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March 10, 2020

Submitted via Regulations.gov and via email to fn-ceq-nepa@ceq.eop.gov

Mary B. Neumayr
Chair
Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503

Re: Docket No. CEQ-2019-0003, Notice of Proposed Rulemaking, Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act

Dear Chair Neumayr:

On behalf of our millions of members and supporters across the country, the undersigned **45 conservation organizations** urge the Council on Environmental Quality (CEQ) to withdraw the Notice of Proposed Rulemaking (NPRM) and retain the existing CEQ regulations that properly implement the National Environmental Policy Act (NEPA).¹ Our members, who use and enjoy the outdoors for recreation, hunting, fishing, livelihood, and other important uses, have relied on the current regulations to help protect the valuable natural resources we all rely on.

NEPA provides vital protections to communities and is essential for sound stewardship of our natural resources and wildlife heritage. NEPA is the fundamental tool for a proper vetting of the impacts of major federal actions on wildlife, natural resources, and communities; for identifying less environmentally damaging alternatives; and for giving the public a say in federal actions that can have a

¹ Many of our organizations will also be submitting individual comments and/or joining other group comments opposing the NPRM.

profound impact on their lives and livelihoods. It also plays a key role in giving vulnerable communities a voice when federal projects may disproportionately impact them.

The deeply flawed changes proposed in the NPRM would unravel this vital tool with profound impacts on the health, safety, and well-being of people and wildlife across the country. Vulnerable frontline and indigenous communities are particularly at risk of having their voices silenced and their public health and safety concerns ignored. The natural resources that allow wildlife to thrive, support a vibrant outdoor economy, and are cherished by wildlife-watchers, hikers, hunters, anglers, and outdoor enthusiasts across the country will lose under the NPRM.

At their core, the changes in the NPRM would silence public input and eviscerate informed, science-based decision-making by the federal government. Among many other unacceptable and illegal changes, the NPRM would:

- **Eliminate NEPA review for many projects:** The proposal attempts to narrow the type and scope of projects that require environmental review under NEPA by creating new tests for determining whether or not NEPA applies, changing the definition of “Major Federal Action,” and allowing agencies to exempt a project from NEPA review by determining that some other type of analysis would serve the same purpose. If these changes are adopted, agencies could decide not to carry out any NEPA review at all for pipelines, roads, and major federal infrastructure projects like dams, floodgates, and levees.
- **Ignore severe environmental, public safety, and health impacts:** The proposal seeks to severely limit the types of impacts examined during a NEPA review. The NRPM explicitly states that “Analysis of cumulative effects is not required,” which would eliminate review of a project’s impacts on climate change, among many other things. It would also eliminate review of the impacts of climate change induced impacts such as sea level rise and stronger storms on a project’s effectiveness and resilience. The NPRM removes all references to “indirect” effects and directs review only of impacts with a “reasonably close causal relationship”, which could result in agencies ignoring such things as long-term impacts of water and air pollution from the permitting of a gold or copper mine; the risks of new levees diverting floodwaters onto other communities; or loss of downstream floodplain wetlands by adopting a federal reservoir management regime that starves the river of the flows needed to sustain those wetlands. The NPRM also gives agencies the green light to make decisions without critical information by explicitly stating that agencies “are not required to undertake new scientific and technical research to inform their analyses” even if that information is essential to making a reasoned choice among project alternatives.
- **Significantly weaken the review of alternatives:** The proposal would significantly weaken the assessment of alternatives during a NEPA review, dramatically undermining the fundamental purpose of NEPA which is to explore less environmental damaging approaches to achieving the project purpose. The NPRM eliminates the requirements to “rigorously explore and objectively evaluate all reasonable alternatives” and to consider reasonable alternatives not within the jurisdiction of the lead agency. The NPRM instead directs a much less extensive review, requiring only that agencies “evaluate reasonable alternatives to the proposed action.”

- **Allow agencies to ignore critical public input:** The proposal creates loopholes that could let federal agencies ignore public comments, effectively silencing the communities and individuals that could be harmed most by a federal action. The NPRM would let agencies ignore public comments that they deem are not “specific” enough or do not include reference to data sources or scientific methodologies. The NPRM improperly places the burden on the public to list *any and all* possible impacts of a proposed project; provide specific language changes; and “explain why an issue raised is significant” to the consideration of impacts to the environment, the economy, employment and potential alternatives. Comments most likely to be ignored include those from the general public; those from vulnerable, frontline communities that lack the resources to fund a technical review; and those that rely on traditional knowledge, rather than technical data. The NPRM also creates new hurdles to challenging a flawed environmental review in court.
- **Allow project applicants to write their own environmental reviews without conflict of interest safeguards:** The proposal would allow companies to conduct their own environmental reviews, and let federal contractors write environmental reviews without disclosing conflicts of interest or financial stakes in the projects they are reviewing. Currently, environmental reviews are prepared by federal agencies. While the agencies can contract with an outside consulting firm when needed due to limited capacity, conflicts of interest for consultants are avoided by requiring disclosure of financial or other interests in the outcome of a project. The proposal would allow the applicant to prepare the environmental review, despite the applicant’s clear interest in convincing the agency to approve the project.

The changes proposed in the NRPM would strip away critical protections for public health, community safety, and natural resources that are essential for fish and wildlife and beloved by the more than 100 million people in this country who regularly engage in wildlife-associated recreation. We urge CEQ to withdraw the NPRM and retain the existing NEPA implementing regulations that have properly served the nation for decades.

Sincerely,

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