

June 14, 2024

The Honorable Joe Manchin
Chairman, Committee on Energy and Natural Resources
United States Senate
Washington, DC 20510

The Honorable Garret Graves
Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

The Honorable Dan Sullivan
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Dear Senator Manchin, Senator Sullivan, and Representative Graves:

The undersigned organizations representing broad sectors of the economy strongly support the Congressional Review Act resolutions of disapproval aimed at overturning the recently finalized Council on Environmental Quality (CEQ) regulation titled, “Bipartisan Permitting Reform Implementation Rule.”¹ This regulation threatens to make the federal permitting process more complicated and prone to delays, hindering our ability to efficiently utilize recent Congressional investments in infrastructure, energy, and manufacturing.

Among our objections to the Administration’s new rule is that it fundamentally shifts the National Environmental Policy Act (NEPA) from a statute that lays out the process to evaluate environmental impacts to one that seeks to force specific outcomes. This shift would overturn decades of NEPA permitting practice and is not consistent with Supreme Court precedent interpreting the statute.

A more efficient permitting process is critical for facilitating timely project development and economic growth, while ensuring environmental protection and public engagement. However, the new regulation introduces unnecessary complexity to a host of permitting process steps and agency decision-making. It reverts to many of the permitting process inefficiencies from the 1970s that led to the broken permitting process we have today, with permitting decisions taking years and sometimes decades. That is far too long to build for a stronger future.

The rule adds complicated and subjective requirements to the permitting process that will make it less predictable for project sponsors. For instance, the new rule lowers the threshold for when an agency should conduct a more extensive level of NEPA review and analysis, which is expected to lead to more delays. It expands the scope of analysis to include environmental effects that may be remote and far removed from a project, adds multiple layers of subjective criteria to the public outreach process, puts a thumb on the scale in favor of some categories of projects while disfavoring others, and more. These new requirements create more legal risks for private and public projects that will delay or even block critical projects altogether. In addition, the rule fails to create strong incentives to meet the NEPA review deadline requirements and weakens other important reforms included in the Fiscal Responsibility Act of 2023.²

¹ 89 Fed. Reg. 35442 (May 1, 2024).

² Fiscal Responsibility Act of 2023, Pub. L. No. 118-5 (2023).

We urge Congress to take action to overturn this regulation and enact comprehensive permitting reform that promotes efficiency, predictability, and transparency. By overhauling the permitting process, Congress can enhance regulatory certainty, attract investment, and accelerate the deployment of critical infrastructure and resource development projects necessary to advance our nation's economic competitiveness and environmental sustainability.

We appreciate your attention to this matter and stand ready to support and advance common-sense permitting reforms to benefit our communities, the environment, and the economy.

Sincerely,

Agricultural Retailers Association
Alliance for Chemical Distribution
American Chemistry Council
American Coke and Coal Chemicals Institute
American Council for Capital Formation
American Exploration & Mining Association
American Exploration & Production Council
American Farm Bureau Federation
American Forest Resource Council
American Fuel & Petrochemical Manufacturers
American Gas Association
American Petroleum Institute
American Pipeline Contractors Association
American Public Gas Association
American Road & Transportation Builders Association
American Trucking Associations
Associated Builders and Contractors
Associated General Contractors of America
Association of American Railroads
Citizens for Responsible Energy Solutions
Distribution Contractors Association
Energy Equipment & Infrastructure Alliance
Hardwood Federation
Independent Petroleum Association of America
Interstate Natural Gas Association of America
National Asphalt Pavement Association
National Cattlemen's Beef Association
National Hydropower Association
National Mining Association
National Ocean Industries Association
National Ready Mixed Concrete Association
National Rural Electric Cooperative Association
National Stone Sand & Gravel Association
National Utility Contractors Association
Plastics Pipe Institute

Power & Communication Contractors Association
Public Lands Council
The Fertilizer Institute
U.S. Chamber of Commerce
Water and Sewer Distributors of America
Western Energy Alliance