



February 3, 2005

NEPA Draft Report Comments
C/O NEPA Task Force
Committee on Resources
1324 Longworth House Office Building

Dear NEPA Review Task Force:

The following comments are submitted in response to the request for public comments on the Initial Finding and Draft Recommendations released by the Task Force on Improving the National Environmental Policy Act and Task Force on Updating the National Environmental Policy Act.

The Motorcycle Industry Council ("MIC") is a national trade association representing over 300 manufacturers and distributors of motorcycles, scooters, parts and accessories and members of allied trades. Our member companies and the millions of riders who use our products have a vital interest in agency planning and permit issuance processes. We share the Task Force's desire to improve and update the National Environmental Policy Act (NEPA). We would also like to thank the House of Representatives Committee on Resources, Chairman Pombo and the Task Force for undertaking this difficult task.

NEPA was written and designed to be a tool for agencies to enhance decision-making with regard to "major actions" that could impact the environment. MIC believes that this intent has been lost over time and agencies have become focused on compiling massive "litigation proof" documents that do little or nothing to help decision-makers. A 1997 Council on Environmental Quality study, "The National Environmental Policy Act: A Study of Its Effectiveness After Twenty-five Years," finds that "...agencies may sometimes confuse the purpose of NEPA. Some act as if the detailed statement called for in the statute is an end in itself, rather than a tool to enhance and improve decision-making. As a consequence, the exercise can be one of producing a document to no specific end." We welcome the Task Force's efforts to restore the original intent of the law.

MIC is committed to promoting safe, fun and environmentally sound opportunities for our consumers; however, the NEPA process itself has become distorted over time and we welcome the opportunity to weigh in on the recommendations proposed by the Task Force. Overall, we feel the Task Force has done a good job at identifying problem areas and offering reasonable solutions.

Specific Comments on Draft Recommendations:

Group 1

Recommendation 1.1: MIC supports amending NEPA to define “Major Federal Action.” The original law was designed to affect only “major federal actions” that “significantly impact” the environment; however, over time, and through court interpretations, the NEPA process has been used to require even minor actions, that have little impact on the environment, to undergo NEPA. Establishing a statutory definition like the one recommended in the Task Force Report would effectively eliminate minor projects that have negligible impacts on the environment from review and carry out the original intent of the law.

Recommendation 1.2: We also support adding mandatory timelines for the completion of NEPA documents. Continual delays in the process have left many projects uncompleted or even uninitiated. The time limit (18 months) recommended by the Task Force, with extensions provided for exceptional circumstances, is a fair and adequate amount of time for the NEPA process to be completed.

Recommendation 1.3: MIC agrees with the Task Force that NEPA should be amended to “create unambiguous criteria for the use of Categorical Exclusions (CE), Environmental Assessments (EA) and Environmental Impact Statements (EIS).” Federal agencies should have the option of utilizing CE’s or EA’s as tools where appropriate. MIC particularly supports the example offered by the Task Force wherein, “...temporary activities or other activities where the environmental impacts are clearly minimal are to be evaluated under a CE unless the agency has compelling evidence to utilize another process.”

Group 2

Recommendation 2.1: MIC believes that comments from participants that are located closely to the project or action being proposed should be given greater consideration than those from others that are geographically far removed from the area in question. While MIC supports the concept that any citizen has the right to have his or her voice heard, ultimately those who would be the most affected should have a greater impact on the process.

Recommendation 2.2: We also endorse the concept of limiting an EIS to 150 pages unless the complexity of a project requires more. Projects can be delayed while an unnecessarily complex EIS is completed. In addition, public review can be hindered by massive documents that are difficult for lay people to read and understand.

Group 3

MIC supports the recommendations of Group 3. As it stands, states can be treated as cooperating agencies at the discretion of the lead federal agency. Amending NEPA to grant all state requests to be treated as cooperating agencies would be beneficial. In addition, allowing state programs that are “functionally equivalent” to the NEPA process

to satisfy NEPA requirements is also a positive step. Most NEPA decisions have a predominantly local impact, and allowing state governments increased involvement will help to allow those closest to the affected area to have a greater say in the outcome.

Group 4

We support the recommendations of Group 4. We especially favor the recommendation that would clarify that parties must be involved throughout the process in order to have standing in an appeal. It is frustrating to spend considerable time and resources on a project only to have an outside group that had not been a part of the process from the beginning interject late in the process and create further delay. This recommendation would eliminate some of those situations.

Group 5

MIC favors the recommendations in Group 5. Ensuring that Environmental Impact Statements only offer alternatives to proposed actions that are technically and economically feasible makes for a better process and a better decision-making tool for agencies. In addition, the length and complexity of an EIS can be significantly reduced by only including reasonable alternatives.

Group 6

MIC believes that better consultation between and among federal agencies and stakeholders can only help the NEPA process.

Group 8

MIC strongly supports clarifying the meaning of cumulative impacts. Establishing criteria for determining cumulative impacts would streamline the process by establishing reasonable parameters on the scope and extent of a legally sufficient analysis. With set guidelines in place, litigation in this area would decrease significantly.

Again, we would like to thank the Task Force for undergoing this difficult process. NEPA was originally intended to provide a tool to help agencies make decisions; however, over time the process has become an exhaustive and expensive undertaking. We look forward to continuing to work with the Task Force to improve the Act and to streamline the NEPA process.

Sincerely,

A handwritten signature in black ink, appearing to read "Duane Taylor". The signature is fluid and cursive, with a large initial "D" and a long, sweeping tail.

Duane Taylor
Government Relations Specialist