

July 30, 2004

MEMORANDUM FOR FEDERAL AGENCY NEPA CONTACTS AND TRIBAL COORDINATORS

FROM: Associate Director for NEPA Oversight
Council on Environmental Quality

SUBJECT: Improving the NEPA Process Through Enhanced Tribal Capacity

The Council on Environmental Quality (CEQ) has established the Interagency Tribal NEPA Capacity Work Group (the Work Group) in its continuing efforts to make the NEPA process more effective, efficient and timely. The Work Group seeks to enhance the knowledge, understanding and skills of federal agencies and American Indian tribes, Alaska Native entities and Native Hawaiian organizations and thereby enable them to work together more effectively throughout the NEPA process.

Increasing stakeholder information sharing and cooperation improves the NEPA process.¹ Federal agencies, American Indian tribes, Alaska Native entities and Native Hawaiian organizations can learn much from one another. Making information they have about proposed actions and their potential effects on resources and communities available early in the NEPA process can shorten the time needed to identify issues of concern, potential environmental consequences, and ways to avoid or otherwise mitigate potential problems.

Please distribute this memo with the mission statement and the long and short term goals to appropriate offices and personnel within your agency to make them aware of the Work Group and to solicit their continued cooperation. Your previous response to requests for information and materials for tribal capacity workshops is appreciated and that information will be available for your review later this year.²

The Work Group will periodically request your assistance for information and the review of informational and training materials that are developed. We look forward to working with you to improve the NEPA process.

¹ Council on Environmental Quality, "The NEPA Task Force Report to the Council on Environmental Quality, Modernizing NEPA Implementation" (Sep. 2003); Council on Environmental Quality, "The National Environmental Policy Act, A Study of its Effectiveness After Twenty-Five Years" (Jan. 1997), available at <http://ceq.eh.doe.gov/nepa/nepa25fn.pdf>; Tulalip Tribes' 1995 Tribal Survey available at CEQ.

² The information was used at the recent Seattle workshop conducted by the Tulalip Tribes in cooperation with EPA that involved numerous federal agencies and tribes. Supporting such workshops is one example of the Work Group's efforts to help develop and increase understanding of the NEPA process, develop more effective working relationships and improve communication among tribal and agency representatives.

Interagency Tribal NEPA Capacity Work Group

The National Environmental Policy Act (NEPA) establishes policy, sets goals, and contains procedures to ensure that environmental information is made available to public officials and citizens during the federal agencies' decisionmaking process, before final decisions are made and actions are taken. NEPA establishes a process to inform decisionmaking and thereby promote agency decisions that achieve a balance between human activities and the environment that will be sustainable for generations to come. As Congress declared in enacting NEPA, "it is the continuing policy of the Federal government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans." The Interagency Tribal NEPA Capacity Work Group will focus on the opportunities available through the NEPA process to sustain the cultural heritage and cultural identity of American Indian tribes, Alaska Native entities, and Native Hawaiians.

Mission Statement

The Interagency Tribal NEPA Capacity Work Group, working collaboratively with American Indian tribes, Alaska Native entities, and Native Hawaiians organizations, (herein after referred to as "Tribes") and others, will strive to enhance tribal capacity for more effective participation in NEPA analyses and processes to encourage more informed decisionmaking so as to promote the preservation of tribal cultural heritage and cultural identity. The Work Group will also encourage and support the efforts of Tribes to develop tribal-specific NEPA-like processes (TEPAs).

Long Term Goals

The Council on Environmental Quality (CEQ) established a core group of federal agency representatives to work with formal and informal networks of Tribes, federal and state officials, and non-federal organizations to help agencies and federally recognized Tribes:

- (1) enhance mutual understanding of matters including: the unique status of federally recognized tribes as sovereigns; the range of federal agency and tribal interests; and how to engage tribes and other parties interested in the NEPA process;
- (2) facilitate partnerships and collaboration in the development and delivery of capacity building tools and the delivery of training, policies, procedures and information on NEPA and its agency specific applications;
- (3) enhance access by tribes, federal agencies, and others to capacity building tools, training materials, and contacts needed for tribes to more effectively and constructively engage in federal decisionmaking³; and

³ This will include sharing lessons learned and developing tools to use the Internet as a mechanism for sharing of lessons learned in NEPA/TEPA implementation.

- (4) identify and promote models for effective tribal-federal working relationships in implementing NEPA.

Short Term Goals

- (1) Training Compendium: Develop and maintain a compendium of federal and non-federal training materials, course offerings, funding assistance (e.g., grants), and contacts for NEPA/TEPA training.
- (2) Interagency One-stop Web Portal: Enhance access to information and training through the creation and support of a one stop Interagency Web Portal that provides easy one stop access to information about NEPA/TEPA implementing guidance, tools, courses, training materials and contacts.⁴
- (3) Collaborative Federal-Tribal Regional NEPA/TEPA Workshops: Aid in developing and evaluating regional training offered to build tribal-agency understanding and working relationships under NEPA at the local levels. This includes education and training to promote understanding of the NEPA process, effective communication, and conflict resolution.⁵
- (4) Identify and make available national and local tribal and federal agency contact information: Appropriate contacts are essential for implementing NEPA and government to government consultation requirements.⁶
- (5) Collect and Share Examples of Success Stories and Related Materials: This compilation, for publication in hardcopy and on the web, will include sample cooperating agency agreements, comment letters, training materials, and tribal and agency policies and procedures that support collaboration and identify successful approaches to NEPA/TEPA implementation.
- (6) Develop Strategy for Meeting Tribal Needs: Identify available resources and develop an overall strategy that maximizes existing federal-tribal, interagency and partnership resources.

⁴ This will include information about: assessing environmental, economic, cultural and social impacts of proposed policies, programs, plans or projects which may affect federally recognized tribes; and developing alternatives and mitigation measures. This also includes sharing lessons learned.

⁵ For example, the Work Group supports the work of the Tulalip Tribes which, using an EPA grant, developed prototype national tribal NEPA/TEPA training in cooperation with national representatives of national tribal interests and provided an inaugural education and training session in March 2004.

⁶ This includes requirements such as those under the National Historic Preservation Act and Executive Order 13007.