

CQ539



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To: <ceq_nepa@fs.fed.us>
cc:
Subject: Comments on the NEPA Task Force's Review of NEPA

09/23/02 04:47 PM

Attached please find comments of the National Parks Conservation Association.

We appreciate this opportunity to express our support of the National Environmental Policy Act.

Sincerely,



CEQ NEPA Review Comments.doc

CQ539

NATIONAL PARKS CONSERVATION ASSOCIATION

Protecting Parks for Future Generations

September 23, 2002

NEPA Task Force
P.O. Box 221150
Salt Lake City, Utah 84122
<http://www.whitehouse.gov/ceq>

Re: Council on Environmental Quality's NEPA Task Force Review, (67 FR 45510-45512)

Dear Task Force Members:

The National Parks Conservation Association (NPCA) is grateful for the opportunity to submit comments on the Task Force's review of the National Environmental Policy Act (NEPA). NPCA is America's only private, nonprofit advocacy organization dedicated solely to protecting, preserving, and enhancing the National Park System. NPCA was founded in 1919 and today has more than 350,000 members.

The Federal Register notice of July 9, 2002, contains a substantial number of specific questions regarding implementation practices of the Act. While our comments will address several of the issues raised in the notice, many of remarks are more general in nature.

GENERAL COMMENTS:

NPCA is pleased that the Task Force is focusing its efforts on identifying improvements to agencies' implementation of NEPA and CEQ's implementing regulations rather on attempting to amend the Act or regulations themselves. Although NEPA was passed over three decades ago, the policy and principles underlying the law are as relevant today, if not more so, as when it was written. While NPCA acknowledges that the law could be more efficiently and effectively implemented, we believe that this can best be accomplished through agencies being more diligent in complying with the existing regulations and not by disposing of valuable guidance simply because federal agencies have not been conscientious in their adherence thereto.

Some have criticized the Act for delaying unnecessarily agency decisions and actions; NPCA believes strongly that this is not the case. It is, in fact, an agency's non-compliance with the Act and its implementing regulations that cause delay. Additionally, the delay caused by an agency's failure to comply with the Act is absolutely necessary. It is imperative that both the agency and the public is fully aware of the impacts of a proposed action *prior* to committing significant resources towards implementing an agency decision.

NEPA is one of our nation's most important and useful environmental statutes, having both significant procedural and substantive impacts. The primary function of the Act is to ensure that federal agencies carefully consider the potential environmental impacts of proposed agency actions. Such consideration includes not only an evaluation of the impacts of the agency action, but a



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thoughtful examination of a range of alternative actions by which the agency can accomplish its desired outcome.

NEPA is an invaluable tool for the American public and its value is particularly acute when applied by the National Park Service. Each park within the National Park System contains lands, wildlife, historic structures and antiquities, and other resources that are of superlative quality and which possess national significance. These areas and resources embody our national heritage – historical, cultural, and natural. It is essential for the public to know not only what activities the Park Service is planning to undertake, but, more significantly, what is the possible impact of the activity on these irreplaceable resources. Public involvement is only meaningful if it is informed involvement – the National Environmental Policy Act is an essential source of information.

Below are some specific recommendations for improvements to agency NEPA implementation:

- In the interest of providing the American public and the federal agency with the most accurate information regarding the impact of a proposed action, it is essential that the acting agency takes into consideration the cumulative impact of the proposed action with other ongoing, proposed, or foreseeable actions that may have an impact on the environment in question.
- Also critical to a fair and unbiased assessment is ensuring that agencies do not make a decision prior to beginning the environmental impact analysis. Often an agency that has chosen a course of action prior to beginning the process mandated by NEPA will not give adequate consideration to an appropriate range of alternatives, including a no action alternative.
- Environmental analyses that identify unavoidable adverse impacts must also contain significant and meaningful mitigation measures that result in an overall improvement to the condition of the environment.
- Situations in which an agency is faced with uncertain impacts as a result of the proposed actions must prepare a full environmental impact statement.
- Agencies should consider the collateral impact of their actions of lands and resources under the jurisdiction of other federal, state, or private entities.
- The use of categorical exclusions must be measured. All agency actions that have the potential to have a significant effect on the human environment demand at least an environmental assessment.

RESPONSES TO SPECIFIC QUESTIONS:

A. Technology, Information Management, and Information Security:

NPCA believes that information about proposed agency actions should be made available through the broadest number of means, including but not limited to: publication in the Federal Register, publication in local news papers, as PDF or other readily accessible file on the agency's web site, on CD-ROM, and at public meetings.



Agencies must also provide adequate means for the public to submit comments on proposed agency actions. It is particularly important that agencies provide the public with a means of submitting comments electronically and that these comments are given equal weight to their hard-copy counterparts.

B. Federal and Inter-governmental Collaboration:

NPCA believes that it is imperative that the federal agency with the most direct stewardship over and expertise regarding the affected resource take the lead in situations that require cooperating agencies. For example, although the Federal Aviation Administration has jurisdiction over the skies, the National Park Service is in the best position to determine the impact of air tour overflights on park resources – the affected environment. It would be most appropriate, therefore, for the Park Service to be the lead agency in an action that involved air tours over national parks.

C. Programmatic Analysis and Tiering:

NPCA believes that, in order to comply with both the letter and spirit of the law, it is often necessary to prepare both programmatic and action-specific analyses. For example, the National Park Service is preparing an environmental analysis on the potential impacts of bioprospecting agreements. While the organization believes this programmatic review is appropriate, it should not substitute for a complete analysis of the impacts of such arrangements on the resources at each park participating in these agreements. Of course analysis that is common to both analyses will not need to be duplicated.

D. Adaptive Management/Monitoring and Evaluation Plans:

Adaptive management is only appropriate if the initial environmental analysis concludes that the proposed action is not likely to pose an unacceptable threat to the environment. Of course, the organization recognizes that changed circumstances and the discovery of new information are inevitable, and their prospect alone should not prevent an agency from proceeding with a proposed action.

Uncertainty of impact is not sufficient justification for an agency not to prepare a full environmental impact statement. Actions the impact of which is not known but which pose more than a *de minimus* threat to the environment should be avoided. Changes to a proposed action that may cause significant impacts or new information that reveal a previously unconsidered significant impact on the environment should prompt a full environmental analysis.

CONCLUSION

NPCA is grateful for the opportunity to express its support for the policy, principles, and rigorous implementation of the National Environmental Policy Act and CEQ's implementing regulations. The Act is the front line defense for our nation's environmental integrity and should be adhered to diligently. The best way to improve the efficiency and effectiveness with which the Act is implemented is to ensure that agencies comply fully with the law and existing regulations. We look



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forward to working with the Task Force to ensure that our nation's resources are appropriately protected, that federal agencies have fully considered the potential impacts of their actions, and that the American public is provided with adequate information to allow them to participate meaningfully in the agency decision making process.

We reserve the right to supplement these comments at a later date.

Sincerely,

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