Jacobs Environmental Regulatory Insights, United States

TENTH EDITION | JANUARY 2024

Welcome to the Jacobs Environmental Regulatory Insights tenth edition, which features insights by Jacobs' regulatory and market experts, along with links to additional information on current environmental planning and regulatory topics.

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| COP28 - The Cost of the Climate

Jacobs' Regenerative & Nature-Based Solutions Technology Global Principal Chris Allen attended the United Nations Climate Change Conference, joining our host Jacobs' Dubai office team and other Jacobs experts who presented at the venue, including our Middle East Environment Regional Market Solutions Lead Zein Mocke and Water Resources Global Solutions Director Adam Hosking.

COP28 Dubai

Jacobs was there – ask Adam or Chris about it

COP28 reaffirmed the importance of a focus on climate and people, but also recognized and elevated the equal importance of nature-based solutions needed to realize our global goals. COP28 ended on December 13, culminating with a "final agreement" that acknowledges that fossil fuels are a major contributor to climate change and that "transitioning away from fossil fuels in energy systems, in a just, orderly and equitable manner" is necessary to avert the worst climate change impacts; adopts a decision on the first global "stocktake" of climate action to cut greenhouse gas emissions by 43 percent by 2030, compared to 2019 levels; and allows the "Loss and Damage Fund" to be operationalized and housed by the World Bank, while being managed by a board composed primarily of developing counties and small island states. Parties at COP28 were unable to agree on updates to the Paris Agreement that would have standardized the international carbon markets.

The real bottom line here is financing: The measures needed to combat climate change are immensely expensive. The final agreement included a pledge to triple the world's renewable energy capacity by 2030 and double global energy-saving efforts, typically accomplished through energy efficiency measures, over the same period. Increasing the renewable energy capacity is relatively simple, but energy efficiency programs lag behind largely due to the amount of time it takes to replace/update less energy efficient vehicles, appliances, and buildings and update existing industrial

processes and infrastructure. Estimates of the capacity/efficiency cumulative investments needed between 2023 and 2030 to limit global warming to 1.5 degrees Celsius exceed $25 trillion.

Of course, reducing and capturing, storing, and using emissions is also a key part of the strategy. According to the Global Carbon Project, global carbon dioxide emissions are set to grow 1.1 percent in 2023, which shaves a year off the 1.5 degree Celsius target: we are now expected to reach that target as early as 2030. Significant investments in both implementation and research will be needed to maximize the efficiency of these actions.

The U.S. Department of Energy (DOE) is currently tackling many of these problems, and Jacobs is working closely with a number of Clients and the DOE on these critical projects. Please refer to the following article for more information or view Jacobs' Reference White Paper for Department of Energy Projects and the National Environmental Policy Act.

For more information about COP28 please reach out to Regenerative & Nature-Based Solutions Technology Global Principal Chris Allen or Water Resources Global Solutions Director Adam Hosking.

Adam Hosking
bio

Chris Allen
bio

| Department of Energy Projects and the National Environmental Policy Act

The DOE is currently tackling many of the problems discussed at COP28 (and in the preceding article), and offering almost $100 billion in grants and loans for funding energy projects, including ones related to energy efficiency, new technology, and carbon capture. Like any federally funded project, these projects must comply with the DOE's National Environmental Policy Act (NEPA)-implementing regulations. With the influx of DOE funding for energy and climate projects from the Inflation Reduction Act and Infrastructure Investment and Jobs Act, also referred to as the Bipartisan Infrastructure Law, the DOE now needs to address NEPA compliance for this new suite of projects.

Historically, DOE has not been the lead federal agency for NEPA compliance and has not published many NEPA documents. A search of DOE documents on U.S. Environmental Protection Agency's (EPA's) Environmental Impact Statement (EIS) database over the past year showed that in four of six DOE EISs, DOE adopted the EIS completed by another federal agency. However, DOE proposes to amend its regulations to serve as the lead NEPA agency for at least one program for qualifying onshore electric transmission facilities.

With DOE now pushing to fund new energy projects, streamline the environmental review process, and have these energy generation projects connected as soon as practicable to the transmission line grid, DOE NEPA compliance will be necessary for more projects. Anticipating the upcoming need, DOE established the following three new offices dedicated to advancing their clean energy strategy:

- Office of Clean Energy Demonstrations (established December 2021)
- Office of Manufacturing and Energy Supply Chains (established 2022)
- Grid Deployment Office (established August 2022)

In addition to the new offices, a number of the following recent and forthcoming regulatory changes are designed to further facilitate the project approval process:

1. The Fiscal Responsibility Act of 2023 (FRA) included amendments to the NEPA process. Two of the more significant changes that became effective on June 6, 2023 are a 1-year limit for most reviews and a requirement for agencies to focus reviews on "reasonably foreseeable environmental effects" instead of future impacts that are more difficult to define and quantify. Another of the more significant changes is allowing, under federal agency supervision, project sponsors to prepare EISs.
2. DOE issued a Notice of Proposed Rulemaking on November 16, 2023, to establish a new Category Exclusion (CatEx) for certain energy storage systems and to revise existing CatExs for upgrading and rebuilding transmission lines and for solar photovoltaic systems.
3. On August 10, 2023, the Grid Deployment Office proposed the establishment of the Coordinated Interagency Transmission Authorizations and Permits (CITAP) Program to accelerate federal environmental review and permitting processes for qualifying onshore electric transmission facilities. To be consistent with the FRA, the CITAP Program aims for a more streamlined process that will set deadlines for federal authorizations and permits for electric transmission on a 2-year timeline while ensuring meaningful engagement with Tribes, local communities, and other stakeholders. DOE proposes to amend its regulations to provide that DOE will serve as the lead NEPA agency and that, in coordination with any NEPA co-lead agency and with the relevant federal entities, DOE will prepare a single EIS to serve as the NEPA document for all required federal authorizations. DOE also proposes that a developer must participate in the Integrated Interagency Preapplication (IIP) Process for its projects to participate in the CITAP Program. The IIP Process is very similar to the Federal Energy Regulatory Commission's Pre-Filing Process, which requires submittal and agency review of detailed information before an application can be filed. The CITAP Program will be limited to high voltage transmission projects that are expected to require preparation of an EIS.

Jacobs is actively working on DOE-funded projects across the country. As a company with strong NEPA experience in practically every industry and agency (including DOE), this provides Jacobs with great opportunities to assist our clients through these "new" NEPA processes. For a more detailed discussion of DOE and NEPA, please view Jacobs' Reference White Paper for Department of Energy Projects and the National Environmental Policy Act.

For more information, please reach out to Global Environmental Planning Practice Leader and Market Solutions Global Principal Gabrielle Borin, Senior Scientist Sara Hayes, or Senior Scientific Technologist Joe Thacker.

Gabrielle Borin
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Sara Hayes
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Joe Thacker
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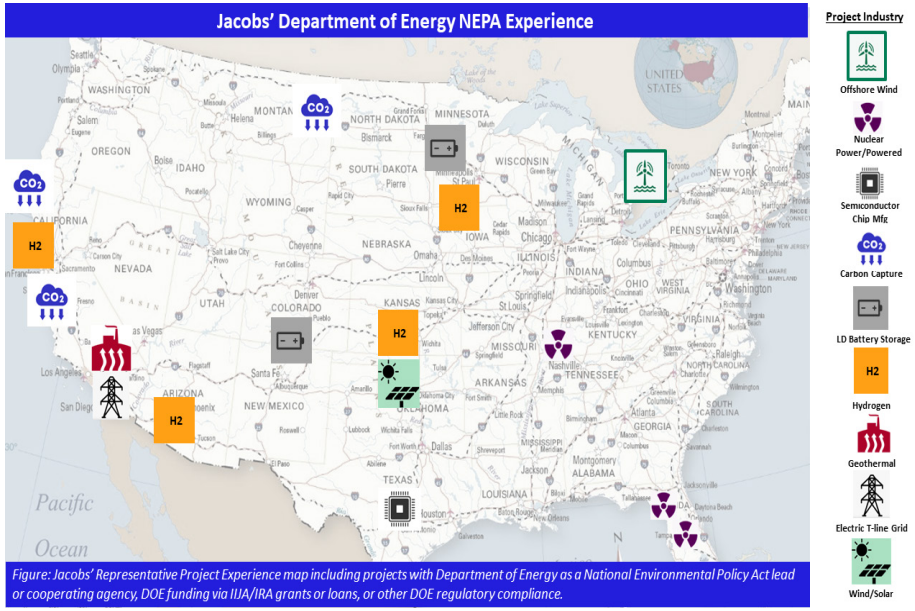

Figure: Jacobs' Representative Project Experience map including projects with Department of Energy as a National Environmental Policy Act lead or cooperating agency, DOE funding via IIJA/IRA grants or loans, or other DOE regulatory compliance.

| 2023: A Wild Ride for the Clean Water Act

In January 2023, EPA and USACE (the Agencies) published the Revised Definition of "Waters of the United States" (2023 Rule). With the 2023 Rule, the Agencies attempted to codify changes to the definition of waters of the U.S. (WOTUS) based on the scientific record, relevant Supreme Court of the United States (SCOTUS) case law, and the Agencies' experience with and technical expertise in implementing the regulations. This definition is critically important because it determines which of these surface water features are jurisdictional (that is, WOTUS), and therefore subject to Clean Water Act (CWA) permitting authority. Shortly after the 2023 Rule went into effect, it was enjoined or stayed in 27 states, but was still in effect in the other 23 states, thereby creating a fractured regulatory regime across the U.S.

In May 2023, the SCOTUS decision in Sackett v. EPA effectively reduced the scope of which waters (rivers, streams, lakes) and wetlands are protected under the CWA. To conform to key aspects of the Sackett v. EPA decision, the Agencies subsequently issued a rule that amends the 2023 Rule. The Revised Definition of "Waters of the United States"; Conforming (referred to as the "Amended 2023 Rule" or "Conforming Rule") became effective on September 8, 2023 in 23 states. In the remaining 27 states, because the 2023 Rule had been stayed in those states, the Agencies are interpreting the definition of WOTUS consistent with the pre-2015 regulatory regime and the Sackett v. EPA decision. Please refer to Jacobs' June 2023 Sackett White Paper for more details.

Three of the most significant changes made by the Amended 2023 Rule include the following:

- Removal of the significant nexus standard from the definition of WOTUS. This change eliminates CWA protection of streams with an ephemeral flow regime and wetlands that are not "adjacent" to and have a "continuous surface connection" to WOTUS.
- Revision of the definition of "adjacent" to be a "continuous surface connection." Wetlands and other "relatively permanent, standing or continuously flowing bodies of water" such as lakes and ponds must have a continuous surface connection to other WOTUS (such traditionally navigable waters and tributaries) to be jurisdictional.
- Removal of interstate wetlands from the definition of WOTUS.

Please refer to Jacobs' Sackett vs. Environmental Protection Agency, January 2024 Update for a more detailed analysis of the changes and their implications, and reach out to Principal Wetland Scientist Kevin Fisher or Senior Scientific Technologist Joe Thacker for more information about the implications of the Sackett Decision.

Kevin Fisher
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Joe Thacker
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| 2023 Clean Water Act Section 401 Water Quality Certification Improvement Rule

Background

On September 27, 2023, EPA issued the final 2023 CWA Section 401 Water Quality Certification (WQC) Improvement Rule (2023 Rule). The 2023 Rule follows the May 2023 Sackett v. EPA decision that significantly changed the definition of what waters are jurisdictional under the CWA (WOTUS, and resulted in the August 29, 2023, publication of the EPA's "Revised Definition of 'Waters of the United States'" rule. The 2023 Rule incorporates the revised definition of WOTUS and effective November 27, 2023, replaces the previous administration's July 13, 2020, CWA Section 401 Certification Rule (2020 Rule).

Under Section 401 of the CWA, a federal agency may not issue a permit or license to conduct any activity that may result in any discharge into a WOTUS unless a Section 401 WQC (401 Certification) is issued, or certification is waived. States and authorized Tribes with jurisdiction where the discharge would originate are generally responsible for issuing Section 401 certifications. Some of the major federal licenses and permits subject to Section 401 include CWA Section 402 [National Pollutant Discharge Elimination System (NPDES)] and Section 404 (dredge and fill) permits issued by EPA or the USACE; FERC licenses for hydropower facilities and natural gas pipelines; and Rivers and Harbors Act Section 9 and 10 permits. Per the 2023 Rule preamble and previous legal precedent, state- and Tribe-issued Section 402/NPDES and Section 404 (that is, Florida, Michigan, and New Jersey) permits are not subject to Section 401.

2023 Rule Summary and Comparison to 2020 Rule and 1971 Rule

The 2023 Rule makes several significant revisions to the 2020 Rule, largely related to expanding the authority of a state or Tribe (that is, certifying agency) under Section 401.

Water Quality Impacts and Scope of State and Tribal Laws

- Most importantly, EPA does not limit the water quality impacts that can be considered by a certifying agency to only those affecting WOTUS.
- Certifying agencies can also consider state and Tribal laws regarding water quality, and if these laws protect waters that are not WOTUS, they can deny the approval of an activity under Section 401 for impacts on waters that are not regulated under the CWA. Using their authority under Section 401 of the CWA, a certifying agency could prohibit (by denying the project's Section 401 certification) a project that could not otherwise be denied by a federal agency under the CWA.

Activity and Potential Effects

- The 2020 Rule required 401 certification only for the discharge associated with a project, a significant change from the 1971 Rule that it replaced. The 2023 Rule reverts back to the 1971 Rule in requiring 401 certification for the activity "as a whole," not just for a discharge from the activity.
- The "as a whole" concept was removed from the proposed rule and implications of this change in the final 2023 Rule were essentially negated by EPA's comments in the preamble stating that they do not "interpret the terms 'activity' and 'activity as a whole' as having different meanings."
- In addition, the 2023 Rule requires assessment of all of the potential effects of a proposed activity on water quality—direct and indirect, short- and long-term, upstream and downstream, during construction and operation. EPA declined to explicitly define this use of "potential" and this is expected to be a point of legal challenge.

Modifications and Pre-Filing Meetings

- The 2023 Rule allows certifying agencies to modify certifications, but only after written approval from a federal agency on which sections or scope can be modified. However, the certifying authority is not required to "obtain the federal agency's agreement on the language of the modification."
- Although also required by the 2020 Rule at least 30 days before requesting certification, the 2023 Rule allows a pre-filing meeting request to be waived by the certifying agency, or filed fewer than 30 days before requesting certification.

Reasonable Period of Time

- In addition to maintaining a maximum one-year reasonable period of time (RPT) for completing the 401 certification, the 2023 Rule provides a default RPT of 6 months if the certifying authority and federal agency cannot agree on the RPT.
- The certifying agency has independent authority to extend the RPT under only two scenarios: (1) required to address public notice procedures and (2) force majeure events, including government shutdowns. However, it can also extend the RPT on agreement with the federal agency, but in these cases the total timeline cannot extend beyond 1 year.
- Compared to the 2020 Rule, which explicitly prohibited the withdrawal/resubmit practice, the 2023 Rule does not expressly allow or disallow this practice.

Waivers

- Under the 2020 Rule, a federal agency could waive a certifying agency's certification decision or condition(s) for a number of reasons, and could do so without offering the certifying agency an opportunity to remedy any deficiency. This has changed in the 2023 Rule, which allows the federal agency

to waive the certifying agency's certification decision or condition(s) only for failure to act within the RPT.

Administration

- The 2023 Rule clarifies the role of EPA and defines submittal requirements and public hearing requirements for neighboring jurisdictions. Specifically, EPA must determine whether a discharge "may affect" water quality in a neighboring state or on land of an authorized Tribe, notify neighboring states and authorized Tribes, and complete required public notice requirements, if applicable.

Project Implications and the Timing of the 2023 Rule

The 2023 Rule does not apply retroactively and does not apply to certification decisions already issued under the 2020 Rule.

- If an applicant has confirmation that the application was received before November 27, 2023, the 2020 Rule should apply.
- If an applicant submitted a 401 certification request or permit action with an associated 401 certification before November 27, 2023, but has not received authorization or confirmation, consultation with the authorizing agency is recommended.
- Any permit authorizations submitted or acknowledged after November 27, 2023, will be subject to the 2023 Rule.

Regulatory Resiliency in the Face of Political Uncertainty

Much like WOTUS rules, the Section 401 Rules have been subject to political debate between administrations over the past couple of decades. Concerns include the potential for states to "weaponize" the Section 401 certification process to deny projects and the potential loss of authority by states and Tribes to protect the water quality of their local waters. Additionally, as a consequence of the Sackett court decision and resulting reduction in WOTUS, states and Tribes will have reduced opportunity to protect the water quality of their local waters under the Section 401 process.

The 2023 Rule now applies across the country, but has already been challenged by the attorneys general in a number of states. More legal challenges are expected. It will be important to partner with local regulatory experts who understand the political climate and up-to-date legal decisions affecting state and Tribal certifying agencies. Creating a regulatory strategy with resilient alternatives and gate reviews will better buffer political uncertainty for project timelines bridging administrations.

For more information about the 2023 CWA Section 401 WQC Improvement Rule please contact Senior Scientific Technologist Joe Thacker or Senior Biologist Pat Hickey.

Joe Thacker
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Pat Hickey
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| Environmental Justice Update

White House

On November 20, 2023, the White House Council on Environmental Quality (CEQ) published in the Federal Register (FR) a request for information (RFI) to solicit feedback on „Phase One" of the Environmental Justice Scorecard. The "Phase One Scorecard" represents the "first-ever government-wide assessment of what the federal government is doing to advance environmental justice" and was developed pursuant to Executive Order 14008, Tackling the Climate Crisis at Home and Abroad. The intent of the Phase One Scorecard is to transparently assess the progress of each of the 24 federal agencies on advancing environmental justice. More specifically, the first version of the Scorecard provides a baseline assessment of the actions taken by these federal agencies in 2021 and 2022. This assessment included an evaluation of various metrics, including Justice40 initiatives, of how each agency implemented and enforced environmental and civil rights laws, and how they embedded environmental justice in their decision making. As one example, the Phase One Scorecard prepared for the USACE highlights over $1 billion in funding made available from Justice40 covered programs, updated NEPA training classes with a strong focus on environmental justice, and additional engagement with Native American organizations.

It is CEQ's intent that the Environmental Justice Scorecard be updated annually, and the intent of the RFI is to solicit public input to shape the next version of the Environmental Justice Scoreboard. Specifically, CEQ wants input on scorecard organization and presentation of data and identification of any additional metrics that might be relevant and helpful for future versions of the Environmental Justice Scorecard. Comments are due by January 19, 2024.

EPA

To keep up with the administration's initiatives, EPA is in the process of updating several documents. In November, EPA released draft Technical Guidance for

Assessing Environmental Justice in Regulatory Analysis. This update to the original 2016 document includes new discussions related to the following topics:

- Terminology and definitions (environmental justice concerns; disproportionate and adverse; race, ethnicity, national origin, low-income, and disability; Tribal affiliated and Indigenous Peoples; subsistence practices; and meaningful involvement)
- Understanding vulnerability as a function of intrinsic (for example, age, genetics) and extrinsic factors, such as systemic racism or exposure to hazardous chemicals that increase the likelihood and/or consequence of being exposed to environmental stressors
- Considering compliance and enforcement
- Determining factors that contribute to higher susceptibility to an environmental stressor, such as vulnerability to climate change
- Considering the role of multiple stressors and cumulative effects
- Investigating the underlying heterogeneity of effects across a population and identifying hot spots

In October, EPA released a draft document, Achieving Health and Environmental Protection Through EPA's Meaningful Involvement Policy. This is the first update to the EPA's Public Involvement Policy in 20 years. The purpose of the new policy is to promote an EPA-wide approach to meaningful involvement that can be tailored to program and regional needs across EPA. The draft policy outlines the following seven steps for EPA's public participation model:

1. Plan: Identify the EPA Action, Select a Level of Participation, and Secure Resources
2. Identify the Public and Segments of the Public
3. Consider Providing Technical or Financial Assistance to the Public
4. Provide Information and Outreach
5. Provide Opportunities for Public Consultation and Participation Activities
6. Review and Use Input and Provide Feedback to the Public
7. Evaluate and Report Public Participation Activities

On November 21, 2023, the Biden administration announced roughly $2 billion for projects in underserved areas across the country to build clean energy and address climate change. Described by EPA Administrator Michael Regan as the "the single largest investment in environmental justice history," this money is allocated to EPA's new Community Change Grants program. The program will be administered by EPA's Office of Environmental and External Civil Rights, and be available to partnerships of two community-based nonprofit groups, or a community-based group working with a Tribe, a local government, or an institution of higher education. A Notice of Funding Opportunity published by EPA provides more details about the application and funding process.

Reach out to Jacobs' Environmental Justice Practice Lead and leader of the National Association of Environmental Professionals Environmental Justice Working Group Emily Gulick for more information.

Emily Gulick
bio

| Fiscal Responsibility Act of 2023 and NEPA Phase 2 Rule Changes

The June 3, 2023, FRA included amendments to the NEPA process. The CEQ is working through the rulemaking process to implement the NEPA amendments. While this process is ongoing, the CEQ is providing a dynamic list of questions and answers to assist agencies with their implementation of the amendments. The list identifies 10 separate changes to the NEPA process, each of which was effective as of June 3, 2023.

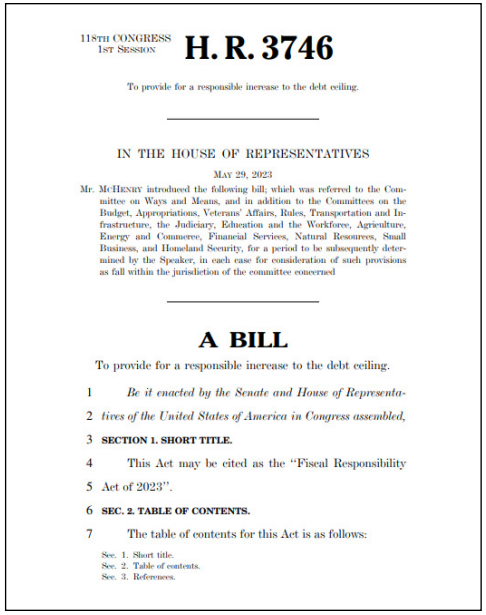
Notably, the FRA narrowed the definition of what comprises a "major federal action," sets new page limits and deadlines for EAs and EISs, and will require agencies to focus reviews on "reasonably foreseeable environmental effects" instead of future impacts that are more difficult to define and quantify. Another of the more significant changes is allowing, under federal agency supervision, project sponsors to prepare EISs.

In April 2022, CEQ issued the Phase 1 Final Rule, which finalized a "narrow set of changes to generally restore regulatory provisions that were in effect for decades before the 2020 Rule modified them for the first time." CEQ provided that the Phase 1 Final Rule would be followed by a Phase 2 Rule that will provide additional improvements to the "efficiency and effectiveness of environmental review processes and reflect the administration's commitment to achieving environmental justice and confronting climate change."

The CEQ announced on July 28, 2023, a Phase 2 Notice of Proposed Rulemaking (NOPR)—the "Bipartisan Permitting Reform Implementation Rule"—to revise its regulations for implementing the procedural provisions of NEPA. While the Phase 2 NOPR was anticipated as early as May 2023, it was delayed so that it could incorporate the NEPA updates authorized by the FRA.

CEQ's revisions fall under the following five general categories:

- First, CEQ proposes revisions to implement the amendments to NEPA made by the FRA.



118TH CONGRESS
1ST SESSION

H. R. 3746

To provide for a responsible increase to the debt ceiling.

IN THE HOUSE OF REPRESENTATIVES

MAY 29, 2023

Mr. MCHENRY introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on the Budget, Appropriations, Veterans' Affairs, Rules, Transportation and Infrastructure, the Judiciary, Education and the Workforce, Agriculture, Energy and Commerce, Financial Services, Natural Resources, Small Business, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for a responsible increase to the debt ceiling.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fiscal Responsibility Act of 2023".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. References.

Fiscal Responsibility Act of 2023

- Second, where CEQ determined it made sense to do so, CEQ proposes to amend provisions, which the 2020 regulations revised, to revert to the language from the 1978 regulations that was in effect for more than 40 years, subject to minor revisions for clarity.
- Third, CEQ proposes to remove certain provisions added by the 2020 Rule that CEQ considers imprudent or legally unsettled.
- Fourth, CEQ proposes to amend certain provisions to enhance consistency and provide clarity to improve the efficiency and effectiveness of the environmental review process.
- Fifth, CEQ proposes revisions to the regulations to implement decades of CEQ and agency experience implementing and complying with NEPA, foster science-based decision making—including decisions that account for climate change and environmental justice—improve the efficiency and effectiveness of the environmental review process, and better effectuate NEPA's statutory purposes.

CEQ noted they would like to reach a final rule as quickly as possible to provide greater certainty. After a final rule is issued, federal agencies will update their own agency NEPA procedures to be consistent, which will include another avenue for public comment specific to the agencies.

When the final Phase 2 Rule is issued, it is expected to result in significant changes in how NEPA is implemented. A few of these changes could include the following:

- Clarifying that a "major federal action" is one that is subject to "substantial" federal control, which includes federal permits and federal funding assistance, but does not include Tribal activities without federal funding or involvement
- Clarifying (and codifying) that a project's "effects" specifically include those related to climate change and environmental justice concerns
- Allowing beneficial effects for a project to be considered for an agency's threshold determination—a project that has substantial beneficial impacts may not have "significant adverse effects" and may not require an EIS
- Reinstating the pre-2020 Rule treatment of context, which will again require an analysis of impacts outside the potentially affected environment, and intensity, which will now include metrics previously used to determine the significance of an impact
- Expanding the use and number of CatExs, including adopting a CatEx provided by another agency

At this link to the Rulemaking Docket on Regulations.gov, you can find the following information on the National Environmental Policy Act Implementing Regulations Revisions Phase 2:

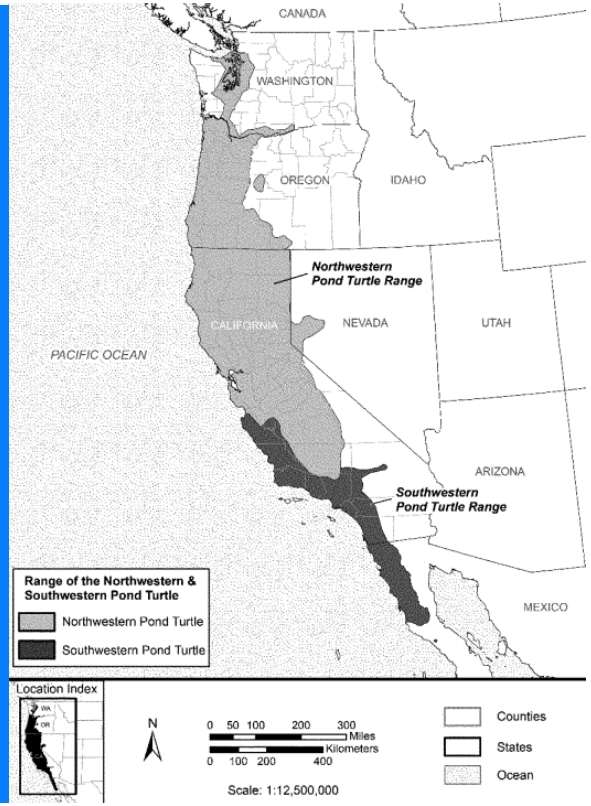
- Proposed rule
- Redline copy of CEQ regulations
- Special EA
- Public meeting transcripts

Please reach out to Jacobs NEPA Compliance Principal Michelle Rau for more information

Michelle Rau
bio

| Northwestern Pond Turtle and Southwestern Pond Turtle Proposed Threatened Listing

On October 3, 2023, the USFWS proposed listing the northwestern pond turtle (*Actinemys marmorata*) and southwestern pond turtle (*Actinemys pallida*) as threatened under the ESA (88 FR 68370). FWS has not yet published critical habitat in part because most previous research lumped these together as one species: western pond turtle. In 2015, FWS published a 90-day finding that listing western pond turtle was warranted. This delayed 12-month finding was issued as part of a settlement



[Range of the Northwestern and Southwestern Pond Turtle (Source: 88 FR 68370, 68374)]

after the Center for Biological Diversity sued USFWS in 2020 for failure to issue timely determinations on 241 species under petition.

The northwestern pond turtle's current range includes portions of Washington, Oregon, Nevada, and northern and central California. The southwestern pond turtle's current range includes portions of central and southern California and Baja California, Mexico. Pond turtles require aquatic habitat for breeding and feeding, adjacent upland habitat for nesting and aestivation, and basking sites for thermoregulation. Habitat connectivity is particularly important for these long-lived turtles. Pond turtles have declined throughout their range due to habitat loss, fragmentation, altered hydrology, disease, predation, competition with non-native species, human impacts, and climate change. Conservation efforts have included monitoring, bullfrog removal, habitat improvement, land protection, and population enhancements.

A final decision is not expected until 2024 but if these species are listed, it could affect projects in parts of western Washington, large sections of western Oregon, and more than half the state of California.

If you have projects in the west and are concerned about the potential effects of this listing or you are just curious about these two turtle species, please contact Senior Biologist Dr. Dominic Gentilcore.

Dominic Gentilcore
bio

Jacobs

Adam Hosking

Adam Hosking is Jacobs's Global Director for Water Resources and Resilience, including integrated water management, stormwater, flood and coastal risk management, and climate change adaptation services. With a background in coastal geomorphology, he is a Fellow of the Chartered Institute of Water and Environmental Management (CIWEM) and Chartered Scientist with more than 29 years' experience. Chair of CIWEM's Climate Change Panel, he has expertise in climate change adaptation, from policy level through to project design.

Chris Allen

Chris serves as Jacobs' Global Principal for Regenerative & Nature-Based Solutions Technology and has 30+ years' consulting experience with integrating sustainability and resilience into business planning and design for a range of clients all around the globe. He specializes in working with clients and teams to drive innovative

Dominic Gentilcore

Dr. Gentilcore is a field-proven botanist, biologist, ecologist, and project manager who has worked on more than 100 projects totaling over 1,000,000 acres across the Western US. He helps facilitate permitting and environmental compliance for renewable energy generation facilities, high voltage transmission lines, mining operations, pipelines, roads, and telecommunications facilities. These projects have included preparing EAs, EISs, ecological restoration, biological surveys, noxious weed surveys, post-fire rehabilitation, reclamation, wetland delineation, and monitoring. He has 10 years of experience.

Emily Gulick

Emily is an Environmental Planner/Scientist with more than 6 years of industry experience specializing in NEPA assessments and Environmental Justice evaluations. She has worked for many federal agencies, such as NASA, DoD, NSF, and provides GIS support to a variety of projects. Emily also has CEQA experience and is Jacobs' Environmental Justice Practice Lead as well as the leader of the National Association of Environmental Professionals' Environmental Justice Working Group.

Gabrielle Borin

Gabrielle offers more than 30 years of planning and permitting experience, specializing in environmental impact assessments, regulatory strategy, permitting and approvals, construction compliance, and reclamation for large-scale multidisciplinary projects across a wide range of industries.

Joe Thacker

Joe is a professional geologist with more than 32 years of professional experience. He has field experience in more than 25 U.S. states and has obtained Section 404 Permits in 19 different USACE Districts. His projects have required permits from/consultation with the Bureau of Land Management (BLM), USFWS, USACE, DOE, FERC, National Park Service, U.S. Coast Guard, Natural Resources Conservation Service, Farm Service Agency, and numerous U.S. state environmental and game and fish agencies. Joe is the head of Jacobs' Regulatory Council.

Kevin Fisher

Kevin is a certified Professional Wetlands Scientist with 22 years of experience working on natural resource management and infrastructure projects in the western United States. He has participated in the planning, design, implementation, and monitoring of projects that span habitats from tidal marshes to alpine meadows. He has led California Environmental Quality Act/NEPA compliance, permit applications (CWA 404, California Fish and Game Code Section 1602, CWA 401 certifications), and Endangered Species Act (ESA) Section 7 consultations for dozens of water resources, utility, and transportation projects.

Michelle Rau

Michelle has over 25 years of experience as an environmental planner and project manager. At Jacobs she serves as the NEPA practice manager and leads a group of over 200 environmental practitioners. She has managed large-scale and controversial EISs that include projects with more than a billion dollars of infrastructure investment and engaged activist groups. She has managed nearly all aspects of the environmental compliance process, including NEPA; Executive Order 12114 (international NEPA); CWA 404 permits; ESA Section 7 consultations; National Historic Preservation Act Section 106 consultations; and state, county and regional permits. She has worked for many federal clients, including the Department of Defense, U.S. Department of Transportation, DOE, National Aeronautics and Space Administration, General Services Administration, BLM, Federal Emergency Management Agency, and U.S. National Science Foundation.

Pat Hickey

Pat is a Certified Ecological Restoration Practitioner and regional board member for the Society of Wetland Scientists. He has worked for over 25 years in the field of environmental policy and ecological restoration with an emphasis on wetland and riparian ecology, analysis, and restoration design. He started his career as wetland compliance and mitigation specialist in New Jersey and the Mid-Atlantic region of the U.S. but has spent the majority of his career in Colorado and the western part of the U.S. focused on Section 404-related wetland compliance for transportation and water infrastructure work.

Sara Hayes

Based in Jacobs' Philadelphia office, Sara is an experienced soil scientist and project manager who supports environmental planning and permitting. She prepares environmental assessment (EA) reports for NEPA reviews, technical studies, and environmental permit applications associated with the Federal Energy Regulatory Commission (FERC), DOE, U.S. Army Corps of Engineers (USACE), U.S. Fish and Wildlife Service (USFWS), and various state and local agencies. Sara has 17 years of professional experience working on energy and infrastructure projects, guiding environmental permitting compliance and working with multiple stakeholders.