQ Memorandum for Heads of Federal Departments and Agencies from Katherine Scarlett, Implementation of the National Environmental Policy Act](#) (Feb. 19, 2025)
- FTA Notice of Withdrawal of Environmental Justice Guidance, [90 FR 44460](#) (Sept. 15, 2025)

- *Caselaw*

- *Marin Audubon Soc'y v. Fed. Aviation Admin.*, [121 F.4th 902](#) (D.C. Cir. 2024), *reh'g denied en banc*, 2025 WL 374897 (D.C. Cir. Jan. 31, 2025)
- *Iowa v. Council on Env't Quality*, [765 F.Supp. 3d 859](#) (D.N.D. 2025), *opinion vacated, appeal dismissed*, 2025 WL 2205808 (8th Cir. July 29, 2025)
- *Seven Cnty. Infrastructure Coal., et al v. Eagle Cnty., Colorado*, [605 U.S. 168](#) (2025)

# Drivers of Change Timeline



# Statutory Reform: NEPA

- Infrastructure Investment and Jobs Act (IIJA) and 23 U.S.C. § 139
  - Applicability: FHWA, FRA, and FTA
  - Updates include new definitions, codification of “One Federal Decision” (major project), mandatory time lengths and page limits, schedule modification process changes, annual data reporting
- Fiscal Responsibility Act of 2023 (42 U.S.C. § 4321–4347)
  - Title III—Permitting Reform, Section 321—BUILDER ACT (Building United States Infrastructure through Limited Delays and Efficient Reviews Act)
  - Applicability: Federal government
  - Updates include new definitions, CE adoption process, mandatory time lengths and page limits, focus on reasonably foreseeable effects and reasonable range of alternatives, Major Federal Actions and appropriate levels of environmental reviews, and agency roles and responsibilities
  - Directs CEQ to conduct a study of electronic technologies to improve accessibility and transparency, and support efficient reviews
- 2025 Budget Reconciliation Act (42 U.S.C. § 4321–4347)
  - Creation of project sponsor opt-in fee process

# Executive Orders

- E.O. 14148, Initial Rescissions of Harmful Executive Orders and Actions
  - Revokes many E.O.s:
    - Several E.O.s that address climate change (E.O. 13990, E.O. 14008)
    - E.O. 13985 (Advancing Racial Equity and Support for Underserved Communities through the Federal Government)
    - E.O. 14096 (Revitalizing Our Nation’s Commitment to Environmental Justice for All)
- E.O. 14154, Unleashing American Energy
  - Mandates CEQ provide NEPA implementation guidance that will expedite permitting approvals, and propose rescinding CEQ’s NEPA regulations (40 CFR 1500 *et seq.*)
  - Revokes the E.O.s identified above
- E.O. 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity
  - Revokes E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (Feb. 11, 1994)

# Regulations

- CEQ NEPA Implementing Regulations (40 CFR Parts 1500-1508)
  - Interim Final Rule (IFR)
    - Issued February 25, 2025
    - Removed CEQ's regulations implementing NEPA, effective April 11, 2025
    - Requested comments on this action and related matters to inform CEQ's decision making
  - Final Rule
    - Issued January 8, 2026
    - Rescinded CEQ's NEPA-implementing regulations
    - Responded to comments and adopted the IFR without changes
- FHWA, FTA and FRA Joint Regulation (23 CFR Part 771)
  - IFR issued June 30, 2025
    - Maintained Part 771 but added key aspects from the CEQ "Agency NEPA Procedures Template" not otherwise addressed in Part 771
    - Incorporated IJA modifications to 23 U.S.C. § 139, as appropriate

# Guidance

- USDOT Secretarial Memorandum for Secretarial Officers and Heads of Operating Administrations, *Implementation of Executive Orders Addressing Energy, Climate Change, Diversity, and Gender*
  - Identifies USDOT policy priorities
- CEQ Guidance
  - NEPA:
    - February 19, 2025: Provides direction to Federal agencies per E.O. 14154 (superseded by Sept. 29, 2025, guidance) and includes “[Agency NEPA Procedures Template](#)”
    - September 29, 2025: Updates and replaces February 2025 guidance to include *Seven County* and 2025 amendments to NEPA and includes the “[NEPA Process Flow Chart](#)”
  - Climate and GHG:
    - May 28, 2025: Withdrew [interim guidance](#) (2023) on considering greenhouse gas emissions and climate change under NEPA, effective immediately

# Caselaw

- *Marin Audubon Soc’y v. Fed. Aviation Admin.*, 121 F.4th 902 (D.C. Cir. 2024)
  - The panel unanimously vacated an air tour management plan devised by the FAA and the National Park Service that dealt with flights over national parks in the Bay Area, and a majority held that CEQ had no lawful authority to promulgate binding NEPA regulations and the CEQ’s regulations were beyond its legal authority.
  - Opinion vacated in Order denying rehearing en banc
- *Iowa v. Council on Env’t Quality*, 765 F.Supp. 3d 859 (D.N.D. 2025)
  - District Court decision:
    - Vacated CEQ’s Phase II rule as *ultra vires* because CEQ did not have authority to issue the rule, and
    - Determined that even if CEQ had authority to issue its 2024 Rule, specific changes made in the Phase II rule were arbitrary and capricious in violation of the APA.
  - The 8<sup>th</sup> Circuit vacated the opinion and dismissed the appeal
- *Seven County Infrastructure Coalition, et al v. Eagle County, Colorado*, 605 U.S. 168 (2025)

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# FTA Tools



U.S. Department of Transportation  
Federal Transit Administration

# Section 139 Efficient Environmental Reviews for Project Decision making and One Federal Decision Interim Final Guidance (FHWA, FRA, FTA)

- Issued December 2024
- Supersedes and replaces the SAFETEA-LU Environmental Review Process Final Guidance (2006)
- Applies to transportation projects, including multimodal projects, requiring an EIS
- Can be applied to an EA
- Provides direction and flexibility in administering the environmental review process
- Provides project sponsors with a framework to facilitate efficient project management and decisionmaking



FTA Section 139 Interim  
Final Guidance

# FTA Categorical Exclusion (CE) Worksheet

- Worksheet and Video Tutorial released in November 2025
- Standardized format used across all FTA regions
- Supports consistent and efficient CE determinations



FTA CE Worksheet

Expiration Date: 03/31/2027 OMB No. 2132-0529

**FEDERAL TRANSIT ADMINISTRATION  
CATEGORICAL EXCLUSION WORKSHEET**

**Purpose:** To assist FTA project sponsors in providing sufficient documentation to support a categorical exclusion (CE) determination for certain “c-list” or “d-list” construction projects in compliance with the National Environmental Policy Act (NEPA) and FTA’s environmental regulations ([23 CFR § 771](#)), and to demonstrate compliance with other environmental requirements, as applicable. Small construction projects (e.g., bus shelters) and non-construction projects that qualify for a c-list CE are **exempt from this worksheet**; instead, the project sponsor will submit a sufficient project description to FTA via email or FTA’s grant management software, the Transit Award Management System ([TrAMS](#)). **Project sponsors should discuss whether to complete this worksheet with FTA Regional staff prior to assuming NEPA class of action.**

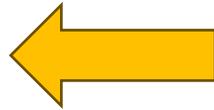
For all projects, [property acquisition](#) and project construction may not begin until FTA issues a CE determination or approval of this document in writing (Sec. VI). Populate Project information in Sec. I, below. For Sec. II through V, follow the provided instructions, then select and populate the applicable box/text field.

I. Project Information	
Project Sponsor and Contact Information	
Name: <input type="text"/>	State Transportation Improvement Program (STIP)/Transportation Improvement Program (TIP) Item/Project ID Number (if available): <input type="text"/>
Title: <input type="text"/>	<input type="text"/>
Organization Name: <input type="text"/>	STIP/TIP Approval Date (if available): <input type="text"/>
Phone Number: <input type="text"/>	<input type="text"/>
Email: <input type="text"/>	Anticipated FTA Funding Source(s) <input type="text"/>

# FTA's Current NEPA Requirements and Updates



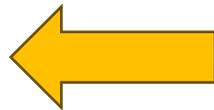
FTA NEPA Legislation and  
Guidance Webpage



- Current statutes, regulations, guidance, and NEPA readiness resources are maintained on the FTA website



FTA Environmental SOPs



- Currently updating Environmental SOPs to align with statute, regulation, and guidance changes

# Thank you!

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U.S. Department of Transportation  
Federal Transit Administration