



The Wyoming Department of Agriculture is dedicated to the promotion and enhancement of Wyoming's agriculture, natural resources and quality of life.

March 10, 2020

Council on Environmental Quality
730 Jackson Place NW
Washington, D.C. 20503

To Whom It May Concern:

Following are the Wyoming Department of Agriculture (WDA) comments regarding the Council on Environmental Quality (CEQ) proposal to update the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA).

Our comments are specific to our mission: dedication to the promotion and enhancement of Wyoming's agriculture, natural resources and quality of life. As the proposed project could affect our industry, citizens, and natural resources it is important that you continue to inform us of proposed actions and decisions and continue to provide the opportunity to communicate pertinent issues and concerns.

We appreciate the CEQ considering potential changes to update regulations on NEPA. As a Cooperating Agency we work very closely with federal agencies to develop and analyze NEPA projects across the State of Wyoming. Over the last several decades we have worked on NEPA documents lasting many years and containing hundreds of pages, with numerous delays, and yet the decisions are appealed. Ultimately the aversion to risk, including fear of litigation, and project management inefficiencies are the driving force behind why NEPA documents have strayed from their original intent and are consistently delayed. Many of the appeals are based on the agency's inability to comply with their existing regulations and requirements.

NEPA streamlining is appreciated, especially when we serve as Cooperating Agencies throughout the stages of review. We recommend CEQ work more closely with the agencies to identify efficiencies through training, support, and shared expertise. A recent attempt to streamline a Land Use Plan Revision in Wyoming was extremely disjointed, low quality, and took much longer than what the Agency proposed, due to the lack of training, staff resources, and communication with partners and Cooperating Agencies. For efficiencies and streamlining to work, the agencies must communicate better, provide better training to staff, and provide expectations in the beginning to reach a Final Record of Decision (ROD).

We support reducing the timelines for agencies to get to a Final ROD, but caution CEQ regarding the potential negative impacts the Cooperating Agencies might encounter. Currently we work very closely with the deciding agency to provide special expertise, draft the range of alternatives and occasionally provide Governor's Consistency Reviews in support of the decision. If the timelines were reduced, the likelihood of Cooperating Agency review and inclusion could greatly diminish. Agencies may not have the additional review time for Cooperating Agencies in order to meet the shortened timeline. A likely outcome is reducing Cooperating Agency review period to the same as interested public, thus the public version may not comply with state laws and regulations or have as thorough of review.

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Another possibility is the deciding agencies circumventing the timeline by front loading the document for a number of years in order to simply comply with an arbitrary timeline. WDA recommends CEQ consider the unintended implications of the timeline reductions as part of the regulation update.

In addition to the reduced timeline potentially negatively impacting Cooperating Agencies, the reduced page limit could have negative consequences. Our experiences recently have led us to believe the deciding agency will not exceed the maximum page limit per the regulation, but circumvent the regulation by adding reports and other documents by reference and attach them as appendices. The end result is anyone reviewing and commenting on the document will have to review not only the NEPA document, but the hundreds of pages in the appendices. We recently experienced this with another Land Use Plan Revision. The actual analysis was only 30 pages, but the appendices contained several hundred pages. We recommend considering the unintended implications of the page reductions as part of the regulation update.

The WDA is supportive of CEQ reviewing and revising NEPA regulations. We would urge a deeper look into the efficiencies and possible misapplication of existing regulations and analysis. There are other ways to improve efficiencies by creating more opportunity to utilize condition based NEPA or programmatic decisions, and tiering to those decisions. One example we are working on is analyzing thousands of acres of timber killed by pine bark beetle and proposing multiple management techniques to improve the land, vegetation, and wildlife habitat. If the agency were to analyze each treatment area in individual EAs, the amount of staff time and expense would be astronomical. This particular agency found a way to do more on-the-ground treatments with reduced staff time and funding. Reduced staff and funding are two main culprits in agencies not tackling long overdue NEPA proposals.

We look forward to reviewing the proposed changes and inclusion of our comments on this project. If you have questions, please contact Justin Williams, Senior Policy Analyst at 307-777-7067.

Sincerely,



Doug Miyamoto
Director

DM/jw

CC: Governor's Policy Office
Wyoming Board of Agriculture
Wyoming Stock Growers Association
Wyoming Wool Growers Association
Wyoming Farm Bureau Federation
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Wyoming Association of Conservation Districts
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