

On March 2, the Western Governors' Association (WGA) sent a letter to Mary Neumayr, Chair of the White House Council on Environmental Quality (CEQ), submitted as a comment to the proposed rule "Update to Regulations Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA)" (85 FR 1684). WGA said it will defer to individual western states to submit substantive comments addressing the proposed rule, but that WGA supports meaningful and ongoing consultation between the states and federal government, through the Governors or their designees. "Because states manage environmental and natural resources within their borders and serve as cooperating agencies under NEPA, Governors are critical and essential partners with federal agencies in the statute's implementation."

WGA cited several of its policy resolutions on state-federal relationships, infrastructure, data, and land management that address NEPA and states' role in its implementation. The letter also references previous correspondence in 2017 and 2018 regarding efforts to modernize the environmental review process, improving working state-federal partnerships to implement NEPA, and responding to CEQ's pre-rulemaking questions about how to make the NEPA process more efficient, timely, and effective.

The WSWC has encouraged Congress and the Administration to continue to work together and with states to streamline permitting processes and coordinate environmental and other regulatory reviews to eliminate duplicative procedures, reduce costs of compliance and construction, and ensure timely completion, maintenance, or relicensing of authorized infrastructure projects so vital to the west and the nation (WSW #419).

Some western governors have released statements or submitted substantive comments about the proposed changes to NEPA. Governor Mike Dunleavy (R-AK): "I thank the Trump Administration for working to modernize and clarify the 40-year-old NEPA regulations. All Alaskans will benefit from an update to NEPA as it impacts many facets of our state, from construction of roads and highways, to energy projects, to land and forest management. We look forward to seeing this process unfold and the impact it will have on furthering Alaska's opportunity for business and resource development projects within our state." He also said: "The State strongly supports CEQ's efforts to reform the NEPA process. In the decades since Congress enacted NEPA, the process has evolved into an overly burdensome, inefficient, and wasteful exercise that provides the greatest value not to decision-makers, but to project opponents seeking to leverage litigation delays to render projects economically infeasible and effectively override the reasoned judgement of federal agency experts and decision-makers. This is a long-overdue and necessary effort to bring reason back to NEPA implementation."

Governor Gavin Newsom (D-CA) said: "I urge CEQ to withdraw and revise its dangerous and ill-advised proposed changes.... Among many other things, the proposal would encourage agencies to ignore analyzing cumulative and indirect environmental impacts by deleting wholesale mention of 'cumulative impacts' and obscuring the definition of what are considered 'effects' under NEPA. Ultimately this would mean that the public and decision makers may never know the gravity of an agency's proposed action on climate change, regional air quality, water quality, drinking water, biological resources, and agricultural resources. This is not the 'hard look' that NEPA requires to protect the public and future generations."

Governor Jared Polis (D-CO) said: "While I would strongly support reasonable NEPA reforms that speed up construction permits and reduce red tape, it is troubling to see the White House instead propose changes that would undermine the fundamental purposes of the law and increase the danger of disasters including pipeline leaks and explosions. Maintaining the federal role as custodians of our environment – to prevent things like costly pipeline spills and contamination – is critical to ensure we protect our state's most precious environmental resources that support our economy and our way of life." He also said: "Colorado supports the stated goals of increasing collaboration among federal government agencies, reducing unnecessary duplication of work, and creating a more efficient, cost-conscious, and transparent NEPA process. We also support ensuring environmental reviews under NEPA are informed by the best available science. With respect to the Proposed Rule, however, Colorado strongly opposes any effort to undermine foundational components of the NEPA review process or to deemphasize NEPA's congressional mandate of protecting and restoring the environment and supporting public health and welfare. In particular, the Proposed Rule would curtail agencies' abilities to consider the indirect and cumulative effects of their actions, including effects on the climate and other complex ecological systems. The Proposed Rule would also limit opportunities for public engagement throughout the environmental review process, particularly at critical early stages. As a result of these changes, the Proposed Rule would make informed decision-making less likely to occur."

Governor Brad Little (R-ID): "I am a strong advocate of healthy lands and waters, and I support President Trump's plans to update the National Environmental Policy Act (NEPA). The complexity of NEPA has created land management barriers and a burdensome backlog of needed projects in Idaho. Proposed improvements to the law would uphold essential

environmental safeguards and public participation while saving taxpayer dollars by reducing the time and cost of NEPA compliance for routine agency projects. The result will be more efficient highway and construction projects, reduced fire risk, and jobs from increased on-the-ground activities that improve the health of our lands. We cannot delay any longer in modernizing NEPA.” He also said: “Over the years, NEPA has transitioned from its original intent of simply requiring certain procedures to provide for informed decision making into a significant and inefficient regulatory burden. The current process has consistently resulted in the unreasonable delay of projects that are critical for the state’s economical, ecological, and infrastructural wellbeing. It is imperative that these rules governing NEPA be revised to facilitate more efficient, effective, and timely NEPA reviews by federal agencies.... It is my firm belief that these rules can be revised to promote more efficient administration of NEPA while maintaining robust environmental analysis.”

Governor Pete Ricketts (R-NE): “Thank you to President Trump for his continued focus on cutting red tape and empowering states. Simplifying the NEPA process and making it more transparent will help states deliver the infrastructure we need to grow our communities in a more effective and more efficient manner.” He also said: “The State supports the modernization efforts of the NEPA process to better facilitate efficient, timely, and effective environmental reviews for projects.... Since 2001, the outdated NEPA rule has resulted in significant project delays in essential maintenance and repair work to critical infrastructure. Consistent and concise federally-led permitting updates are needed, and the work of the Council on Environmental Quality is appreciated. Unpredictable and inconsistent project requirements make it difficult for investors to meet planned project timelines and budgets. These uncertainties continue to damage the state’s economy, kill the growth of jobs and discourag[e] potential investors. Additional clarifications and criteria could strengthen the proposed rule....”

Governor Doug Burgum (R-ND): “No one cares more about North Dakota’s environment than the people who live here, but the 40-year-old NEPA process has become increasingly complex, cumbersome and time-consuming, resulting in unnecessary, multi-year delays and cost increases for key infrastructure projects including highways, pipelines and critical flood protection. We thank CEQ and the Trump administration for proposing common-sense reforms to modernize and streamline NEPA.”

Governor Kevin Stitt (R-OK): “I applaud President Trump’s willingness to modernize and clarify the NEPA process. For far too long this framework has been used to create obstacles and cause unnecessary delays to important projects that are necessary to grow our economies, create jobs, and improve our quality of life. The Trump Administration’s effort to reform the NEPA process is consistent with our goals for the Great State of Oklahoma of promoting a prosperous economy and protecting our precious natural resources with a predictable, consistent and reasonable regulatory framework.”

Governor Kate Brown (D-OR): “While we support efforts to improve the NEPA process, we are concerned by the lack of consultation and adequate time to understand the full impacts of CEQ’s proposal, especially given the scope and magnitude of these changes. Finalizing the proposed rule will significantly weaken NEPA’s clear direction that federal agencies consider the environmental impacts of their actions and will severely limit publically information decision-making that reflects diverse perspectives on community needs, interests and values. The Proposed Rule will leave gaps in environmental protection and federal checks and balances that will create a burden for the state as we endeavor to fill those gaps.”

Governor Greg Abbott (R-TX): “The review process as required by NEPA has historically lacked efficiency and clarity, and its burdensome system stifles economic development and opportunity. I applaud the Trump administration’s efforts and welcome an update and much-needed reforms to NEPA regulations. I am confident that this overhaul will lead to even greater prosperity throughout the United States -- and especially here in the Lone Star State.”

Governor Gary Herbert (R-UT) praised President Trump’s efforts to streamline NEPA and said: “Environmental protection is crucial, and a simpler, faster, and more certain process is a win for everyone. Taxpayers and the environment will both benefit from these changes.”

Governor Kristi Noem (R-SD): “Modernizing and revamping the NEPA regulations are significant and long-overdue. Among a host of others, one area we often see these burdensome requirements slowing down progress is around infrastructure projects like highways and bridges. As Governor, I am committed to protecting our people and our state from federal government intrusion. I’m so thankful for President Trump’s leadership on these very necessary reforms.”

Governor Jay Inslee (D-WA): “This proposal is one of its most egregious steps to date in undermining landmark laws and regulations that protect public health and the environment. By restricting federal agencies’ consideration of the environmental impacts of projects, CEQ seeks to deny the public access to complete and accurate information that is critical to supporting informed decisions that affect millions of people. I urge you to withdraw this flawed rule.... In addition to our agencies’ comments, I want to emphasize how deeply irresponsible it would be to roll back requirements for federal

agencies to consider climate change when assessing the environmental impacts of major federal projects. The courts have ruled that major infrastructure projects like highways, pipelines, and fossil fuel export facilities must be evaluated based on their long-term and cumulative environmental effects, including their effects on climate. It is critical that federal agencies' evaluations continue to rely on the best available science when conducting these assessments. This proposal directs the federal government to abdicate its legal and moral responsibility under NEPA to the communities it is meant to serve. Our nation is already experiencing the dire consequences of inaction on climate, including the loss of snowpack in our glaciers, acidification of our marine waters, and extreme heat and wildfires. We simply cannot afford for the federal government to continue to deny that climate change is a crisis, with devastating impacts on our families, communities, and economy. There is no excuse for undercutting our bedrock environmental laws, ignoring clear science and putting the public health and our environment at risk."

Governor Mark Gordon (R-WY): "Uncertainty is never good for proper development and it has been particularly problematic in Wyoming, especially in light of recent court rulings regarding NEPA-related greenhouse gas emission analyses. States like Wyoming need assurance that projects will be properly analyzed the first time around so that decisions on the ground can be made in a timely manner. I support CEQ's efforts to streamline federal agency guidance under this proposed rule."

The Attorneys General of 19 states, including California, Nevada, New Mexico, Oregon, and Washington, submitted comments opposing the proposed rule, noting that NEPA plays a critical role in environmental protection and has been successful. They expressed concern over how the proposed rule would limit environmental review of federal actions. "Moreover, these unlawful and unreasonable changes will harm and burden the States. As an example of cooperative federalism, NEPA provides a robust framework for environmental review through coordination between federal agencies and the States. The States have a strong interest in protecting their residents, property, and natural resources from adverse environmental impacts. Contrary to these State interests, CEQ's Proposed Rule would increase uncertainty around implementation of NEPA and impose an additional burden on the States to fill the gaps left by inadequate NEPA environmental reviews."

The NEPA docket closed on March 10 with over 170,000 comments.