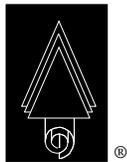


AF & PA[®]



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December 1, 2006

Horst Greczmiel
Associate Director for NEPA Oversight
Council on Environmental Quality
722 Jackson Place, N.W.
Washington, D.C. 20503

**Re: NEPA Modernization – Guidance on Categorical Exclusions, 71 Fed. Reg.
54816 (September 19, 2006)**

Dear Mr. Greczmiel:

Thank you for the opportunity to submit comments on the proposed guidance for use of categorical exclusions (CEs), 71 Fed. Reg. 54816 (September 19, 2006). The American Forest & Paper Association (AF&PA) is the national trade association of the forest, pulp, paper, paperboard, and wood products industry. We represent over 100 member companies that grow, harvest and process wood and wood fiber from both private and public lands; manufacture pulp, paper and paperboard products from both virgin and recovered fiber; and produce solid wood products. The association is also the umbrella for more than 60 affiliate member associations that reach out to more than 10,000 companies.

The CE process provides needed credibility to implementation of the National Environmental Policy Act (NEPA) as something more than a paper exercise. By encouraging federal agencies to take a serious look at their activities and eliminate work where it can be documented as unnecessary assures the public that agencies are serious about environmental analysis. While critics may rant that use of CEs undermines or guts NEPA, it is refreshing to see CEQ recognize the vital role they play in the efficient use of agency resources and a legitimate tool for agencies to use in carrying out their NEPA responsibilities.

We are in general agreement with the content of the proposed guidance. However, as we have stated in the past, we prefer regulatory improvements to guidance in order to provide a solid basis for agency reliance. We believe issuance of regulations containing the main themes of the guidance would provide CEs with an even stronger underpinning. For example, CEQ should emphasize that agencies should use CEs for actions that do not require an environmental impact statement – for “categories of actions which do not individually or cumulatively have a significant effect on the human environment.” They are, in essence, a categorical finding of no significant impact or FONSI. This description, while clear in 40 C.F.R.1500.4(p), becomes muddled in the definition at 40 C.F.R. 1508.4 by references to eliminating the need for an environmental assessment. CEQ should make the point that a CE is a more definitive NEPA process than an environmental assessment because it is based on a FONSI rather trying to determine if one is appropriate.

We compliment CEQ on its suggestions in the proposed guidance that agencies utilize a benchmarking process to obtain the benefit of the experiences of other agencies and even private entities. Given the substantiation requirements of the proposed guidance, and the oversight by CEQ, we doubt that an agency could abuse this process in any way. Similarly, the use of regional or other are-specific CEs should prove useful in the continuing effort to gain efficiency in the face of shrinking resources.

Finally, we particularly support the requirements for substantiation of a CE. Seemingly few agency actions are immune from litigation, at least in the natural resource arena. Direction to agencies to substantiate findings, in a written record, for CEs that are likely to end up in a federal court is critical for the continued availability of this NEPA tool.

Thank you again for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "William R. Murray". The signature is written in a cursive style with a long horizontal flourish at the end.

William R. Murray
Natural Resources Counsel
(202)463-2782