

23 August 2002

NEPA Task Force  
P.O. Box 221150  
Salt Lake City, UT 84122

CQ89

Dear Task Force Members:

The signatories of this letter represent wildlife biologists, sportsmen and sportswomen and other conservationists across the nation. Each organization is staffed with professional wildlife biologists who regularly participate with the Bureau of Land Management, Natural Resources Conservation Service, US Fish and Wildlife Service and US Forest Service during their NEPA related activities. When evaluating and contributing to the development of state and federal programs and policies that impact wildlife resources, we rely on objective science and the land management experience of our staff professionals. Today we are submitting recommendations on how to reform the practices and procedures of the National Environmental Policy Act of 1969.

**A: Technology, Information Management and Information Security**

*1. Where do you find data and background studies to either prepare NEPA analyses or to provide input or to review and prepare comments on NEPA analyses?*

When reviewing and commenting on the Environmental Impact Statements (EIS) and Assessments (EA) of federal agencies, we regularly use peer-reviewed data that are published in scientific journals and/or presented at conferences of professional societies, like The Wildlife Society and Society for Range Management. Also, we follow the research of state and federal agencies and often incorporate the findings of those agencies into our EIS/EA reviews. Examples of agency databases we have used include the US Geological Survey's GAP Landcover Assessment and the US Forest Service's Forest Inventory and Assessment. Such databases let us compare current conditions with the expected conditions under an agency's EIS/EA.

On a daily basis we interact with each other and the members of other conservation and sportsmen's oriented groups as well as the resource professionals of state and federal agencies. Through these trusted relationships, each of us acquires detailed information about natural resource issues, either over the phone, in writing or during field visits.

We also regularly consult on-line sources for access to species reports, forest plans, regional information and other information. Federal agency websites are important components of this process.

*2. What are the barriers or challenges faced in using information technologies in the NEPA process? What factors should be considered in assessing and validating the quality of the information?*

Computer modeling of natural systems lets decision makers understand how proposed land management decisions may impact populations of animals and plants and the quality of soil, water and air. More importantly, modeling programs let land resource planners test theories of how natural systems operate years into the future, thereby letting planners make informed management decisions. However, these programs depend on many variables (e.g., weather patterns, mortality and reproduction factors of a particular species, land use activities), and humans cannot predict or control every variable. Consequently, it is impossible to predict future outcomes with 100-percent certainty. For this reason, it is imperative that computer models provide guidance, and not the last word, during the decision-making process for any land management project.

CQ89

When assessing and validating the quality of information used during the NEPA process, we believe the following factors should be considered:

1. How the quantitative and qualitative information was collected and analyzed—All information should be objective and comprehensive. Balanced representation among the issue's environmental, sociological/cultural, political and economic components should be sought for every land management decision.
2. Who collected the information—When reviewing biological data, the research results of professional scientists should be ranked above the field observations of private landowners or other individuals who lack research training and experience. Decision-makers should prioritize information that is acquired from objective sources.
3. Type of conclusions drawn from quantitative data—Reports of biological research should identify clearly on which assumptions the study was based and what the limitations were of the data.
4. Range of viewpoints the information provides—Any NEPA evaluation should avoid predisposition to a particular outcome or resolution. For this reason, federal agencies should use a breadth of information that reflects a broad perspective on the potential impacts and alternatives of the analysis.
5. Extent to which the data applies to the NEPA document's planning site—Often we see data for Project A being massaged and used during the preparation of Project B that, in many instances, is geographically removed from Project A's study area. Moreover, federal agencies, commonly (and erroneously) use outdated information (sometimes by 10 or 20 years). Scientifically sound decisions for any land management issue depends on the use of current, site-specific information.

*3. Do you maintain databases and other sources of environmental information for environmental analyses? Are these information sources standing or project specific? Please describe any protocols or standardization efforts that you feel should be utilized in the development and maintenance of these systems.*

None of us maintains databases or any other source of environmental information useful to the analysis process. However, for 67 years the Wildlife Management Institute has partnered with land grant universities, state natural resource agencies and the US Geological Survey-Biological Resources Division to maintain the operations of 39 Cooperative Fish and Wildlife Research Units. These units facilitate research on renewable natural resources, help train graduate students in the natural resources field, extend technical assistance and consultation to groups interested in natural resource issues, and provide seasoned professionals with opportunities for continuing education.

*4. What information management and retrieval tools do you use to access, query, and manipulate data when preparing analyses or reviewing analyses? What are the key functions and characteristics of these systems?*

Because we follow a broad range of wildlife population and wildlife habitat issues across the United States, it is critical that our staffs have timely on-line access to federal plans, reports, research results and other documents. While we recognize this need for security precludes making such sources fully interactive, it is important that tables, charts and other data presentation be formatted to allow downloading and manipulation.

CQ89

5. *What are your preferred methods of conveying or receiving information about proposed actions and NEPA analyses and for receiving NEPA documents (e.g., paper, CD-ROM, web-site, public meeting, radio, television)? Explain the basis for your preferences.*

For those of us who work in the Washington, DC area, we typically learn about most NEPA-related exercises or decisions during our daily perusals of the Federal Register (on-line). Our field crews, however, may receive more notices about NEPA documents from an agency's regional, state and local offices. Land management and regulatory agencies regularly inform us about their intentions to develop an EIS/EA or send us draft documents. Of course, we would appreciate direct postal mailings and on-line notices for all federal actions that have a potential to impact wildlife resources or related recreational uses. This heads-up notification would: 1) ensure us that our input and partnership is valued; 2) afford us with additional time to research key issues; and 3) help us to understand that important issues and actions are not being overlooked.

6. *What information management technologies have been particularly effective in communicating with stakeholders about environmental issues and incorporating environmental values into agency planning and decision making (e.g., web sites to gather public input or inform the public about a proposed action or technological tools to manage public comments)? What objections or concerns have been raised concerning the use of tools (e.g., concerns about broad public access)?*

Internet-based communication provides immediate-public access to agency decisions, planning intentions and issues, yet it should not be the main source of public outreach because not all stakeholders regularly use the Internet. All stakeholders, especially those residing or working next to federal property, benefit from newspaper announcements of land management proposals or decisions. Those announcements should include notification of public meetings to promote face-to-face interaction between the agency and public stakeholders.

Among the land management agencies, we have realized great success when communicating with the US Forest Service (USFS), Washington, DC staff. However, with all federal agencies, we focus on forging working relations with specialists, forest supervisors, refuge managers and other land management leaders to answer specific resource and policy questions relevant to NEPA. We depend on the same individuals to apprise us of emerging NEPA activities.

In general, our concerns with any information management tool, is the timing at which the agency's information is shared and when the request for public involvement is made. In order for land management or regulatory agency staff to receive quality input from the public, they must engage key stakeholders when conceptualizing projects and vigilantly seek input early and throughout the NEPA process. It also is critical to provide response and feedback to meaningful input received by federal agencies.

7. *What factors should be considered in balancing public involvement and information security? The information provided in NEPA documentation should be sufficient for the public to understand clearly management issues and the alternatives proposed to resolve those issues. It has been our experience that federal agencies often neglect or choose not to provide this information in sufficient detail or clarity for public comprehension. If data are not available or are unavailable to provide to the public because of security reasons, then agencies should provide as much as they can and then clearly explain why certain information is unavailable.*

In circumstances involving public funds or trust resources, such as wildlife, the bias must favor open disclosure and public involvement. Only in cases where such an approach poses a specific threat to the well being of private citizens should processes be closed and sequestered; and even

CA 89

in such cases, if participation is discretionary, the program or process should be open. To do otherwise fosters distrust and disenfranchises the agency's constituencies, ultimately weakening the programs and process.

### **B: Federal and Inter-governmental Collaboration**

*1. What are the characteristics of an effective join-lead or cooperating agency relationship/process? Provide example(s) and describe the issues resolved and benefits gained, as well as unresolved issues and obstacles.*

It is our experience that collaboration among federal agencies on NEPA documents is limited, and collaboration between federal and state agencies often is very poor. Often the amount and quality of communication and collaboration among federal and state agencies is about the same or less than what occurs with the general public. We believe this is a significant problem for issues affecting wildlife. We believe collaboration and communication among federal and state agencies during the NEPA documentation process must be improved and that a process must be developed to address and monitor the differences among those agencies.

The most important characteristics of such processes include: 1) purposeful, early engagement of stakeholders and sources of expertise; 2) ongoing open communication throughout the process; 3) feedback to input, especially that which is not incorporated; and 4) designation of an appropriate federal agency staff person to be responsible for such communication.

*2. What barriers or challenges preclude or hinder the ability to enter into effective collaborative agreements that establish join-lead or cooperating agency status?*

Based on our experience, it appears that some of the issues federal, state, local and tribal agencies need to resolve are:

1. **Turf battles**—More often than not, the federal agency that is responsible for a NEPA analysis and documentation makes it difficult or impossible for other agencies to participate effectively in the NEPA process because it wants to maintain complete control of the planning process. Yet successful natural resources management hinges on collaboration. No single agency has all the information and skills needed to resolve a land management issue. More importantly, each agency has a unique perspective on the issue at hand and can help the responsible agency "think outside the box" and identify innovative, scientifically sound solutions for the resources in question.
2. **Inadequate review of inter-agency comments**—Often the responsible federal agency processes the solicited and received comments of state wildlife agencies and other federal agencies in the same manner it processes comments from the general public. Wildlife is entrusted to the States, except for species that are federally protected by such laws as the Migratory Bird Treaty Act of 1918 and the Endangered Species Act of 1973. It stands to reason that federal agencies charged with the preparation of NEPA documents involving wildlife and their habitats would collaborate and cooperate with the States and other federal agencies that are responsible for protecting wildlife and their habitats.
3. **Personnel issues**—The authority to enter into and to make decisions under such agreements is not always delegated to an appropriate level. Thus, for the sake of consistency and time efficiency, each agency should send the same person(s) to each collaborative meeting and these representatives should have the authority to make on the spot decisions. Yet for many agencies that requires hiring more individuals because they currently lack a sufficient staff to accommodate the time demands of collaborative projects. Moreover, agency heads need to consistently communicate their desire to conduct business in this manner to their employees.

CQ 89

*3. What specific areas should be emphasized during training to facilitate joint-lead and cooperating agency status?*

When training agency personnel for collaborative exercises with other agencies, the standard communication skills should be emphasized: negotiations (opposed to position bargaining), alternative dispute resolution, and facilitation. Also, agency personnel should be reminded to incorporate the planning efforts of other agencies (state or federal) into their NEPA activities. For instance, when a land management agency is conducting a NEPA analysis on habitat that impacts songbirds, the agency should retrieve information from the physiographic regional plans for Partners in Flight because those plans provide excellent guidance on the habitat needs of songbirds.

**C: Programmatic Analysis and Tiering**

*1. What types of issues best lend themselves to programmatic review, and how can they best be addressed in a programmatic analysis to avoid duplication in subsequent tiered analysis? Please provide examples with brief description of the nature of the action or program, decisions made, factors used to evaluate the appropriate depth of the analyses, and the efficiencies realized by the analysis or in subsequent tiers.*

Traditionally, programmatic reviews have been used for instituted activities that occur across the nation or within a specific region. Examples include the issuance of permits for incidental takings of a listed species and habitat restoration activities (wetland mitigation), the control or eradication of invasive species, and the reclamation of water impoundments. In such instances where the same project is being replicated on different planning units, it behooves the federal agency to release a programmatic analysis because the document provides the public with a digestible overview of the task at hand while explaining what the cumulative impacts would be on the environment and society. However, programmatic analyses rarely are complete because they cannot possibly address all the issues related to site-specific implementation. Moreover, they typically are expensive and time intensive to produce, and in some cases, tiering site-specific decisions up to a more general programmatic NEPA analysis leads to confusion and a lack of trust among the public for the responsible federal agency. Rarely does the public have ready access to these programmatic analyses, and most often the public is not interested in the necessity of reviewing another federal document.

For these reasons, we believe NEPA analysis and documentation should occur as close to the site-specific implementation as possible.

**D: Adaptive Management/Monitoring and Evaluation Plans**

*1. What factors are considered when deciding to use an adaptive management approach?*

Implementation of adaptive resource management (ARM) depends on the following factors:

1. Knowledge of the current and desired conditions for each natural resource to be managed—"Desired" conditions should reflect the minimum and maximum thresholds of ecological health the agency will accept (e.g., letting a non-native, invasive species cover between 0% and 20% of the land area);
2. Type, frequency and scale of disturbances (natural and human induced) that may occur within the land area; and
3. Level of financial commitment to long-term monitoring and evaluation.

*2. How can environmental impact analyses be structured to consider adaptive management?*

To accommodate the implementation of ARM, the EIS/EA documents should describe clearly what the land management options are for the area in question. Each option should be paired with a trigger event(s) so that the agency's staff and the public know upfront when and why the agency must modify its land management approach. Examples of a trigger event are: 1) a

CQ 89

wildfire burns more than the maximum threshold acreage; and 2) the percentage of grasses and forbs necessary for wildlife forage is below the minimum threshold.

3. *What aspects of adaptive management may, or may not, require subsequent NEPA analyses?*

Subsequent NEPA analyses may be necessary when:

1. A disturbance occurs for which the agency did not plan during the initial EIS/EA process, thereby changing the Record of Decision. But if the disturbance is less than that previously analyzed and would not affect the Decision that was made originally, it should be documented in a Supplementary Information Report and incorporated into the Administrative Record. The project should proceed without delay.
2. The ARM objectives do not comply with the planning unit's current resource management plan.
3. The ARM approach is modified beyond the original NEPA analysis. However, it is critical that the federal agencies evaluate a range of options that are available in the adaptive management approach when it conducts its original NEPA analysis.

4. *What factors should be considered (e.g., cost, timing, staffing needs, environmental risks) when determining what monitoring techniques and levels of monitoring intensity are appropriate during the implementation of an adaptive management regime? How does this differ from current monitoring activities?*

When designing a monitoring project, the land manager must answer the following questions:

1. What characteristics of the resource must be monitored?—For example, height of the plant and reproductive rate of the animal population. The answer to the question will determine when the monitoring activities must occur (i.e., time of day and time of year).
2. Is the parameter to be monitored sufficiently observable to make its use practical and meaningful?
3. How much money will be provided annually and for how many years?
4. What are the terrain conditions for each monitoring period?
5. What type of equipment must the monitoring staff use? How many items of each instrument must the staff have on hand?
6. What are the knowledge and skill qualifications for each staff member?
7. How many individuals are needed to complete each monitoring round?
8. Will non-governmental organizations and/or businesses contribute money and/or staff to the project?
9. Is the desired future condition(s) being met?
10. Has the practice been employed for a sufficient time (at least ten years) without negative environmental consequences?

### **E: Categorical Exclusions**

1. *What information, data studies, etc., should be required as the basis for establishing a categorical exclusion?*

The basis for establishing categorical exclusions should be compliance with federal laws as well as information regarding the urgency of the need to control insects, diseases, reduce hazardous fuels, or perform salvage operations prior to product deterioration. The repetitive nature of projects, the likelihood that there is no need to disclose non-significant environmental effects, and the effects to the human environment that are generally positive also should be considered as a basis for their establishment.

When deciding whether to establish a categorical exclusion for a particular proposed action, the land manager should review existing: 1) biological assessments to learn how the proposed activity would impact wildlife and fish species that inhabit the planning unit; 2) social impact

CQ89

assessments to understand how the proposed activity would impact users of the planning unit (economically, recreationally, aesthetically, etc.); and 3) resource inventories to determine what the resource conditions are compared to what they should be. Because the establishment of any categorical exclusion is likely to be scrutinized by select interest groups, it is imperative that its consideration occurs in an open, collaborative manner from start to finish. Additionally, the decision to use a categorical exclusion should include an assessment of the frequency and geographic breadth of the practice to be excluded.

*2. What points of comparison could an agency use when reviewing another agency's use of similar categorical exclusion in order to establish a new categorical exclusion?*

When establishing a new categorical exclusion that another agency is already implementing, the agency should review what the ecological, sociological and economic consequences supported the categorical exclusion in the other agency.

*3. Are improvements needed in the process that agencies use to establish a new categorical exclusion? If so, please describe them.*

Improvements may be needed in the process that agencies use to establish new categorical exclusions. Projects that are repetitive in nature, clearly benefit the health of our forests and rangelands, improve wildlife habitat, reduce hazardous fuels, and generally have positive impacts on the human environment should be considered for categorical exclusions. There also should be a more aggressive notification process for stakeholders and sources of expertise, including other federal agencies. Bear in mind that when establishing a categorical exclusion, you are assuming that the public, or some segment thereof, would not be interested in the activities. Presently, there are few activities that a federal agency could conduct that would have no impact on the human environment.

**F: Additional Areas for Consideration**—*In addition to the topics described above, the NEPA Task Force will consider comments on NEPA practices that would improve and modernize NEPA implementation.*

Most of the controversy centered around federal agency Land and Resource Management Plans results from the fact that the agencies attempt to evaluate the effects of proposed activities over very large landscapes, when the public's perspective often focuses on the effects of site-specific activities. Therefore, we recommend that federal land and resource management planning documents should not be considered decision documents, and that decisions related to proposed activities be limited to site-specific actions. In our opinion, planning documents should:

1. Determine extent, type and condition of resources associated with specific land units;
2. Identify public issues surrounding the management of those resources;
3. Describe the public's desired future condition of those resources; and
4. Evaluate an array of alternative management strategies proposed to achieve the desired future conditions.

Conversely, NEPA analyses should focus on evaluating the use of one or more alternative management strategies (from those evaluated in the planning document) to solve site-specific management issues. Decisions should be necessary only when a line officer selects an alternative management strategy from among those identified in the planning document. And when preparing NEPA documents, the federal agencies should assess how the proposed decision would impact natural and social resources beyond the boundary of their planning units. At least in the northeastern states, we often spend much of our time locating landscape level measurements to conduct a comprehensive review of NEPA documents.

CQ89

We also direct your attention to the NEPA direction that requires an EIS for any "major Federal action significantly affecting the quality of the human environment." The courts, federal agencies and interested publics have interpreted this clause to include virtually any proposed action. Moreover, it should be recognized that a decision to not implement a management action, especially in disturbance dependent systems, could have far reaching implications for some or all natural resources within the planning unit. The above groups also have interpreted "significantly affecting the quality" to include those activities that "improve the quality of the human environment." It needs to be clarified that the intent of an EIS requirement is for actions that will "adversely" affect the human environment.

Finally, we believe that the NEPA process should require the agencies to seek human dimensions assistance from specialists in the private and/or academic community. Because agencies regularly address controversial issues that often involve polarized interest groups, it is imperative that the agencies have a neutral individual facilitate their public involvement activities. A human dimensions specialist can even help the agencies identify the most appropriate public involvement strategy (e.g., workshops, attitude surveys) that would enhance the credibility of the agencies among the public and assure the public that all decisions will be made in a transparent and collaborative manner.

Thank you for this opportunity to comment. Please contact us if you have questions.

Sincerely,



James Earl Kennamer, Ph.D.  
Senior Vice President, Conservation Programs  
770 Augusta Road  
Edgefield, SC 29824  
(803) 637-3106



Jim Mosher  
Conservation Director  
770 Conservation Lane  
Gaithersburg, MD 20878-2983  
(301) 548-0150



Rollin D. Sparrowe, Ph.D.  
President  
Wildlife Management Institute  
1101 14<sup>th</sup> Street NW, Suite 801  
Washington, DC 20005  
(202) 371-1808

CQ89



Kathryn B. Reis  
Wildlife Management Institute  
1101 14<sup>th</sup> St. NW, Suite 801  
Washington, D.C. 20005  
Telephone: (202) 371-1808  
Fax: (202) 408-5059  
Email: [wmikat@aol.com](mailto:wmikat@aol.com)

**To:** NEPA Task Force at (801) 517-1021  
**Date:** 23 August 2002  
**Number of Pages:** 9  
**RE:** Comments for Federal Register notice of 9 July 2002

---

Hello! Thank you for this opportunity to comment on the activities of the NEPA Task Force. The attached letter is for your consideration.

Respectfully,

A handwritten signature in cursive script, which appears to read "Kathryn B. Reis".