



The Infrastructure Investment and Jobs Act Should Shorten NEPA Reviews

New York, November 15, 2021 - The [Infrastructure Investment and Jobs Act \(IIJA\)](#) to be signed by President Biden today should shorten what can be extremely long timeframes for the environmental reviews of infrastructure projects under the National Environmental Policy Act (NEPA). Under NEPA, the environmental impacts of federal actions that may have a significant adverse environmental impact must be analyzed by the agencies undertaking those actions in an environmental impact statement (EIS) before the project can be approved. According to the Council for Environmental Quality, the average time for completion of the NEPA environmental review where an EIS is required is about four and half years. The process can take even longer, particularly when more than one federal agency is involved.

In 2017, the Trump administration attempted to address the length of the NEPA process in an executive order that established a goal for the completion of environmental reviews within two years. The order also directed federal agencies to issue one record of decision (ROD) for infrastructure projects. This executive order was rescinded by the Biden administration, but the IIJA has several provisions intended to address the length of the NEPA process.

The IIJA requires federal agencies to prepare a single, joint EIS unless the lead agency in charge of the environmental review can justify the efficiency of multiple documents. In addition, the Act shortens timeframes both in the beginning and at the end of the NEPA process. For example, the time for the lead agency to invite other agencies to participate or cooperate in the environmental review is shortened from 45 days to 21 days, and federal agencies are also required to issue a ROD for a covered project within 90 days of the issuance of the final EIS. The Act also requires the existing Federal Permitting Improvement Steering Council to develop recommended NEPA performance schedules of no more than two years and requires agencies to submit reports to Congress and the Office of Management and Budget assessing their performance regarding NEPA.

While the two year performance schedule to be developed by the Steering Council will not be an enforceable deadline, merely having it as a goal, shortening some timeframes, and also requiring agencies to report to Congress and the OMB on their NEPA performance, should shorten the NEPA process.

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