



# THE WILDLIFE SOCIETY

*Leaders in Wildlife Science, Management and Conservation*

22 November 2021

The Honorable Brenda Mallory, Chair  
U.S. Council on Environmental Quality  
730 Jackson PI NW  
Washington, DC 20506

RE: National Environmental Policy Act Implementing Regulations [CEQ-2021-21867]

Dear Chair Mallory:

The Wildlife Society respectfully submits the following comments in support of the proposed rulemaking updating U.S. Council on Environmental Quality (CEQ) National Environmental Policy Act (NEPA) implementing regulations.

Founded in 1937, The Wildlife Society and our network of affiliated chapters and sections represent more than 15,000 professional wildlife biologists, managers, and educators dedicated to excellence in wildlife stewardship through science and education. Our mission is to inspire, empower, and enable wildlife professionals to sustain wildlife populations and habitat through science-based management and conservation.

For fifty years, regulatory implementation of the National Environmental Policy Act has ensured federal agencies make decisions with an understanding of the environmental consequences of those actions and disclose those effects to the public. Changes finalized in 2020 to the implementation regulations provided a stark departure from longstanding implementation of the act. The Wildlife Society is encouraged by the administration's proposed rescission of 2020 regulatory changes and looks forward to the review of future regulatory revisions set out in the planned phase two of rulemaking.

## **Purpose and Need, Reasonable Alternatives**

The “purpose and need” section of an Environmental Impact Statement sets forth the rationale for review of a proposed federal action. The 2020 regulations aimed to strip agencies of this flexibility in determining rationale (40 CFR 1502.13), requiring that the purpose and need section match the goals of the project applicant.

**The Wildlife Society supports the Council on Environmental Quality's decision to once again provide agencies latitude in determining the purpose and need for review**, with the goal of ensuring all possible alternatives are fully evaluated, including the preferred alternative.

Development of the purpose and need section is a vital early step that is foundational to other elements of the NEPA process, including the evaluation of reasonable alternatives. The 2020 contraction of the scope of alternatives that can be evaluated, designed to align with the revised purpose and need that focused on the applicant's wishes, were restricted to any actions viewed as economically feasible (40 CFR 1508.1(z)). By once again allowing a federal agency to examine alternatives based on the ability to reduce or avoid impacts, these implementation guidelines will again be in line with longstanding congressional intent to ensure decisions impacting the environment are fully evaluated.

### **Definition of "effects" or "impacts"**

The Council on Environmental Quality's 2020 revisions to the definition of "effects or impacts" no longer included the evaluation of indirect effects or impacts and removed a requirement to analyze cumulative effects of an action (40 CFR 1508.1(g)). In practice, this would have required agencies to only look within their own jurisdictional boundaries when evaluating the effects or impacts of a proposed or alternative action.

Natural resource managers understand that humans operate within connected ecological systems. Rivers cross not only state lines, but international borders. Ducks and other waterfowl use the North American flyways to migrate between Mexico, the United States, and Canada every year. In accordance with these connected systems, NEPA reviews have historically considered a variety of effects of a proposed federal action, including direct, indirect, and cumulative effects.

If the indirect or cumulative environmental effects of a proposed action and proposed alternatives are not evaluated, it could have long-lasting repercussions on the ability of natural resource professionals to plan and mitigate for system-level changes that a project may put into motion. **Reversion to the definition utilized over the last several decades is an important step to ensure robust public and federal vetting of proposed and alternative actions.**

### **Phase 2 Revisions**

The Wildlife Society looks forward to providing further input as the Council on Environmental Quality moves from phase one recession of the 2020 rules to phase two evaluation of further revisions. In future rulemaking, TWS requests CEQ reevaluate the page limits and timeline for environmental reviews added in 2020. The 2020 rules specify that environmental assessments (EAs) should be completed within one year and are limited to 75 pages, and Environmental impact statements (EISs) should be completed in two years and have a 150 page limit.

While the desire to complete environmental reviews in a timely manner and in a reasonable length is understandable, imposing hard and arbitrary limits does not ensure more focused documents or better analyses that fulfill the goals of NEPA. **Our organization recommends an alternative directive that encourages agency coordination on the expected levels of**

**impacts on each resource area to create tailored EAs and EISs that more specifically focus on resources at risk.**

The 2020 regulations also placed limits on the ability for the public to comment on environmental review documents and processes. In order to ensure a comment will be reviewed, the commenter is required to provide specific objections and catalogue all impacts of a project. This requirement unfairly targets members of the public who may not have the skills or access to data sources that provide the specificity required for the level of comments required. TWS recommends CEQ considers the revocation of this regulation in order to allow the public to fully vet concerns.

Finally, we urge the Administration to work closely with state fish and wildlife agencies to ensure that states are thoroughly consulted on proposed federal actions related to NEPA. This is especially important since NEPA compliance is a key component of state funding programs (e.g., Wildlife and Sport Fish Restoration, State Wildlife Grants), and sensible rules to implement NEPA-related reviews are essential.

Thank you for considering the views of natural resource professionals. If we can be of any further assistance, please contact Caroline Murphy, Government Relations Manager at The Wildlife Society ([cmurphy@wildlife.org](mailto:cmurphy@wildlife.org); 301-897-9770 x 308).

Sincerely,



Gordon R. Batcheller, CWB®  
President, The Wildlife Society