American Exploration & Mining Association

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March 10, 2020

Mary Neumayr, Chairman
Edward A. Boling, Associate Director for the National Environmental Policy Act
Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503

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 Chairman Neumayr and Associate Director Boling:

Thank you for the opportunity to provide these comments regarding the Council on Environmental Quality's (CEQ) proposed revisions to its National Environmental Policy Act (NEPA) regulations. The American Exploration & Mining Association (AEMA) supports CEQ's stated goal to modernize and clarify the regulations, reduce paperwork and delays, and promote better decisions. We believe the proposed updates largely accomplish these goals while preserving NEPA's original intent of environmental protection, informed decision-making and public involvement.

Who We Are

AEMA is a 125-year-old, 1,700-member national trade association representing the minerals industry with members residing in 44 U.S. states, 7 Canadian provinces or territories and ten other countries. AEMA is the recognized national voice for exploration, the junior mining sector, and maintaining access to public lands, and represents the entire mining life cycle, from exploration to reclamation and closure. More than 80% of our members are small businesses or work for small businesses.

Background

Since NEPA's enactment in 1970, our members have had extensive first-hand experience with the law and the permitting process. They are significantly impacted by decisions that are the direct result of how the NEPA process is administered by an array of federal agencies. Thus, our members are key stakeholders when it comes to developing a more efficient, timely and effective NEPA process.

The U.S. mining industry stands ready to build our infrastructure, make conventional and renewable energy possible, and contribute to our nation's economic and national security. However, lengthy permitting timeframes caused in large part by the cumbersome NEPA process are delaying or even preventing "shovel-ready" projects from being built. In 2017, AEMA conducted a survey of our member companies with projects undergoing the federal permitting process to determine the investment level to date, additional investment to come, the direct and indirect jobs that could be created, and the estimated federal, state and local tax revenue that would be generated by the project. The numbers are staggering.

Among the 14 companies responding to the survey, nearly $4 billion had already been invested, with an additional $9.2 billion waiting to be spent. More than 16,500 direct and indirect jobs were waiting on the sidelines. And, $5 billion in taxes could be generated by these important projects. Unfortunately, an inefficient federal permitting system is holding them back.

AEMA wants to emphasize that we do not generally view substantive environmental laws and regulations as the problem. It is the permitting process that has become the major problem. NEPA is a significant part of the gantlet our members run through to get a project approved. They must obtain land access permits and plan of operation approvals from the applicable federal land management agency such as the U.S. Bureau of Land Management or the U.S. Forest Service, as well as permits under Section 404 of the Clean Water Act from the U.S. Army Corps of Engineers and other authorizations under federal environmental laws. Procuring these federal permits and approvals frequently necessitates permissions and consultations with a host of other cooperating federal agencies. In addition, these projects must obtain state-level environmental permits to ensure reclamation and other environmental protections. These agencies' and related environmental analyses become a part of the NEPA process for a proposed mining or exploration project.

Our members take great pride in producing the minerals America needs for national and economic security, as well as the items people use every day. The U.S. mining industry is the safest, most environmentally responsible mining industry in the world. Mining and environmental protection are compatible, and mineral products make possible both the development of our society and the mitigation of modern society's impacts on the environment.

However, NEPA has become a creature wholly different and unrecognizable from what it was when it was first written and enacted. The law's author, Senator Henry Jackson (D-WA), intended Environmental Impact Statements (EISs) of no longer than 6-8 pages. An EIS today, regardless of the agency that writes it, frequently runs into the thousands of pages. Rather than a means to inform agencies and engage the public, NEPA has become the tool of choice for opposition groups seeking to delay projects and set the stage for litigation. NEPA has almost become an end unto itself. When agencies lack a clear understanding of the appropriate level of analysis and what that analysis should include, we often enter a scenario when it seems we do NEPA just for the sake of doing NEPA. This is a waste of precious time, resources and taxpayer dollars, to say nothing of the cost to the economy. AEMA believes CEQ's proposed changes reaffirm the procedural intent of NEPA and streamline the NEPA process while leaving in place the appropriate level of environmental review and disclosure.

Issued on August 15, 2017, Executive Order 13807 created the "One Federal Decision" policy, which calls for a streamlined environmental review process that is coordinated among the federal agencies, and produces decisions in a consistent, predictable, and timely manner. CEQ's proposed NEPA reforms take an important step toward putting put several key elements of the One Federal Decision policy into practice. These proposed reforms will have a positive impact on our members, and we strongly support them. Our comments are grouped by category below.

I. Working with Project Proponents

AEMA has long supported the increased participation of project proponents and their contractors in the creation of an EIS and other related documents. Preparation of an EIS by agencies or their third party contractors rather than proponents under supervision by the lead federal permitting agency has never been required by NEPA and has proven very inefficient and counterproductive in many cases. We strongly urge CEQ to retain the proposed provisions of 40 CFR 1506.5(c) in the final rule.

The current regulations allow an applicant to prepare an environmental assessment (EA), 40 CFR 1506.5(b), as long as the agency makes "its own evaluation of the environmental issues and take[s] responsibility for the scope and content of the environmental assessment." Nothing in NEPA or caselaw interpreting the statute prohibits the regulations from extending a similar requirement to EISs.

Even where an EIS or other documents are prepared by an agency or third party NEPA contractor, the proponent should have the ability to coordinate and work with that agency or contractor. Whether communicating with agency staff or their contractors, project proponents have the most detailed technical and environmental information about the project, and their involvement at earlier phases can help avoid time-consuming and costly revisions late in the game. It has also been our experience that such interaction encourages the proponent to make changes to the proposed action to avoid or mitigate potential environmental impacts. We recommend that the final regulations include specific provisions to allow for proponent involvement at each stage of the process, including but not limited to: development of alternatives, impact analysis, and review of preliminary draft and final EISs. Of course, we fully recognize that the lead agency has the final say on the appropriateness of proponent input and content of the NEPA document.

AEMA believes CEQ's proposed changes, including eliminating third party contractors as a requirement for preparing EISs, accomplishes this goal of incorporating better information earlier and more cost-effectively, while retaining independent evaluation, ultimate control and decision-making authority in the hands of the agencies.

Overall, if applicants can communicate with agency staff and their contractors earlier in the NEPA process, the agency will have access to more in-depth information that will enable better understanding of the applicant's goals, leading to a more efficient process for agency staff, project proponents and the public.

In addition, we support proposed revisions that limit consideration during a NEPA review to alternatives that are within the control and jurisdiction of the lead agency and can be implemented by the applicant. If an alternative does not meet the purpose and need (P&N) of the project, considering the applicant's objectives as well as the permitting agency's authorized role, it must be eliminated from analysis. We further support changes that require that all action alternatives be "technically and economically feasible;" with such determinations made in close coordination with the project proponent.

A "No Action Alternative" does not meet the P&N of the applicant, and it may not even be a legal option in some cases. For example, for locatable mineral rights under the U.S. Mining law, as long as the federal land is open to mineral entry, the federal land management agencies' decision space in response to a mining claim operator's proposed plan of operations is limited to technically and economically practicable modifications that may be required to mitigate impacts for compliance with the respective surface management regulations – 43 CFR 3809 for BLM and 36 CFR 228A for USFS-- without unreasonably restricting exercise of Mining Law rights. *See, e.g., Okanogan Highlands All. v. Williams*, 236 F.3d 468, 478 (9th Cir. 2000). The No Action Alternative in this context may serve as an environmental baseline but is not a selectable alternative and generally the Existing Environment section of the EIS provides the environmental baseline discussion. Regardless, the "No Action Alternative" has become a mainstay, and our members frequently experience agencies analyzing other alternatives that do not yield improved outcomes, or in some cases have an even greater impact on the environment than the Proposed Action. All of this results in agency resources wasted, and valuable time lost for the proponent. Accordingly, we support the EIS focus on alternatives that meet the proponents' P&N and that are technically and economically feasible.

Finally, we agree with the proposed language in 40 CFR 1502.14, as further explained in the Preamble, that provides the flexibility to limit the alternatives to the No Action Alternative and the Proposed Action.

II. Scoping

Consistent with establishing timeframes for completing EISs in a timely manner, we are very supportive of the proposed language in 40 CRF 1501.9, as further explained in the Preamble, that allows for scoping to begin prior to the publication of the Notice of Intent. In addition, our members have found cooperating agencies and the public have often raised issues late in the NEPA process and these have led to significant delays as well as litigation risk. We, therefore, request that CEQ include a requirement (potentially in 40 CFR 1509.1) that all comments on issues be raised during scoping and failure do so is subject to the exhaustion provisions included in the proposed regulations.

III. Establishing Lead/Cooperating Agencies

When multiple agencies are involved in the NEPA process, coordination between them often resembles guerilla warfare or a circular firing squad, whereby "cooperating" agencies,

inadvertently, through indifference, or sometimes deliberately, work against the efficient completion of the NEPA process rather than appropriately helping to complete an EIS in a timely manner. Our members have experienced cooperating agencies consistently submitting materials into the Administrative Record that criticize lead agency work on issues about which they have no technical expertise or jurisdiction. Moreover, they frequently revise their comments, make new comments, or make comments outside of the agency's statutory or regulatory mandates at late stages in the NEPA process. Further, our members are frequently placed in the awkward position of trying to resolve disputes between lead and cooperating agencies because they refuse to work with or listen to each other. Clearly, such behavior undermines the agencies' obligation and ability to work cooperatively and resolve issues in a reasonable manner. NEPA and the CEQ regulations clearly never intended private entities to act as mediators in intergovernmental disputes.

By following the guidance laid out in E.O. 13807, CEQ's proposed reforms clearly establish the roles of lead and cooperating agencies, spell out joint schedules, require that comments be submitted early in the process, provide procedures to elevate disputes to senior agency leadership for timely resolution, and mandate preparation of a single EIS and Record of Decision (ROD). AEMA believes these changes will be a very positive step toward greater agency collaboration and efficiency. Under this coordinated approach, project proponents will see more of a "one-stop-shop," where all the agencies engage in the NEPA process concurrently, in a coordinated fashion, rather than the current sometimes haphazard, costly, disjointed, and counterproductive process that drags on for years or even decades. Coordinated engagement in the process will also likely lead to better analysis and documents. While CEQ's reforms acknowledge that different agencies have different responsibilities, it also demands that members of the same team start to act like they are truly on the same team.

Finally, we appreciate CEQ's acknowledgement of Tribes' important role in NEPA analyses. Alaska is unique in that the Alaska Native Claims Settlement Act (ANCSA) generally severed the relationship between individual Tribes and their original homelands. ANSCA transferred settlement lands to regional and village native corporations (i.e., ANCSA corporations). A number of AEMA's members have projects located on or near lands owned and managed by the ANCSA corporations, who have title to the lands (and also often own the underlying minerals), are the federally-designated stewards of the lands, and have shareholders that use and occupy the lands. We believe the efficiency and effectiveness of NEPA analyses in Alaska strongly benefits from the early, frequent, and meaningful involvement of these corporations. Therefore, we urge CEQ to add a provision to the proposed regulations specifically designating ANCSA corporations as eligible to serve as cooperating agencies where proposed projects involve lands they have title to and/or for which they own the underlying mineral rights.

IV. Avoiding Duplication of Documents & Data

One area where CEQ's proposal will be particularly effective in achieving efficiencies is in encouraging or requiring agencies to use existing data and information in NEPA analyses. There is no need to "reinvent the wheel," and recognizing this will make the NEPA process more efficient, but no less effective in several ways. One specific change we especially support is the

modification to the language in 40 CFR 1502.22(b) saying that the costs of additional data collection must be not be "unreasonable" instead of "exorbitant." Our members have found that the term "exorbitant" has, in some cases, created an open door for agencies to require large, time consuming, and generally unnecessary data collection efforts. All too often, we see agency staff seeking "perfect" science without any regard to the practical implications or whether that information is necessary to make informed decisions.

CEQ's revisions to further encourage discretion and practicality in the use of "tiering" and "programmatic" NEPA documents that, where appropriate, analyze in a useful manner the environmental impacts and mitigation measures for similar projects at a broad policy level would be a welcome update. These programmatic analyses could then be used as a foundation, a starting point, for subsequent analyses, saving valuable time and resources, both for agency personnel and project proponents. The text in proposed 40 CFR 1502.4 is a refinement that is consistent with the existing CEQ regulations and the discretion and deference afforded agencies regarding programmatic reviews under case precedent. 85 Fed. Reg. at 1718; *see, e.g., Kleppe v. Sierra Club*, 427 U.S. 390 (1976). In fact, our members support making tiering and effective use of programmatic NEPA documents a requirement wherever feasible.

Moreover, proposed 40 CFR 1501.11 and 1501.12 regarding tiering and programmatic NEPA dovetail with 40 CFR 1506.3 regarding adoption of existing NEPA documents to satisfy the statute for a new project. The three sections, when aggregated, support the codification of the BLM's NEPA tool known as a 'Determination of NEPA Adequacy' (DNA), see https://www.blm.gov/sites/blm.gov/files/uploads/Media_Library_BLM_Policy_Handbook_h1790-1.pdf. According to the BLM's NEPA Handbook, "A DNA confirms that an action is adequately analyzed in existing NEPA document(s) and is in conformance with the land use plan." A new project may rely on a single or multiple existing EAs or EISs in six enumerated instances. The instances most relevant to AEMA members include when an EA or EIS: is referencing programmatic activities; is associated with BLM plans, projects, or permit approvals; is related to project-specific actions; and was prepared by a government agency – whether BLM was a cooperating agency or not. Proposed revisions to the regulations also show increased support for partnering with state agencies in the NEPA process, and AEMA would accordingly support reliance on existing state environmental documents to serve as the basis for issuance of a DNA. Allowing existing documents to satisfy the procedural requirements of NEPA under the proposed regulations is consistent with existing federal agency practices and provides opportunities to meaningfully inform the public and agency officials of the environmental impacts of major federal actions without duplicating work or unnecessarily expending tax dollars.

AEMA also strongly supports CEQ's proposed revisions regarding "functional equivalence." Agency permitting processes that are the "functional equivalent" of a NEPA analysis ought to satisfy the requirements of the law. This is a commonsense proposal that is consistent with case precedent. *See, e.g., Environmental Defense Fund v. EPA*, 489 F.2d 1247, 1256-57 (D.C. Cir. 1973). Our members are very familiar with the environmental standards of the Federal Land Management and Policy Act (FLPMA), the National Forest Management Act (NFMA) and their corresponding regulations, as well as the additional permit requirements under the Clean Air Act,

Clean Water Act, Endangered Species Act, Safe Drinking Water Act and others, which provide the functional equivalent of a NEPA review for proposed exploration and mining operations on federal lands. Altogether, these laws ensure the full and thorough consideration, both substantively and procedurally, of environmental impacts from mining operations on federal lands regardless of the NEPA process. CEQ's proposal should more clearly state that the agencies do not need to analyze things that are covered under these substantive statutory authorities.

Assuming functional equivalence is included in the final regulations, AEMA strongly encourages CEQ to provide follow-up guidance to inform proponents on how they can submit information to federal agencies showing that compliance with other federal statutes is functionally equivalent to an EA or EIS.

Even where such processes are not determined to be the "functional equivalent" of NEPA, lead agencies should defer to the conclusions of other agencies where implementation of such authorities has been delegated to states such as under the Clean Water and Clean Air Acts. NEPA documents should be able to reference and rely on state analyses conducted to support permitting and ensure compliance with applicable standards. Moreover, the regulations should allow federal agencies to presumptively assume that proponents will have to comply with applicable, enforceable standards (e.g., for air and water quality) in evaluating effects where they are explicitly required by laws and regulations. NEPA does not require, and should not allow, agencies to duplicate the environmental analysis that is required under other substantive environmental laws.

Most, if not all, states have their own suite of environmental laws and regulations and permitting processes in addition to the federal process, something CEQ respects here. The proposed rule to allow federal agencies preparing NEPA analyses to incorporate by reference state and Tribal analyses, when those analyses meet or exceed federal standards of a NEPA review, simply makes good sense.

V. Appropriate Level and Scope of Review

This may be one of the most substantial features of CEQ's proposed new regulations. As mentioned above, because agency personnel often lack a proper understanding of NEPA and what it calls for, they frequently fail to set limits on what should be analyzed. It is no wonder then, that EAs can take years and EISs can drag into decades. Without proper understanding of the law or adequate guidance, P&N statements end up looking like agency wish lists instead of a concise statement of what the project will accomplish (based on the needs of the applicant). Too often, project opponents bluff agency staff into conducting more rigorous NEPA analyses than are necessary and agency staff comply, in hopes of "bulletproofing" the EIS and the eventual Record of Decision against litigation that will come regardless of the level of analysis. To agency outsiders and project proponents, this can sometimes look like "doing NEPA for the sake of doing NEPA." However, just because a project might be controversial in the eyes of one person or one group does not mean the agency should conduct an EIS where an EA would suffice.

For this reason, we are very encouraged by CEQ's proposal to focus NEPA reviews on "significant issues;" eliminate minor issues that are unrelated, or ancillary at best, to the proposal; and offer guidance that will help clarify what level of analysis (Categorical Exclusion [CE], EA, EIS) is appropriate and when.

The proposal will also help agency personnel focus the scope of the review, by clarifying what is relevant (or "significant") and therefore needs to be analyzed, and what does not. Agency staff can then winnow down their "to-do" list as they conduct due diligence on a proposed project, and as a result, their analysis can be conducted in a reasonable and timely manner instead of years.

While the aforementioned changes will certainly reduce time spent on NEPA reviews and shorten the length of the NEPA documents produced, AEMA nonetheless supports specific timeframes for completion of EAs and EISs. We suggest that the proposed, presumptive timeframes in the regulations could be further shortened to 6 months for EAs and one year after the publication of the notice of intent (NOI) for EISs. These are the timeframes that the Department of Interior (DOI) adopted through Secretarial Order 3355 dated August 31, 2017 and are being successfully applied on NEPA analyses throughout the country. We similarly agree with the page limits of 150-300 pages for an EIS, as proposed. We also support agencies being held accountable at the senior management level when they do not meet the required benchmarks. We note that the proposed page limits are entirely consistent with and merely strengthen and further emphasize the existing CEQ NEPA regulations provision that EISs shall normally be less than 150 pages (300 pages for proposals of unusual scope or complexity). 40 CFR 1502.7.

Our members have also experienced significant delays between issuance of final EISs and Records of Decision (RODs). We see no reason why RODs should take more than 90 days after final EIS release – with the provision that this can be extended by senior agency leadership in extraordinary cases. We encourage CEQ to include this requirement in the final regulations.

As noted above, DOI Secretarial Order 3355 provides for comparable page limitations and timelines, and AEMA believes these guidelines need to be more broadly adopted throughout the applicable federal agencies, in order to provide more predictability and clarity in the NEPA process. NEPA documents numbering in the thousands of pages do little to inform the public. The decision-makers who sign them rarely have time to read them. In fact, the only ones informed are those paid to read them – often project opponents looking for the proverbial "chink in the armor." Commonly taking many years to produce, such encyclopedic NEPA documents hold up projects with significant delays at substantial cost to project proponents.

Simply establishing sideboards does not impede or exclude public involvement. Much like packing a moving truck, CEQ's proposal will help federal agencies understand and prioritize what comes on board, and separate the extraneous material that does not, or should not, be included. NEPA is a law built around fostering public involvement as one of its fundamental goals, and this proposal will, in fact, augment public participation by explicitly requesting that the public provide the federal government with input on project alternatives, impacts, and

relevant studies, analysis, and information during pre-NOI scoping, within the NOI, and during scoping. A process taking one to two years and documents spanning up to 300 pages (exclusive of appendices, graphics, and material incorporated by reference, as proposed by CEQ) will leave plenty of opportunity for public engagement and review of supporting detailed information and analysis by those who choose to do so. In fact, controlling document length should make NEPA documents more accessible to the public than the 5,000-page illegible tomes that are currently produced. Making an EIS more concise will improve the public's ability to digest the documents and thus be meaningfully engaged.

In the interest of further promoting effective public involvement as well as reducing the potential for litigation, we also support the provisions of the proposed rule that require federal agencies to certify, at the senior management level, that alternatives and issues identified by the public during scoping are addressed at the draft and final EIS stages. We also agree with the provisions that require comments to be submitted within the comment periods provided, require comments to be as specific as possible, and that "comments or objections not submitted shall be deemed unexhausted and forfeited."

Some further clarification in the final rule of the term "Major Federal Action" as defined in the CEQ proposal would be helpful. Many exploration and mining projects that are currently subjected to NEPA, and particularly those with requirements and measures incorporated in the proposal to meet substantive environmental standards and avoid significant environmental effects, do not rise to the "major federal action" threshold. Avoiding unnecessary NEPA analyses would save agencies, applicants and other stakeholders many man-hours and significant cost.

AEMA also suggests that the final rule clearly decouple proposed actions under NEPA review from related activities to which NEPA does not apply, such as activities on private land that do not require a federal permit. Activities not subject to federal authorization or those subject to federal review that do not themselves trigger NEPA (e.g. activities that are within the scope of a CE) should not be unduly delayed or hindered by the NEPA process. Some further simple clarification in proposed 40 CFR 1506.1, 85 Fed. Reg. at 1724, could address this issue.

We concur with CEQ's efforts to clarify what effects and impacts need to be evaluated in NEPA analyses. The existing categories of direct, indirect, and especially cumulative effects have been subject to many interpretations, including in the courts, and our members have seen them lead to overly broad analysis requirements based on highly speculative interpretations of what is reasonably foreseeable. We also agree that impacts must have a "reasonably close causal relationship" to the proposed action. We do recommend that CEQ modify the proposed regulations to be precisely consistent with the applicable case law, i.e., to explicitly say an effect should be evaluated if there is ''a reasonably close causal relationship between a change in the physical environment and the effect at issue'' and that ''[t]his requirement is like the familiar doctrine of proximate cause from tort law.'' In our view, we further agree with the proposed language limiting effects to only those that the agency has authority to prevent and not including impacts that would occur regardless of the project-specific action. Finally, we support the various proposed changes in the regulations that emphasize the importance of disclosing and taking into account economic and technical considerations in NEPA analyses. While EAs and

EISs often have some limited discussions of socioeconomic impacts and other beneficial effects, they have frequently been de-emphasized in relation to the in-depth analyses of impacts to the environment. We strongly believe that they deserve equal footing so that readers of NEPA documents can fully understand how man and nature will be affected by a proposed action, including the No Action Alternative and all action alternatives.

VI. Mitigation

AEMA supports the proposal to revise the definition of "mitigation" to acknowledge that the authority for compensatory mitigation must be derived from policies, regulations, and statutes governing the proposed action, and that NEPA cannot be interpreted as a source for this authority. Projects developed under the U.S. Mining Law and FLPMA also cannot require compensatory mitigation. The standard applied to these projects is to "prevent unnecessary or undue degradation" (43 USC § 1732(b)). Compensatory mitigation cannot apply to necessary or due degradation (e.g., impacts that are unavoidable in order for a mine to be developed such as an open pit to extract ore). The previous administration, however, used NEPA as a tool to impose mitigation requirements, ignoring the procedural nature of the law. CEQ's proposal will fine-tune mitigation language in a manner that is coherent, thus helping applicants understand the legal authority when mitigation is required.

Conclusion

The costs, time delays and unpredictability of the NEPA process significantly impact our members, especially small and medium sized companies that undertake high risk grassroots exploration and early stage mineral development. They are an important part of the mining industry's supply chain that have the potential to become tomorrow's producing mines operated by larger companies.

Without question, NEPA was written and approved with good intentions. For a number of years, it functioned as intended. There can be no doubt, however, that after 50 years, the law has grown and evolved into something altogether different from what its enactors set out to accomplish.

Something has gone terribly wrong with the NEPA process which was intended to provide good information to federal decision-makers and engage the public. AEMA would argue that NEPA has been bent and distorted so badly that it is no longer functional. While some may disagree with the proposed changes laid out by CEQ, few can genuinely argue that NEPA works well.

Instead of producing helpful information, NEPA produces documents that no one reads. Instead of engaging the public in federal decisions, it has spawned an industry of anti-development groups that exist solely to throw sand in the gears.

Our members see the challenges associated with NEPA every day. They also live and play in the communities where they work. Mining in America is the most environmentally responsible mining industry in the world. Miner safety and workers' rights are a top priority. Our members are proud to responsibly produce the minerals and metals America needs.

With that clear-eyed understanding, AEMA members know it is imperative that the NEPA process change, so the process doesn't continue to slowly strangle the most responsible, safest mining industry in the world and drive investment dollars to places where a clean environment is an afterthought, if it is a thought at all. CEQ's reform effort is an important move to set right what has gradually gone wrong before our eyes. A vibrant mining industry and robust environmental protection are not mutually exclusive goals.

Finally, we understand that this rule is the product of several years of broad and determined public outreach, as well as careful consideration of the full spectrum of interests impacted. With that in mind, AEMA encourages you to maintain the timeline for finalization of the rule, and promptly issue final regulations without the need for substantial changes from the proposed rule.

Our members appreciate the opportunity to share their knowledge and experience with CEQ as you work to improve NEPA. Thank you for your consideration of our comments.

Sincerely,

Mark Compton
Executive Director