

**Michael A Whitehead
6100 Hillcroft
Houston, TX 77081**

October 16, 2006

NEPA Modernization (CE)
Attn: Associate Director for NEPA Oversight
722 Jackson Place N.W.
Washington DC 20503

Re: Comments on Proposed Guidance
Council on Environmental Quality
The National Environmental Policy Act
Establishing, Revising, and Using Categorical Exclusions under the National
Environmental Policy Act

Dear Sir or Madam:

I am writing to express my strong opposition to your proposed guidance: Establishing, Revising, and Using Categorical Exclusions under the National Environmental Policy Act.

In the September 19, 2006 Federal Register Notice of your proposal you state that the proposed guidance was developed in part to "...eliminate the need for unnecessary paperwork and effort under NEPA for categories of actions that normally do not warrant preparation of an environmental impact statement (EIS) or environmental assessment (EA)." The quoted portion, as well as the entire stated purpose for guidance, is commendable, and I fully support guidance consistent with the stated purpose.

Unfortunately, most of your proposed guidance will do the opposite, and will certainly have a chilling effect on all agency use of any categorical exclusion (CE) now and in the future.

Your proposed guidance:

- Will require a substantial internal agency processes for development and monitoring their CEs, which will take significant time and resources, and which offer many more opportunities for court action and other administrative roadblocks to be thrown in the way of legitimate actions and activities,
- Mandates that any Federal agency obtain written approval from CEQ prior to their establishment of any CE. This is much more than mere guidance; this is a change in regulation. If CEQ chooses not to drop this portion of the guidance entirely, at a minimum you must re-propose these requirements as regulation.

I urge you to withdraw your proposed guidance and either reconsider and entirely rewrite it to be consistent with your stated purpose and with other relevant US laws and Executive Orders, or withdraw it permanently. Our country and citizens should not be burdened by the intrusive and burdensome approach you have proposed for implementing national environmental policy as directed by Congress in the National Environmental Policy Act.

Sincerely,



Michael A Whitehead

Cc: Michael McCaul
Kay Bailey Hutchison
John Cornyn