

CQ444



Southern Appalachian Multiple-Use Council

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September 20, 2002

NEPA Task Force
Council on Environmental Quality
Fax # 801-517-1021

Dear Sir or Madam:

Thanks for the opportunity to comment on the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations, etc. We commend CEQ for recognizing the need to revamp these processes as they have contributed to the "analysis paralysis" we are currently experiencing on our nation's public lands.

It is quite clear that CEQ regulations have contributed to the proliferation of lawsuits and litigation by establishing elaborate procedures; requirements for additional documentation and vague requirements. And, attempts to clarify and expedite the complex procedures have been ignored by the courts.

We offer the following comments:

- Programmatic Environmental Impact Statements (EISs) should only be required on those programs recognized as Federal actions subject to judicial review by the courts.
- Agencies should develop NEPA compliance strategies that lead to only one layer of programmatic NEPA compliance above the project level.
- There should be no need for more than 2 NEPA documents on any federal project or agency action utilizing a "tiering" strategy..
- Programmatic NEPA documents should be considered timely for a significant period of time after completion to allow for "tiering" with project level NEPA activity.
- Consideration should be given to dropping the required analyses of "connected actions" and "cumulative effects".
- Does NEPA actually require Environmental Assessments (EAs) when a Finding of No Significant Impact (FONSI) looking at the impacts of the proposed agency action, and not to alternatives to the action, could be used instead?
- If EAs are to be used, the process and documentation should be simplified and brief – as intended.
- Clear "depth of analysis" distinctions should be made in the development of EAs and EISs.
- Contents of FONSI should be clarified and simplified.
- Time limits should be placed on levels of NEPA documentation.
- Better processes should be developed for determining emergencies and alternative arrangements for NEPA compliance.
- An objective checklist should be developed for agencies to determine eligibility for categorical exclusion.

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- Criteria, based on science, for excluding categorical exclusions should be streamlined and the “controversial” references dropped.
- The definition of “new information” requiring supplemental EIS should be clarified and define circumstances when a project must be halted until a supplemental EIS is completed.
- The regulations should be amended to create a two step process for agencies to decide whether a supplemental EIS for an ongoing project is necessary.
- The regulations should require an agency to prepare a supplemental EIS on a project or program only if the agency makes three findings:
 1. The new information presents clear evidence that the project or program is likely to have materially more harmful effects than disclosed in the original EIS.
 2. The agency lacks the authority to modify the project or program to substantially mitigate the newly disclosed effects unless it prepares a supplemental EIS.
 3. The value of the supplemental EIS is likely to exceed the cost of preparing the document.
- An activity should only be halted while waiting for a supplemental EIS when the agency finds:
 1. The activity is likely to cause serious and irreparable environmental harm before the supplemental EIS is completed; and
 2. It would be more cost effective to mitigate any such harm through other means.

Thanks again for allowing us to offer comments on this most important issue. If you need any clarification, etc. Please contact me at the phone number on our letterhead.

Sincerely,



Steve Henson
Executive Director