The National Environmental Policy Act (NEPA) is one of the most important statutes for public lands management in the United States, even though it actually is not specific to public lands. NEPA requires federal agencies to analyze and publicly disclose the significant environmental impacts of proposed agency actions, consider alternatives to those proposals, and seek and respond to public comment on the analysis of impacts and consider alternatives. NEPA has been controversial over the years because of its requirement for analysis, a requirement that is backed up by the possibility of litigation challenging agency compliance with NEPA. Critics argue that NEPA produces excessive paperwork that is ultimately uninformative, delays (from both analysis and litigation) and disproportionately empowers opponents of projects. Supporters argue that NEPA improves agency decisionmaking by requiring consideration of impacts before commitments are made, empowers agency officials who have expertise in environmental issues, and allows the public a real say in agency decisionmaking.

The Trump Administration has stepped into this dispute by proposing sweeping changes to the agency regulations implementing NEPA. Among other changes, these regulations would:

- Narrow the consideration of impacts that agencies must consider in analyzing the possible impacts of their proposed decisions. Currently, agencies must not only consider the direct impacts of their decision (e.g., the footprint of a highway as it is constructed) but also the indirect impacts that their decisions might cause, even if not initiated by the agency itself (e.g., the development that a new highway might enable), and cumulative impacts of their decisions (how the impacts of an agency action might interact with other past, current, and foreseeable future actions). The proposed regulations would exclude indirect and cumulative impacts.
- Make it easier for agencies to avoid NEPA altogether by adopting alternative procedures, even if they don’t fully meet the NEPA standards.
- Make it easier for agencies to avoid or minimize NEPA by increasing the scope of “categorical exclusions” – actions that do not require NEPA review. In particular, it would allow categorical exclusions to be used even if the actions might cumulatively cause significant environmental impacts, or if the agencies claim they have mitigated any significant environmental impacts.
- Narrow the range of alternatives that agencies must consider in their analysis to exclude any that are outside the jurisdiction of the agency.
- Reduce conflict of interest requirements when private parties seek to hire

contractors to do NEPA compliance, and allow those private parties to do the NEPA compliance themselves. (NEPA also applies when the federal government issues permits or provides funding to private entities.)
- Allow agencies to require bonds by parties challenging agency NEPA compliance in court and limit judicial review of agency NEPA decisions.
- Sets timeframe and page limits for NEPA reviews.

This summary is based on comments from law professors on the proposed revisions, which you can review here: Law Prof Comments CEQ NPRM Jan 2020 3-5-20 Final.

You can review the proposed regulatory changes here. You can file comments on those proposed changes here, with the deadline for submissions being March 10. (There have been requests for a longer comment period given the significant nature of those changes, but the Administration has apparently disregarded those requests.)