



# National Association of Conservation Districts

March 10, 2020

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

Submitted electronically via regulations.gov  
Docket No. CEQ-2019-0003

Dear Chairman Neumayr,

The National Association of Conservation Districts (NACD) represents America's 3,000 locally-led conservation districts, working with millions of landowners and operators to help them manage and protect land and water resources on private and public lands. Established under state law, conservation districts share a single mission: to work cooperatively with federal, state and other local resource management agencies and private sector interest groups to provide technical, financial and other assistance to help landowners and operators apply conservation to the landscape.

Because conservation districts were created to be the link between the federal government's various natural resource agencies and local communities across the country, districts work hand in hand with all levels of government to ensure local resource needs help inform major decisions. In turn, districts can help lend credibility to decisions made at the federal level, because the public knows their needs and inputs were considered through collaboration with their local conservation districts.

This, unfortunately, has not always been the case as federal agencies have implemented the National Environmental Policy Act (NEPA). In many states, conservation districts are legally considered as having special expertise by state law. For example, in Wyoming, conservation districts and their supervisors are specifically designated as having special expertise for the purposes of being a cooperating agency in matters related to NEPA. As intergovernmental partners with many federal agencies, local districts commend the Council on Environmental Quality (CEQ) for undertaking this effort to streamline and modernize the NEPA process while emphasizing local engagement.

NACD is supportive of the changes in this proposal that emphasize coordination with local partners, and NACD appreciates that one of the goals of the modifications to cooperating agency language is to improve relationships with those local entities. First and foremost, we are supportive of the clarification to make certain that local agencies such as conservation districts are in fact cooperating agencies. The prior definition of a cooperating agency made it ambiguous about whether a local agency could be a cooperating agency and by adding local agency within the opening part of the definition, these changes should hopefully encourage additional involvement by those on the ground who have the best understanding of local conditions.

NACD also appreciates the proposal's change to allow cooperating agencies a seat at the table when the lead agency is developing a schedule for the creation and completion of the review. It is important that there are clear expectations in place when beginning a review so communities can plan around the review and so federal agencies can be held accountable if deadlines and milestones are not kept. Ensuring that local entities like conservation districts are included in the creation of these schedules will only help to increase the likelihood that realistic schedules are created.



## National Association of Conservation Districts

In some cases, conservation districts have found that by requiring a Notice of Intent (NOI) as a precondition of the scoping process, certain agency decisions or preconceived notions were already made by the time the public and conservation districts truly had a chance to affect the outcome or the scope of the environmental analysis. Lead agencies are already required to invite local agencies that are affected to participate, but by allowing agencies to start this process before an NOI is published, conservation districts will have a greater chance of meaningfully affecting and informing both the agency and the ultimate review.

Although NACD understands why CEQ feels the addition of the word “likely” in Section 1501.9(b) is needed, we would encourage CEQ and the lead agencies to always consider local conservation districts as a local agency that likely is affected and therefore interested when considering who to invite to participate.

NACD was also pleased to see revisions to Section 1506.2(b) clarifying when a lead agency should utilize prior reviews and decisions made at the local level. Many conservation districts lead or participate in the creation of land use plans for the lands within the district’s boundaries to help fulfill their mission to protect our nation’s natural resources. These land use plans have been developed based on years of local knowledge and utilize public input to ensure the public has a say in the long-term use of their community’s natural resources. Current NEPA regulations do require lead agencies to give meaningful consideration to locally developed plans, and we appreciate the clarification in Section 1506.2(b) that further emphasizes this requirement. When a lead agency does not give meaningful consideration to local planning processes, the agency is not only creating unnecessary duplication but is potentially ignoring the expressed desires of the community in which the federal action is taking place. Again, conservation districts are legally considered to have special expertise, and a district’s creation of a land use plan should be considered as such.

NACD does have concerns with the revised language in Section 1506(d) adding that “NEPA does not require reconciliation” when there are inconsistencies between local plans and an Environmental Impact State (EIS). NEPA regulations already require a lead agency to identify where an inconsistency exists and requires an EIS to describe the extent to which the agency could reconcile its proposed actions with the local plan, but it does not require the agency to reconcile the differences. Earlier in the section, the regulation states that local agencies should work “to the fullest extent practicable” to reconcile differences. It is unnecessary and potentially misleading to a lead agency to provide this clarification when it is already quite clear in several places throughout this section and the overall regulation that they are not ultimately required to defer to a local plan when there are inconsistencies. Such an addition could be interpreted as a backtrack toward the goals of cooperation.

NACD appreciates the effort by CEQ to reduce the overall page length and protracted timelines that many NEPA reviews currently take. The increase in these two metrics create numerous problems at the local level, and while we understand that not every review can fit into the suggested parameters of two years and 150 pages for an EIS, NACD supports CEQ providing more specific direction to lead agencies that they should work to be as concise as possible.

Many conservation districts already have their capacity and resources stretched thin, and long and drawn-out NEPA reviews that are inefficient limit the ability for these districts to not only participate in the process but even provide input to ensure local needs are considered. Additionally, with NEPA’s charge that the public be involved throughout the NEPA review process, it is unreasonable to expect the



## National Association of Conservation Districts

general public to review an EIS that is over 600 pages and provide meaningful comments to the lead agency.

A lengthy timeline that can stretch over six years also hurts the review process through the natural attrition of people at both the lead agency and cooperating agencies. Employees at these agencies will naturally move on to other positions. Each time this takes place, an effort toward reeducation must occur, which not only slows down the overall timeline but increases the chances that a review may move in a different direction. This problem can be exacerbated when the lead federal agency institutes a national hiring process, ultimately hiring someone who may not only be unfamiliar with the work of the review up to that point but also may not have an understanding of the larger landscape in that area due to being hired from across the country. NEPA reviews that are successful are those where the participating actors stay consistent throughout the process, and a review which is aimed at being completed within two years will afford this goal the greatest chance of occurring.

In August of 2017, the Department of Interior Deputy Secretary issued Secretarial Order 3355, which implemented similar page and timeline requirements for NEPA reviews under the purview of DOI and its subagencies. In subsequent years, conservation districts have seen that these limits have been successful in facilitating true engagement at the local level without sacrificing the actual environmental review itself. Therefore, we are pleased to see these proposed regulations mirror DOI's prior efforts. Overall, NACD appreciates the attention this proposal gives to cooperation between federal agencies and local agencies such as conservation districts. In addition to all the aforementioned improvements, CEQ should be consistently encouraging early and meaningful engagement with conservation districts on the ground in all parts of the NEPA review process, including those that might not be specifically referenced in the proposal. Districts were created to work directly with landowners to implement natural resource projects and communicate the needs of those landowners to federal agencies. Districts have a special and unique level of expertise that will improve NEPA reviews.

The federal government's intent should always be to provide local agencies and governments every opportunity to have a seat at the table, and we would encourage CEQ and other federal agencies to keep this in mind as this proposal is reviewed and if finalized, implemented across the federal government. We appreciate having the opportunity to comment on this proposed revision to NEPA procedures and welcome the opportunity to continue engaging on this important issue.

Sincerely,

A handwritten signature in cursive script that reads "Tim Palmer".

Tim Palmer  
NACD President