



CQ585

<http://www.uiuc.edu/~wssawssaw/>

PRESIDENT
BRADLEY A. MAJEK
Rutgers A. R. E. C.
121 Northville Pl.
Bridgeton, NJ 08308-8078
856/455-8100
FAX 856/455-8128
majek@aesos.sitgers.edu

September 23, 2000

PRESIDENT-ELECT
A.S. (AL) HANBLE
Weed Management / AAFC-GPOPC
2585 County Road 28
Harrow, OH
NORT 1088, Cortland
519/738-2251 Ext. 487
FAX 519/738-2888
hanble@com.agr.on

Council on Environmental Quality
National Environmental Policy Act Task Force
P.O. Box 221150,
Salt Lake City, UT 84122.

VICE PRESIDENT
DON THILL
Room 242 Ag. Sciences Bldg.
University of Idaho
Moscow, ID 83844-2388
208/885-8214
FAX: 208/885-7788
dthill@uidaho.edu

Submitted by FAX to: (801) 517-1021

TREASURER
CAROL MALLOFFY-SMITH
Dept. of Crop & Soil Science
107 Crop Science Bldg.
Corvallis, Oregon 97331-5888
541/737-5883
FAX 541/737-5467
Carol.Malloffy.Smith@orst.edu

Dear Task Force Members,

I am writing on behalf of the Weed Science Society of America (WSSA) and am pleased the Council on Environmental Quality (CEQ) has provided this opportunity to comment on implementation of the National Environmental Protection Act, or NEPA. WSSA is a not-for-profit association of academic research, extension, government and industrial scientists committed to improving the knowledge and management of weeds in agricultural, aquatic, forest, horticultural, range, right-of-way and natural area environments. The Weed Science Society of America and its affiliates, the Aquatic Plant Management Society, the Northeast Weed Science Society, the North Central Weed Science Society, the Southern Weed Science Society, and the Western Society of Weed Science represent over 4,000 members nationwide.

SECRETARY
LAURA WHATLEY
BASF Corp. / Ag. Products
P.O. Box 13828
Research Triangle Park, NC 27709-3828
919/547-2281
FAX 919/547-5888
whatley@basf-corp.com

The following comments were prepared by asking members to identify specific NEPA problems they have experienced and to recommend specific practical solutions for these problems. Unfortunately, they identified more problems than solutions. However, members voiced strong support for the purposes and intentions expressed in the NEPA statute. They have dedicated their careers to improving agricultural and natural resource management and they also strive to "fulfill the responsibilities of each generation as trustee of the environment for succeeding generations." In this vein we are very concerned that many plant species such as kudzu, yellow star thistle, purple loosestrife and Eurasian water milfoil cause significant environmental damage and effective management of these types of plants is badly needed.

PAST PRESIDENT
CHARLOTTE EBERLEIN
Twin Falls Research and Extension Center
P.O. Box 1827
316 Falls Ave. E.
Twin Falls, ID 83303-1827
208/738-3400
FAX 208/738-0843
ceberl@uidaho.edu

DIRECTOR OF PUBLICATIONS
MICHAEL FOLEY
USDA, ARS, Biosciences Research Lab
P.O. Box 9874
State University Station
Fargo, ND 58105-9874
701/239-1251
FAX 701/239-1252
foleym@fargo.ars.usda.gov

**CONSTITUTION AND
OPERATING PROCEDURES**
HORACE D. SKIPPER
Department of Agronomy
Clemson University
Clemson, SC 29634-0359
864/655-3525
FAX 864/650-3443
skipper@clemson.edu

EXECUTIVE SECRETARY
JOYCE LANCASTER
810 East 10th Street
Lawrence, KS 66044-7080
800/827-0829 Ext. 250
785/843-1235 Ext. 250
FAX 785/843-1274
lancastar@afcorp.com

Members expressed substantial concern that NEPA often impedes timely and prudent management of invasive weeds that are very detrimental to natural areas and natural resources under federal stewardship. The overwhelming perception is that NEPA currently inhibits rather than enhances federal efforts to protect public and private resources from this specific ecological threat. Additional concerns were expressed about the negative impact NEPA has on weed management in commercial and other public sector activities such as right of way maintenance on highways, power lines and waterways.

Specific Concerns

Members documented many problems that they have encountered with specific agencies and at specific locations. We will present these problems as general observations rather than risk incriminating any specific individuals or agencies.

Delay of Timely Treatment

A recurring comment was that it takes too long to complete Environmental Impact Statements (EISs) and Environmental Assessments (EAs) for vegetation management activities. Responses indicated it typically takes several years to get all of the required documentation from cooperating agencies. In one case, management of a weed infestation has been delayed for over ten years due to a failure of one agency to complete their consultation responsibilities.

Timely action is crucial when trying to eradicate, manage or contain disruptive biological pest invasions, whether they are weeds, insects, diseases or other organisms. Delayed action favors the pests. It allows the size of infestations to grow, thereby increasing the cost and risks associated with control efforts. Delay allows pests to become entrenched and more resistant to management efforts so that more treatments will be required and for longer periods. Delay also increases the probability that the invasive pest will spread and establish many new infestations. In practice, delayed action has repeatedly cost us the opportunity to contain, control or eradicate serious new ecological, economic and public health pests before they get firmly entrenched and widely dispersed. Consequently these pests will cause long-term, widespread damage that will require substantial ongoing management.

Causes of Delay

Several reasons for these delays were cited. These include lack of budget to perform the required analysis, lack of specific guidance, lack of consistent requirements, lack of cooperation from associated agencies, philosophical opposition to the proposed activity by agency staff and "shifting goal posts" wherein additional information is continually requested.

Lack of Budget

Preparation of NEPA documents, whether EISs or EAs requires significant staff commitment, but the appropriate staff is often fully preoccupied with other activity more relevant to an agency's core mission. As a result, high priority actions that require NEPA documentation are often put aside in favor of lower priority work that does not involve NEPA analysis. The NEPA process is put on hold until funds are obtained through a budget process that often takes several years.

There is also a liability cost associated with actions requiring NEPA documentation. Agency administrators have come to fear the high cost of defending against legal challenges that can sap valuable resources. These costs can be in the form of excessive NEPA preparation to make the EAs and EISs challenge proof or the costs of defending a decision if it is later challenged. Again, the NEPA process leads some administrators to shift focus to other, and arguably lower priority work.

Regarding costs, members cited cases when the cost of NEPA analysis was higher than the cost of the invasive plant treatment that it ultimately allowed. In one case permitting delays caused the final treatment cost to be several times higher than it would have been if treatment had taken place in a timely manner. This drain on resources is extremely troublesome to land managers who are struggling with woefully inadequate weed management budgets. They recognize invasive weeds as a serious threat to the land that has been entrusted to their care and they resent seeing their meager funds used up on analysis rather than weed management.

Lack of Adequate Guidance and Consistency

By their nature invasive plants and other pests must be managed within ecosystems that span multiple boundaries and jurisdictions. Great progress has been made to form cooperative weed management areas (CWMAs) that coordinate multiple federal, state, local and private efforts to address these problems efficiently. However, NEPA compliance sometimes undermines these efforts. The federal partners in these CWMAs tend to have adequate guidance to prepare their NEPA analyses, but people working at the state and local level often lack the training and guidance they need to prepare the documents easily. This limits their ability to use federal funds for their part of the weed management plan.

In related cases, NEPA sometimes stymies state and local governments' ability to exercise their mandated weed management responsibilities. For example, many states and counties have weed laws that require them to manage or eradicate noxious weeds in order to prevent their spread. When federal lands fall within their geographical boundaries they sometimes find that an EIS or an EA is required before control activities can be started. Several problems can then arise. One is that state and local governments must prepare documents although they are unfamiliar with the process. Another is that different federal agencies often stipulate different NEPA requirements. A final observation is that the local staff of some federal agencies occasionally use NEPA requirements to obstruct actions such as herbicide applications that they oppose philosophically.

Redundancy

Several members expressed concern that there is apparent, but not transparent, redundancy between NEPA and the pesticide regulations embodied in the Federal Fungicide, Insecticide and Rodenticide Act (FIFRA) and The Food Quality Protection Act (FQPA). Both of these federal statutes were passed after NEPA and are administered by the Environmental Protection Agency (EPA).

The FIFRA and FQPA statutes require that any herbicide undergo extremely extensive scientific analysis before it can be registered and marketed. In addition, the registration process requires that very specific use instructions and use prohibitions be included on a herbicide's label. The use instructions specify the purposes for which the herbicide may be used, the amount that can

be used, the number of times it can be used, the crops and environments where it may be used and any precautions that must be taken when it is used. These instructions and prohibitions are based on thorough analysis of data submitted by the herbicide registrant plus review of the relevant scientific literature. This data is analyzed in great detail by several different divisions within EPA's Office of Pesticide Programs (OPP). These include the Health Effects Division (HED), the Environmental Fate and Effects Division (EFED) and the Biological and Economic Effects Division (BEAD). Finally, any use of a pesticide that does not comply with the label instructions is a legal violation.

In view of the rigorous analysis already performed within EPA, several members questioned why other federal agencies are compelled to reevaluate the professional opinion already rendered by the agency that has specific responsibility for thoroughly evaluating herbicide safety.

Suggestions for Improving the Process

The first suggestion is to let the registration decision by EPA serve as a partial or total substitute for NEPA analysis of herbicide treatments. As a minimum, EA's and EISs could be tiered to the evaluation performed by EPA when registering a herbicide for use. Additional evaluation of the safety, health and environmental effects by other agencies should only be required when a specific, pertinent and substantial deficiency in the labeling requirements is identified.

It is worthwhile to note that EPA has the statutory authority, the established procedures, the scientific expertise and the budget resources to adequately evaluate the human health and ecological risks of pesticides. Over the past six years the EPA has invested heavily and made enormous progress to improve the entire pesticide regulatory process. In so doing they have made the process more efficient, transparent, predictable and fair to all parties including registrants, consumers, activists and pesticide end-users. These efforts have provided opportunity for critical external review of the science which supports the agencies regulatory decisions and in so doing they have improved the validity and credibility of the entire process. EPA's effort to improve the transparency, quality and accountability of their pesticide regulatory process is a commendable example that warrants review by the CEQ NEPA task force.

Programmatic Environmental Impact Statements

Members expressed general support for the use of Programmatic Environmental Impact Statements and WSSA has previously endorsed the Bureau of Land Management's (BLM) current effort to develop a Programmatic EIS for vegetation management in the Western United States. We anticipate this will significantly streamline the process and simplify the work required for subsequent site-specific EAs and EISs.

BLM also intends to address a shortcoming of prior Programmatic EISs, namely that they are not updated often enough to incorporate new science and technology. In the past BLM has been criticized for using old and outdated weed control technology simply because it was all that had been approved through prior EISs. In this iteration, BLM plans to include a robust protocol to evaluate new herbicide technologies as they become available. If the new techniques satisfy pre-established criteria, it will be possible to approve them as "mid-term" additions to the new EIS that will likely span a decade. This approach shows considerable foresight.

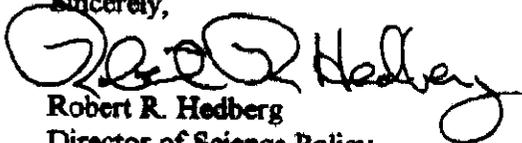
Another successful example cited by members is the Rangeland Grasshopper and Mormon Cricket Suppression Program Final Environmental Impact Statement-2002 that was prepared by the Animal Plant Health Inspection Service (APHIS). This Programmatic EIS was developed so that all federal agencies can tier to it as they prepare their site specific EAs. It was suggested that a similar, single unified National Programmatic EIS for Invasive Plant Management be created for use by all agencies. This would help solve the problem of inconsistent requirements between agencies, it would serve to balance the conflicting biases that exist between different agencies and it would eliminate duplication of efforts within the federal government.

Categorical Exclusions

As already stated, delayed action has allowed many small local weed problems to become substantial widespread problems. Several members stressed the need for categorical exclusions that would permit land managers to make small-scale herbicide treatments without preparing EAs or EISs. A useful modification of this approach would be an environmental checklist that would provide documentation that pertinent environmental considerations have not been overlooked. Currently, the National Invasive Species Council (NISC) and the Federal Interagency Committee for Management of Noxious and Exotic Weeds (FICMNEW) are developing plans for Early Detection and Rapid Response (EDRR) systems. The premise of these systems is that there is a narrow window of opportunity to find and treat incipient infestations of invasive species before they become unmanageable. A categorical exclusion for small-scale herbicide treatments would permit this type of rapid response.

In summary, NEPA implementation is a significant concern for WSSA members who are involved with the issue of invasive plant management on federal lands. The members who commented on NEPA implementation were supportive of the statute's intent but they also identified several problems that inhibit sound weed management efforts. Relative to herbicides, they questioned whether the statute's intent has been superseded by the subsequent creation of EPA and its assumption of pesticide registration responsibilities under FIFRA and FQPA. Overall, members perceive that the problems are very manageable by streamlining the processes, by providing better guidance to cooperators, by eliminating redundancy and inconsistencies, and by instituting responsible thresholds of regulation that do not impede rapid response to small weed infestations. We are very pleased that the Council has taken the initiative to improve the NEPA process and that we have been provided this opportunity to submit these comments. Furthermore, we welcome the opportunity to answer any questions the task force may have relative to these comments.

Sincerely,



Robert R. Hedberg
 Director of Science Policy
 National and Regional Weed Science Societies
 202-408-5388; robhedberg@erois.com

CA585

900 Second Street N.E.
Washington, DC 20002
Phone: (202) 406-8006
Fax: (202) 406-8006
Email: robhedberg@erdc.com

**National and
Regional Weed
Science Societies**

Fax

To: CEQ - NEPA Task Force	From: Rob Hedberg, Director of Science Policy
Fax: (801) 517-1021	Pages: 6, including cover
Phone:	Date: September 23, 2002
Re:	CC:
<input type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle	

Following are comments on behalf of the Weed Science Society of America regarding NEPA implementation. I will also send an electronic version of these comments via e-mail. Please let me know if you have trouble receiving or opening these comments.

Thank you for your consideration of this important issue.

Rob Hedberg
