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**Wyoming Association of Conservation Districts**  
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White House Council on Environmental Quality  
NEPA Process Guidance

SUBMITTED VIA WEB SITE:

<http://www.whitehouse.gov/administration/eop/ceq/initiatives/nepa/submit?topic=Use of Categorical Exclusions>

**Subject:       Comments on NEPA Categorical Exclusion Guidance**

To Whom it May Concern:

The Wyoming Association of Conservation Districts hereby submits comments supporting responsible development of new guidance governing Categorical Exclusions (CEs) in the federal process for National Environmental Policy Act (NEPA) projects and actions.

WACD represents Wyoming's 34 local Conservation Districts (political sub-divisions of state government), which are governed by 170 locally elected officials and are charged specifically, pursuant to Wyoming §§ 11-16-101 *et seq.*, with the protection of natural resources, stabilization of farming and ranching operations, protection of public lands and protection of the tax base. The districts in Wyoming have a history, as a local government, of participating as a cooperating agency in many federal land planning processes throughout the state and working cooperatively with the federal agencies on resource management projects.

It is vital that agencies still have the Categorical Exclusions tool available to facilitate common sense and timely resource management implementation.

Categorical exclusions are probably the most important tool available when addressing resource issues and concerns that arise out of any type of urgency. There are several examples in which CE's are imperative to timely, effective and efficient resource management responses. The emergency winter feeding program is one example. Typically if this action/program was not covered in the Resource Management Plan or land use plan the Land management agency would have to do an Environmental Assessment (EA). Needless to say the three-six months to complete the EA would preclude the ability to provide emergency winter feeding. This could

also be true for hauling water to livestock in droughts, trailing livestock outside designated trails due to harsh

or severe weather conditions, or loss of infrastructure, i.e. bridge wash outs and when alternative trailing is a necessity.

Other examples of where CE's should be used, is in extreme drought conditions with high fire potential in Wild land/Urban Interface situations to conduct fuels treatments. Associated with this would also be exclusions related to helicopter water withdrawals from stream lakes, or ponds, inhabited by sensitive species, where there is a threat to protect life and property. Another example of an appropriate use of CE's is the removal of wild horses outside of established Herd Management Areas.

The CE's were intended to be the first level of decision making as part of the NEPA process, unfortunately the federal agencies currently bypass this step because historically the environmental groups have objected to its use, appealing its use on many occasions. Common practice for the agencies is now to default to an EA on nearly all management actions. This has negated a valuable tool for responsive and effective resource management.

The local conservation districts have worked cooperatively with federal agencies on a number of watershed based projects. One example where the use of CE's was important was in the rehabilitation of water developments/springs. These rehabilitation projects were an important part of an overall water quality improvement project. Requiring an EA would have unnecessarily delayed important best management practice implementation to address an identified water quality issue.

Another example of an appropriate use of CE's in terms of range improvements is spring developments where the development does not increase the current amount of consumptive use by wildlife or livestock but serves to improve and protect the integrity and function of the spring. A specific example would be where livestock and wildlife have access to a spring source but because of the morphology/hydrology of the spring, the livestock and wildlife have trampled the riparian vegetation around the spring and over utilized the vegetation. The CE for this should be to install a collection box, pipe the water away from the spring source to a trough and fence the spring to protect the source, integrity and function of the spring. Currently both the Forest Service and the Bureau of Land Management do a full blown EA on spring developments. An additional example where there is an opportunity to enhance resource health and facilitate timely management practices through CE's is fence modifications that serve to allow wildlife passage, i.e. converting woven wire in antelope migration routes to three-four wire in cattle allotments or converting existing barbed fences that do not meet BLM standard to ones that do.

It would be unfortunate, in the current economic climate, if agencies lose the ability to use CEs to facilitate economic development and natural resource management projects on or near federal lands. In the case of grazing permits, WACD encourages the CEQ to issue a guidance document

that allows for the use of Categorical Exclusions, if such guidance is even necessary, to expedite the permitting and renewal process as much as possible. In addition, in fire-prone areas, we urge the CEQ to support federal agencies' continuing ability to use CEs to expedite the contracting and permitting process to ensure fuels removal in a timely manner. It is vital to the health of our forest to allow for this process to be available.

WACD is concerned about possible changes to current CE's that are widely used and necessary to continue to provide valuable jobs and benefits to rural economies. Exclusions are allowed for in NEPA for the specific purpose of expediting the process for common projects and actions. It would be unfortunate if any final guidance actually makes the NEPA process more difficult and cumbersome in general. We encourage CEQ to release final guidance that helps agency employees understand how best to use Exclusions and how to make the NEPA process less complicated and complex.

It is our hope that any guidance allows agencies to make decisions quickly. Any additional requirements that would require additional steps in terms of public review, etc would negate the intent and purpose of CE's. NEPA allows for Categorical Exclusions in order to make the process easier for common and frequent actions, not to add more bureaucracy to the process.

While we agree that agencies should review the use of exclusions, and do quality checks to make sure that those in use are appropriate, our hope is that this does not halt their use completely. Categorical Exclusions are a valuable tool for agencies to have at their disposal.

Please take these comments into consideration, as you finalize the guidance on the use of Categorical Exclusions in the NEPA process for all federal agencies. The Wyoming Association of Conservation Districts looks forward to continuing to provide comments throughout this effort.

Thank you.

Sincerely,



Bobbie K. Frank  
Executive Director

Cc: Conservation Districts  
WACD Board of Directors  
Wyoming Congressional Delegation  
Wyoming Department of Ag