



Mining and Metallurgical Society of America

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March 10, 2020

Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503

Re: **Docket ID: CEQ-2019-0003-0001**

ATTN: Mr. Edward A. Boling, Associate Director for the National Environmental Policy Act and Ms.
Viktoria Z. Seale, Chief of Staff and General Counsel

**Re: Update to the 40 CFR 1500 Regulations for Implementing the Procedural Provisions of the
National Environmental Policy Act, 85 Fed. Reg. 1684 (January 10, 2020)**

Dear Mr. Boling:

This letter represents the comments of the Mining and Metallurgical Society of America (MMSA) on the proposed revisions to update and clarify the Council on Environmental Quality's (CEQ) regulations under the National Environmental Policy Act (NEPA). MMSA strongly supports the Council's effort to streamline and improve the NEPA process to require a hard look at the environmental impacts of major federal projects, and not to stop projects in their tracks through a gauntlet of bureaucratic delay or endless litigation. As the current revisions represent the first major attempt in more than 40 years to update the NEPA rules, these reforms are long-overdue.

MMSA is a professional organization dedicated to increasing public awareness and understanding about mining and why mined materials are essential to modern society and human well-being. Since its inception in 1908, MMSA has provided valuable information and guidance to federal, state and local governments on a number of important public policy issues dealing with mining. MMSA has also made substantial contributions to educational programs that help teachers inform students about mining and how minerals are used. As minerals are essential to our daily lives, MMSA works cooperatively with other organizations at the state and national levels to ensure that the nation has a secure domestic supply of minerals.

To that end, MMSA supports, adopts and incorporates by reference herein the detailed comments of the Women's Mining Coalition (WMC) (copy attached), the National Mining Association (NMA) and the American Exploration & Mining Association (AEMA). The WMC letter, among other things, states compelling reasons why there is no statutory basis for the CEQ rules to require NEPA documents to discuss indirect or cumulative impacts or to classify impacts as direct, indirect, or cumulative.

Although those organizations state compelling reasons why NEPA reform is absolutely essential to the nation's economy, its energy infrastructure and the environment, the proposed rule enjoys support from a

wide array of interests and organizations across the energy spectrum. The American Wind Energy Association issued a statement supporting the revisions, noting that “infrastructure projects, including land-based and offshore wind energy and transmission development, have encountered unreasonable and unnecessary costs and long project delays.” The National Rural Electric Cooperative Association (NRECA) said, in supporting the CEQ rules that “regulatory hurdles under NEPA have triggered reliability problems and forced electric co-ops and their communities to endure costly project delays.”

Turning to the proposed rules, it is clear from NMA/AEMA and WMC comments that the current system is broken, and is costing the nation’s mines billions of dollars in costs associated with project delays. NEPA delays have delayed new mining projects by ten years or more, while other nations like Australia and Canada with similar environmental standards complete such review in three years or less. This in turn increases U. S. reliance on imported minerals, with profound implications for our nation’s energy, economic and national security. According to the USGS *Mineral Commodity Summaries* published in 2020, the United States is now import dependent on 46 different metals and minerals – and 100 percent import-dependent for 17 of those.

According to a technical briefing paper published by the Society for Mining Metallurgy & Exploration entitled *Critical and Strategic Minerals Importance to the U. S. Economy*, “lack of secure supply chains for minerals critical to clean energy technologies hinders U. S. manufacturing and energy security.” The SME report (copy attached) supports “a streamlined U. S. permitting process for critical and strategic mineral and...options to remove impediments to the timely issuance of such permits.” Elimination of duplicative oversight and “one stop shopping” would speed the responsible development of these resources.

In line with those recommendations, a cornerstone of the proposed revisions is the One Federal Decision policy announced in Executive Order 13807. The order calls for streamlining environmental reviews for infrastructure projects and directs federal agencies to “conduct environmental reviews and authorizations processes in a coordinated, consistent, predictable, and timely manner in order to give public and private investors the confidence necessary to make funding decisions for new infrastructure projects.” The CEQ proposes to codify development by the lead agency of a joint schedule, procedures to elevate delays or disputes, preparation of a single EIS and joint Record of Decision with a *two-year goal of completing environmental reviews*.

CEQ’s proposal to limit the text of environmental assessments to 75 pages and final Environmental Impact Statements to 150 pages (300 pages for proposals of unusual scope or complexity) is well supported by the objectives of NEPA and consistent with EO 13807.

The CEQ proposal is a major step in the direction of securing our nation’s energy and economic independence, and ensuring that timely decisions and authorizations are made regarding the minerals that are essential to both traditional and new energy technologies, and to our daily lives. The MMSA urges the swift adoption of these regulations.

Sincerely,



Amy Jacobsen, President

Critical and Strategic Minerals Importance to the U.S. Economy

January 2020

Issue

Critical and strategic minerals are essential to the economic and national security of both industrialized nations like the United States and developing countries. They are key to manufacturing and agricultural supply chains, and to the successful deployment of modern technologies in a variety of industries, including telecommunications, national defense, and both conventional and renewable energy.

Background

Minerals are deemed “critical and strategic” because they are essential to the economic and national security of the United States and because the U.S. is dependent on imports, not only from China and Russia, but also from other nations, (1), for most if not all of our domestic supply.

The U.S. has vast mineral resources, but is becoming increasingly dependent upon foreign sources for these critical mineral materials, as demonstrated by the following:

- The U.S. is import reliant on minerals from dozens of nations, some of which are located in politically unstable regions of the world, often governed by regimes whose interests are not aligned with those of the U.S. Other countries engage in unfair business practices, including predatory pricing, to control markets and manipulate global supply.
- In 1995, the U.S. was dependent on foreign sources for 47 nonfuel mineral materials, 8 of which the U.S. imported 100 percent of the Nation’s requirements, and for another 16 commodities the U.S. imported more than 50 percent of the Nation’s needs. [2]
- By 2017 the U.S. import dependence for nonfuel mineral materials increased from 47 to 53 commodities, 21 of which the U.S. imported for 100 percent of the Nation’s requirements, and an additional 32 of which the U.S. imported for more than 50 percent of the Nation’s needs. [3]
- In May 2018, the Department of the Interior published a list of 35 critical minerals (See, “Final List of Critical Minerals 2018” 83 Fed. Reg. 23295; 2018 <https://www.federalregister.gov/documents/2018/05/18/2018-10667/final-list-of-critical-minerals-2018>). The U.S. is import reliant (imports are greater than 50% of annual consumption) on 31 of those 35 minerals and relies 100% on imports of 14 of those minerals.
- The assured supply of critical minerals and the threats to their supply chains are so great that President Donald J. Trump issued Executive Order 13817, *A Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals*. That Order directed the Secretary of Commerce, in cooperation with the heads of selected executive branch agencies and offices to submit a report to address these challenges.
- The Department of Commerce, working in concert with other executive branch agencies, completed that report in June, 2019. That report presents 6 Calls to Action, 24 goals, and 61 recommendations that describe specific steps that the Federal Government will take to achieve the objectives outlined in Executive Order 13817.¹

¹ See, United States Department of Commerce “A Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals, Response to Executive Order 13817, Figure 1: 2017 U.S. Net Import Reliance for Critical Minerals, at 8 (June 4, 2019); Adapted from U.S. Geological Survey, “Mineral Commodity Summaries 2018,” 2018, <https://doi.org/10.3133/70194932>

Definition – Critical Minerals

As defined by Presidential Executive Order No. 13817, “a critical mineral is a mineral (1) identified to be a nonfuel mineral or mineral material essential to the economic and national security of the United States, (2) from a supply chain that is vulnerable to disruption, and (3) that serves an essential function in the manufacturing of a product, the absence of which would have substantial consequences for the U.S. economy or national security”.

Uses [4]

Critical and Strategic minerals are part of virtually every product we use (Table 1).

Energy Technologies: Indium, gallium, germanium, selenium, tellurium, neodymium, lanthanum, tantalum, vanadium, lithium, silicon, platinum, cobalt, nickel, arsenic and silver are key minerals for producing solar photovoltaic, thermal solar, wind power, electric and hybrid vehicles.

Aerospace, Communications and Defense: These key industries rely upon a supply of vanadium, rhenium, cobalt, nickel, niobium, neodymium, samarium, cobalt, yttrium, terbium, europium and erbium used in fighter jets, drones, tanks, radios, shielding, and other combat equipment.

Battery technologies: Require cobalt, graphite, lithium, and manganese.

Electronics/Lighting: Require praseodymium, samarium, scandium, europium, gallium, indium, germanium, tin, cerium, lanthanum, zinc and selenium.

TABLE 1. Critical minerals in the U.S. and their primary industry use [2, 3]. *Platinum group metals include ruthenium, rhodium, palladium, osmium, iridium, and platinum. **Rare earth elements include the 15 lanthanide elements (lanthanum, cerium, praseodymium, neodymium, promethium, samarium, europium, gadolinium, terbium, dysprosium, holmium, erbium, thulium, ytterbium, and lutetium) and many times yttrium and scandium are included as rare earth elements.

Mineral	aerospace	defense	energy	telecommunications and electronics	transportation	other	top producing country	top country supplier
aluminum (bauxite)	x	x	x	x	x	x	China	Canada
antimony		x	x	x		x	China	China
arsenic		x	x	x		x	China	China
barite			x	x		x	China	China
beryllium	x	x	x	x		x	U.S.	Kazakhstan
bismuth		x	x	x		x	China	China
cesium	x	x	x	x		x	Canada	Canada
chromium	x	x	x	x	x	x	South Africa	South Africa
cobalt	x	x	x	x	x	x	Congo	Norway
fluorspar			x	x		x	China	Mexico
gallium	x	x	x	x		x	China	China
germanium	x	x	x	x		x	China	China
graphite (natural)	x	x	x	x	x	x	China	China
hafnium	x	x	x	x		x	Australia	China
helium				x		x	U.S.	Qatar
indium	x	x	x	x		x	China	Canada
lithium	x	x	x	x	x	x	Australia	Chile
magnesium	x	x	x	x	x	x	China	China
manganese	x	x	x	x	x	x	China	South Africa
niobium	x	x	x	x		x	Brazil	Brazil

platinum group metals (PGM)*	x		x	x	x	x	South Africa	South Africa
potash			x	x		x	Canada	Canada
rare earth elements**	x	x	x	x	x	x	China	China
rhenium	x		x	x		x	Chile	Chile
rubidium	x	x	x	x		x	Canada	Canada
scandium	x	x	x	x		x	China	China
strontium	x	x	x	x	x	x	Spain	Mexico
tantalum	x	x	x	x		x	Rwanda	China
tellurium		x	x	x		x	China	Canada
tin		x		x		x	China	Peru
titanium	x	x	x	x		x	China	South Africa
tungsten	x	x	x	x		x	China	China
uranium	x	x	x			x	Kazakhstan	Canada
vanadium	x	x	x	x		x	China	South Africa
zirconium	x	x	x	x		x	Australia	China

Restrictions on the supply of any given mineral would significantly impact consumers and key sectors of the U.S. economy. Risks to minerals supplies could include a sudden increase in demand, difficulty in extracting the mineral or even exhaustion of the resource itself. Delay alone in issuing permits is a significant impediment to the production of critical minerals. For example, mining permits currently take 10 to 15 years to obtain, primarily due to duplicative and overlapping federal agency requirements and agency reviews. Minerals are more vulnerable to supply restrictions if they come from a limited number of mines, mining companies or nations. This is especially true in the case of critical and strategic minerals. Baseline information on minerals is currently collected at the federal level, but no established methodology currently exists to identify potentially critical and strategic minerals.

Issue

Lack of secure supply chains for some minerals critical to clean energy technologies hinders U.S. manufacturing and energy security. These critical materials (a) provide essential and specialized properties to advanced engineered products or systems for which there are no easy substitutes and (b) are subject to supply risk. Rare Earth Elements, with essential roles in high-efficiency motors and advanced lighting, are the most prominent of the critical materials today [8].

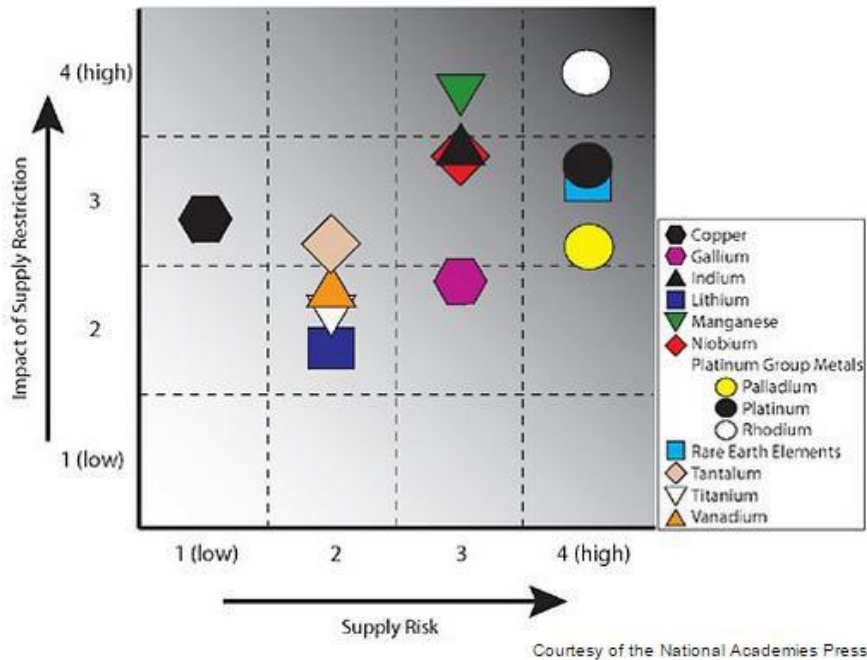


Figure 1. Criticality matrix for 11 mineral commodities evaluated in the NRC study, “Minerals, Critical Minerals and the U.S. Economy” (National Research Council, 2008).

The economic importance of critical and strategic minerals, increasing global competition for them by rapidly developing countries, and the potential for supply disruptions triggered a study by the National Research Council (NRC), “Minerals, Critical Minerals, and the U. S. Economy.” [5] This report included the criticality evaluation matrix (Figure 1) that relates the importance and availability of a mineral. The matrix uses evaluations of the impacts of supply restrictions (the importance of the mineral) to the potential for supply disruptions. The greater both of these measures the more critical the mineral. [6]

A mineral commodity’s importance can be characterized by factors such as the dollar value of its U.S. consumption, the ease with which other minerals can be substituted for it, and the outlook for emerging uses that can increase its demand. A way to evaluate the significance of these factors is to consider the impact that a lack of availability would have on them. How would the mineral’s uses or price change if it were less available? A mineral’s availability depends on several factors including how much has been discovered, how efficiently it can be produced, how environmentally and socially acceptable its production is, and how governments influence its production and trade. Many of the technological, social and political factors have become increasingly important influences on mineral availability. For example, China produces most of the world’s Rare Earth Elements. By curtailing export shipments of these technologically key elements in 2010, China drastically affected their global availability. [6]

SME Statement of Technical Position

- SME supports a streamlined U.S. permitting process for critical and strategic minerals and the study of options to remove impediments to the timely issuance of such permits. The elimination of duplicative federal agency oversight, i.e. “one stop shopping” would speed the responsible development of these resources.
- SME generally endorses the Commerce Department initiative and effort, and pledges to work constructively to assist in helping the private sector and government attain the goals outlined therein, i.e.

the reduction of U.S. reliance on imports of critical and strategic minerals through increased production here in the United States.

- The Department of the Interior should revise the methodology currently used to identify potential critical minerals [7, 9] as more information is obtained.
- The U.S. through the U.S Geological Survey and state geological surveys should continuously conduct, revise and update a comprehensive inventory of critical and strategic mineral resources. Geologic, geophysical, geochemical, and other basic data should be obtained to properly evaluate critical minerals in the United States.
- The U.S. should develop criteria to govern the addition or removal of minerals or materials from the critical minerals list.
- Industry, academia and government should explore and implement partnerships to address demographic and other challenges that impact U.S. mineral production, including the aging and declining workforce, as well as the decrease in mining, mineral engineering and economic geology programs at colleges and universities. The enhancement of these educational programs will help grow the critical minerals workforce.
- SME further supports the development of effective outreach efforts to the general public to convey the importance of critical minerals to the U.S. economy and national security.

References

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- [3] United States Geological Survey, 2018, “Mineral Commodity Summaries 2018,” USGS, Reston, VA, 204 p.
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Draft critical mineral list—Summary of methodology and background information—U.S. Geological Survey technical input document in response to Secretarial Order No. 3359: U.S. Geological Survey Open-File Report 2018–1021, 15 p., <https://doi.org/10.3133/ofr20181021>.



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March 5, 2020

Council on Environmental Quality
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ATTN: Mr. Edward A. Boling, Associate Director for the National Environmental Policy Act and Ms. Viktoria Z. Seale, Chief of Staff and General Counsel

RE: Docket ID: CEQ-2019-0003-0001: Council on Environmental Quality's Proposed Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act

Dear Mr. Boling and Ms. Seale:

I. Introduction

The Women's Mining Coalition (WMC) strongly supports the Council on Environmental Quality's (CEQ's) proposed rule¹ to update the regulations implementing the procedural provisions of the National Environmental Policy Act (NEPA) at 40 CFR Parts 1500 – 1508. We applaud the CEQ for recognizing the urgent need to update these regulations, which were promulgated over 40 years ago.

In August 2018, WMC provided extensive comments on CEQ's Advance Notice of Proposed Rulemaking (ANPR), Federal Register Vol. 83, Number 119, Pages 28591 – 28592 seeking comments to update NEPA implementation procedures. We are pleased that the updated regulations address some of the issues we raised in our comments on the ANPR.

The comments offered herein are based on WMC members' extensive NEPA experience starting in the 1980s in conjunction with mineral exploration and development projects on public lands administered by the U.S. Bureau of Land Management (BLM) and the U.S. Forest Service (USFS). WMC members also have experience with NEPA documents prepared by the U.S. Army Corps of

¹Federal Register, Volume 85, Number 7 (FR 1684 – 1730), January 10, 2020

Engineers (Corps) to evaluate 404 permit applications under the Clean Water Act at coal mining operations in various locations on and off of public lands. Based on this experience, WMC members have firsthand knowledge of the costs, complexities, delays, and uncertainties associated with the NEPA process and preparing NEPA documents.

Enacted in 1969, NEPA was one of the nation's first federal environmental laws. At that time, NEPA provided an important and unique opportunity for the public to review and comment upon projects that had the potential to affect the environment. In the 51 years since NEPA's enactment, Congress and state legislatures have passed and amended numerous environmental protection statutes. CEQ's proposed changes to its NEPA regulations appropriately reflect that today's environmental protection laws and regulations fill the environmental review and protection gap that NEPA sought to fill in 1969. Consequently, CEQ's proposed changes to its NEPA regulations are a much-needed and long overdue update in light of the many post-NEPA federal and state environmental protection and environmental review statutes.

When they were promulgated in 1978, the laudable goals of the CEQ regulations implementing NEPA were to reduce paperwork and delays and promote better federal decisions. Unfortunately, over four decades of administrative practices and judicial decisions have transformed these well-meaning regulations into a significant barrier that thwarts responsible development and chills investment. Consequently, the current regulations make the U.S. uncompetitive compared to countries like Canada that have more streamlined and predictable permitting processes.

Over the course of our experience with the NEPA process, WMC members have seen NEPA documents balloon in size and complexity, take much more time to complete, and cost much more to prepare. This is the exact opposite of the trend that should have occurred given the enactment of numerous federal and state environmental protection and review statutes since 1970.

WMC is specifically concerned about the way in which the currently unwieldy NEPA process chills investment in the U.S. mineral sector and creates a serious barrier to exploration and development of the nation's domestic mineral resources. We have witnessed the delays, costs, and uncertainties associated with the NEPA process and believe they are a contributing factor in the country's problematic reliance on foreign sources of minerals.

The proposed changes to the CEQ rules will help minimize permitting delays and uncertainties, reduce permitting costs, and remove some of the investment deterrents that currently stand in the way of responsible and timely development of the domestic minerals that are essential to America's economy, technology, infrastructure, and defense. CEQ's proposed changes to its NEPA regulations will be an important step in fulfilling the permit streamlining directive in President Trump's December 2017 Critical Minerals Executive Order ("EO") No. 13817, "Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals."

WMC broadly supports all aspects of the CEQ's proposed rule. In the interest of brevity, our comments focus on three elements of the proposed rule: 1) the revised definition of effects at 40 CFR § 1508.1(g); 2) the revised definition of reasonable alternatives at CFR § 1508.1(z); and 3)

the clarification of agency responsibilities and applicant involvement in preparing NEPA documents at CFR § 1506(c).

II. Definition of Effects and Impacts

One of the many important proposed changes to the CEQ rules is the revised definition of effects and impacts at 40 CFR § 1508.1(g). The proposed rule simplifies the definition of effects or impacts by eliminating classification of impacts as “indirect,” “direct,” and “cumulative.” WMC strongly supports this simplification, which will greatly improve the clarity and relevance of future NEPA documents by focusing on the actual project impacts that decisionmakers need to consider in their analyses.

Because NEPA does not mention “indirect, direct, or cumulative” impacts, there is no statutory basis for the CEQ rules to require NEPA documents to discuss indirect or cumulative impacts or to classify impacts as direct, indirect, or cumulative. Under the current CEQ regulations, NEPA documents typically include many pages of complex and confusing text discussing indirect and cumulative impacts, which adds little if any meaningful information that federal decisionmakers need to make informed decisions or that the public finds useful. These discussions are one of the reasons that NEPA documents, especially Environmental Impact Statements (EIS), are hundreds and sometimes thousands of pages long. Cumulative impact analyses are also a common focus of NEPA litigation.

The proposed elimination of the requirements to classify impacts and to discuss indirect and cumulative impacts will greatly improve the usefulness, germaneness, and readability of future NEPA documents. In preparing future NEPA documents, federal agencies will be able to devote more time and attention focusing on how a project will directly impact the environment and ways in which to minimize those impacts without expending the time and energy to evaluate abstract, speculative, and extraneous indirect and cumulative impacts. Similarly, the public will benefit by having NEPA documents that focus on how a proposed project may directly impact a specific project area or environmental resources without the lengthy and often theoretical discussions of indirect and cumulative impacts.

This change will appropriately focus NEPA analyses on the actual cause and effects of a proposed project’s impact on the environment and will eliminate what are typically long and conjectural discussions that attempt to categorize effects as direct, indirect or cumulative. Discussions of cumulative impacts involving distal projects that are outside of the agency’s jurisdiction add no value to NEPA documents. CEQ is therefore justified in its proposal to eliminate the requirements to classify and disclose cumulative impacts.

The clarification at 40 CFR § 1508.1(g)(2) that effects should not be considered significant if they are remote in time, geographically remote, or have a long causal chain is another important provision that will improve the relevance and usefulness of NEPA documents because it will minimize speculative impact analyses. For example, EIS documents for mining projects involving post-mining pit lakes typically include impact analyses that project 100 years or more into the

future based on complex groundwater and pit lake water quality models that become inherently uncertain as they are projected far into the future.

It is unrealistic to require federal regulators to examine potential impacts so far into the future or to assume any project stakeholder to predict what the environmental, societal, or economic conditions will be 100 years or more from now. Looking at this issue in the rearview mirror provides some useful perspective. No one living in 1920 could have predicted the many important developments since then such as World War II, the nuclear bomb, landing on the Moon, HIV Aids, society's environmental concerns, or the Internet – just to name a few.

NEPA should not require Federal decisionmakers to be clairvoyants forced to predict impacts that may happen a century or more from now. Therefore, the clarification at 40 CFR § 1508.1(g)(2) to eliminate the requirement to evaluate impacts that may occur in the distant future is a significant and logical change.

III. Definition of Reasonable Alternatives

Another proposed change that is especially important to WMC members is the definition of reasonable alternatives at 40 CFR § 1508.1(z) that states a reasonable alternative must be “technically and economically feasible, . . . , and, where applicable, meet the goals of the applicant.” CEQ’s statement: “Analyzing a large number of alternatives, particularly where it is clear that only a few alternatives would be economically and technically feasible and realistically implemented by the applicant, can divert limited agency resources²,” is especially applicable to mining projects. Unlike many projects that involve siting studies and selection of preferred development sites, mineral deposits have fixed locations created by geologic processes and must be mined where they are discovered because mineral deposits cannot be moved. Therefore, the number of alternatives for a mining operation that are technically and economically feasible is typically very limited.

Additionally, at many mineral projects, the range of technically and economically feasible alternative locations for project components such as tailings and waste rock management facilities or processing plants is typically constrained by topography, land ownership patterns, economic and technical factors, and statutory rights.³ For many mineral projects, alternative mining or processing methods or different locations for project facilities are discussed briefly as alternatives eliminated from detailed analysis. The only alternatives that merit detailed analysis for many mining projects are the project applicant’s Proposed Action and the No Action alternative to preserve the *status quo*.

Thus, the requirement to evaluate project alternatives at most mining projects becomes a *pro forma* exercise that adds very little value to the NEPA document and does not meaningfully influence the decisionmaker’s ability to make a reasoned choice between alternatives when none or few exist. The proposed clarification to the reasonable alternatives definition will streamline NEPA

² FR Vol 85 No. 7 at 1702.

³ Such as the U.S. Mining Law (30 U.S.C. §§ 21a *et seq*), which grants U.S. citizens the right to enter and use public lands for mineral exploration and development.

documents for mineral projects that have few if any viable alternatives without compromising federal agencies' environmental analysis of the project applicant's proposed project and will conserve the agencies' time and resources. It may also help reduce the frequency of NEPA lawsuits that assert the document does not evaluate a sufficient range of project alternatives.

IV. Applicant Involvement in the NEPA Process

Finally, WMC wishes to voice our support for the proposed clarifications in the CEQ rules regarding the agency's responsibilities for preparing NEPA documents and an applicant's/project proponent's role in the NEPA process. It is entirely appropriate for applicants and their contractors to prepare EIS documents under the agency's supervision as stated at 40 CFR § 1506(c).

Permit applicants already provide environmental documents that some federal agencies use as the basis for their NEPA documents. For example, the Federal Energy Regulatory Commission (FERC) encourages sponsors of natural gas projects to prepare an Environmental Report.⁴ Similarly, permittees seeking a 404 Permit typically submit Environmental Information Documents that the Corps uses to prepare the NEPA document required to evaluate the 404 Permit application. Consequently, clarifying that all federal agencies can authorize an applicant-prepared EIS is consistent with the procedures already in place at some federal agencies.

This clarification accomplishes a number of objectives that are important to both the agency and the applicant. First and foremost, having the applicant or its contractor prepare the NEPA document under the agency's direct supervision ensures that the entity that knows the most about a proposed project can efficiently and accurately contribute its knowledge about the project and the environmental characteristics of the project area. This will result in more accurate NEPA documents. Secondly, applicant-prepared NEPA documents are efficient for both the applicant and the agency and will help conserve agency time and resources.

Because agencies are fully responsible for the scope, content, and environmental analysis in the document, agency decisionmakers retain total control over the outcome of the NEPA environmental analysis and decision-making process because they are the sole decisionmakers. However, applicant-prepared NEPA documents may allow agencies to make NEPA decisions more efficiently and quickly, which will address the pressing problem of protracted NEPA processes that are currently creating substantial delays that increase the country's reliance on foreign minerals, chill investment in the nation's natural resources, prevent timely repairs and improvements to our aging infrastructure, and make the U.S. less competitive compared to other countries.

V. Conclusions

As currently administered, NEPA renders the concept of "a shovel-ready project" meaningless because the NEPA analysis required for many projects may take years – even decades – and costs millions of dollars. The CEQ's proposed changes to the regulations implementing NEPA are a

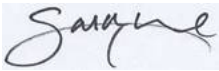
⁴ <https://www.ferc.gov/industries/gas/enviro/guidelines/guidance-manual-volume-1.pdf>

long overdue and practical solution to the unintended consequences associated with protracted and expensive NEPA analyses.

The proposed regulatory changes will eliminate much of the unnecessary and counter-productive complexity and length of NEPA documents and achieve the important goal of making NEPA documents easier for the public to read and understand. The updated regulations will help the public and federal decisionmakers focus on key project issues. Most importantly, more focused and concise environmental impact analyses will become the standard for future NEPA documents and will result in better federal decisions and better-informed stakeholders.

WMC supports CEQ's thoughtful and much needed changes to NEPA's implementing regulations at 40 CFR §§ 1500 – 1508. We encourage CEQ to issue a final rule as soon as possible.

Respectfully submitted:



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About WMC

WMC is a grassroots organization with over 200 members nationwide. Our members work in all sectors of the mining industry including hardrock and industrial minerals, coal, energy generation, manufacturing, transportation, and service industries. We hold annual Washington, D.C. Fly-Ins to meet with members of Congress and their staff, and federal land management and regulatory agencies to discuss issues of importance to both the hardrock and coal mining sectors.