



CQ445

September 20, 2002

James L. Connaughton, Chairman
Council on Environmental Quality
Washington, D.C.

Dear Mr. Connaughton:

The Montana Wood Products Association represents 17 member companies and 75 associate members. We appreciate the efforts being made by the Council on Environmental Quality to address concerns related to the National Environmental Policy Act (NEPA).

Montana adopted an identical piece of legislation in 1971 patterned after the federal version of NEPA. After 30 years of struggling to make the statute work as legislative intent indicated, the 2001 Montana Legislature revised the Montana Environmental Policy Act (MEPA).

The issues addressed by statutory changes in Montana are outlined below.

- The argument over whether MEPA was procedural or substantive ended with the passage of HB 473. An environmental analysis of a project under MEPA cannot be used to deny or condition the approval of any permit or other authority to act unless a substantive environmental law would be violated.
- HB 459 changed the provisions in MEPA to require agencies to conduct a meaningful analysis of the "no action alternative". The analysis must include the projected beneficial and adverse environmental, social, and economic impact of the project's non-completion. Further, when an alternative is proposed, it must be reasonable in that the alternative must be achievable under current technology and the alternative must be economically feasible as determined solely by the economic viability for similar projects having similar conditions and physical locations and determined without regard to the economic strength of the specific project sponsor.
- Fees were addressed in HB 477. The agencies may not include in the estimated project cost the project sponsor's property or other interests already owned by the project sponsor at the time the application is submitted. Any fee assessed may be based only on the projected cost of acquiring all of the information and data needed for the environmental impact statement.

CQ445

James L. Connaughton, Chairman
Council on Environmental Quality
September 20, 2002
Page 2

- Another area of difficulty with MEPA has always been the length of time agencies would take to complete analysis and deliver a decision. SB 377 placed in statute time limits under which agencies must act. The limits are measured from the date the agency receives a complete application. It then has: (i) 60 days to complete a public scoping process, if any; (ii) 90 days to complete an environmental review unless a detailed statement is required; and (iii) 180 days to complete a detailed statement pursuant to another section of code. There is a provision for a one-time extension not to exceed 50 percent of the original time period listed. This bill also restricted consideration by an agency of future cumulative impacts.

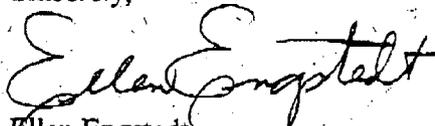
We would suggest that you examine in detail the changes made to the Montana Environmental Policy Act to determine the feasibility of similar changes to NEPA.

Some additional ideas to improve NEPA:

- Provide guidance on the level of risk analysis appropriate for evaluation to reduce uncertainty about cost, timing and litigation.
- Make more and better use of resource specific and practical definitions for categorical exclusions.
- Identify criteria for emergency exclusion of certain elements of environmental review in situations of urgent need.
- Place a time limit on new information, reviews, and appeals.
- Expedite or eliminate the appeals process.
- Identify and limit factors that contribute to obstructionist litigation.

Thank you for the opportunity to express some concerns and ideas on behalf of MWPA. So we may remain informed, please place the Montana Wood Products Association on mailing lists, e-mail lists, or other ways of communication that will be used as the Task Force does its work.

Sincerely,



Ellen Engstedt
Executive Vice President

CQ445



FACSIMILE COVER NOTE

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MESSAGE:

NEPA COMMENTS - THANK YOU -