

Cleared Direct, but Expect Delays on the Ground: A Favorable NEPA Framework Meets Legacy Site Contamination



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Key Takeaways

- Three shifts, the CEQ's NEPA rule rescission, a proposed narrower Endangered Species Act standard, and the Supreme Court's Seven County ruling have made federal environmental review friendlier to airfield investment than it's been in years.
- That friendlier climate doesn't erase site-level risk: decades of airfield operations can leave contamination that demands due diligence before closing.
- Joint-use military-civilian airfields add complexity, since defense and environmental approvals run on separate clocks that need active coordination.

In a recent [South Florida Sun-Sentinel op-ed](#), Scott Ramsden, president of the South Florida Business Aviation Association, highlighted what many overlook: general aviation airports are significant economic engines. Three

South Florida regional airfields alone account for more than 30,000 jobs and \$5.1 billion in annual economic activity, supporting flight training, emergency response, aerial media, corporate aviation, and aircraft manufacturing

For private capital, the same airfields Ramsden describes as economic engines are increasingly a target for investment, including airfield service providers who run Fixed-Base Operators (FBOs) and hangar developments, maintenance and repair facilities, and aerospace manufacturing operations, all of which drive the broader real estate market around the airfield.

Where such airfield investment requires federal approvals – potentially from the Federal Aviation Administration (FAA) or the U.S. Army Corps of Engineers – an environmental review under the National Environmental Policy Act (“NEPA”) would be required. A series of developments have quietly narrowed the federal NEPA environmental review framework along with the reach of other federal environmental laws, creating what may be the most favorable NEPA environment for investors in airfield development in years.

Three changes have driven that narrowing. First, the Council on Environmental Quality (CEQ) finalized the rescission of its government-wide NEPA regulations in January 2026, replacing a uniform framework with agency-specific roadmaps with less demanding requirements. Second, a proposed rule published on November 21, 2025, would revise the Section 7 consultation regulations implementing the Endangered Species Act, narrowing the causation standard by adopting a “reasonably certain to occur” threshold and a but-for causation Test. The final rule is still pending. Third, the Supreme Court held in *Seven County Infrastructure Coalition v. Eagle County*, 605 U.S. 168 (2025), that agencies are owed substantial deference and need not analyze upstream or downstream effects separated in time or place from the action itself. In all, these changes will help de-risk development timelines and costs.

However, a favorable review framework does not eliminate site-level risk. Decades of fueling, maintenance, and firefighting operations on airfields pose environmental contamination risks that can complicate transactions and contemplated development if not identified early. Appropriate due diligence and an experienced deal team can help avoid or minimize these risks for otherwise attractive investments. That process typically starts with a current Phase I Environmental Site Assessment to identify any recognized environmental conditions (RECs) and satisfy the EPA’s All Appropriate Inquiries rule, preserving CERCLA landowner liability protections, including bona fide prospective purchaser status. Where a REC is identified, a Phase II ESA may be appropriate. Buyers should also evaluate the need to consider risk management provisions and mechanisms in transaction documents, such as representations, indemnities, holdbacks, escrows, insurance, or a commitment to enter the property into the state voluntary cleanup or brownfield program (where available) to further allocate and manage any residual risk.

Additional considerations in the environmental processes and analyses will also come into play for military-civilian joint-use airfields. Part 91, 121, and 135 operations sharing a runway with a flying mission can bring Department of Defense coordination (and potential approvals) and federal grant assurances into the same review. In our experience, the environmental and the defense reviews and approvals move on different clocks unless someone keeps them aligned, making early and continuing coordination essential.

General aviation airfields offer significant and often underappreciated economic value, bringing unparalleled accessibility, education, and investment opportunities to locations across the United States. Whether you are a sponsor, operator, or investor weighing an airfield opportunity, the current environment rewards those who engage early with both the regulatory landscape and the environmental profile of the site. Our team regularly advises on the

environmental, real estate, and transactional dimensions of airfield investments and is available to discuss how these developments could affect your specific project. Contact Lippes Mathias [Environment & Energy](#) team member Chip Shaw (tshaw@lippes.com) for questions related to the content of this client alert.

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