

2. Update on data for the Federal white-collar pay setting process
3. Employee Benefits Survey: status and data availability
4. Data on working conditions from BLS
5. Bonuses, lump-sum payments, and other forms of variable pay
6. Topics for the next meeting

Wednesday, June 6, 2001

9:30 a.m.—Committee on Prices and Living Conditions—Meeting Room 9

1. Update on program developments
 - a. Consumer Price Index
 - b. International Price Indexes
 - c. Producer Price Indexes
2. Topics for the next meeting

1:30 p.m.—Committee on Occupational Safety and Health Statistics—Meeting Room 9

1. Report on worker and case circumstances data from the 1999 Survey of Occupational Injuries and Illnesses
2. Discussion of changes to the Survey of Occupational Injuries and Illnesses resulting from the revision of the OSHA record keeping rule
3. Report on the status of the Survey of Respirator Use and Practices
4. Update on the introduction of the North American Industry Classification System into the Survey of Occupational Injuries and Illnesses and the Census of Fatal Occupational Injuries
5. Proposed FY 2002 budget
6. Topics for the next meeting

The meetings are open to the public. Persons planning to attend these meetings as observers may want to contact Wilhelmina Abner on 202-691-5970.

Signed at Washington, DC this 30th day of April, 2001.

Katharine G. Abraham,
Commissioner.

[FR Doc. 01-11907 Filed 5-10-01; 8:45 am]

BILLING CODE 4510-24-P

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

The United States Institute for Environmental Conflict Resolution

National Environmental Policy Act Pilot Projects; Comment Request; Announcement of Workshop

AGENCY: Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, U.S. Institute for Environmental Conflict Resolution.

ACTION: Meeting notice and request for public comment.

SUMMARY: At the request of U.S. Senators Max Baucus, Mike Crapo, Harry Reid, and Craig Thomas, the U.S. Institute for Environmental Conflict Resolution is exploring how pilot projects can be used to determine how collaboration, consensus building, and appropriate dispute resolution processes can improve the implementation of the National Environmental Policy Act (NEPA) in the context of federal lands and natural resource management issues. In the past months, the U.S. Institute, with the assistance of the Meridian Institute, has sought input from a diverse group of individuals representing environmental organizations, resource users, federal, state and local governments, tribes, participants in local and regional collaborative processes, and NEPA experts. The purpose of these individual conversations was to learn more about (1) What specific concerns or issues should be addressed by pilot projects, (2) what parameters should define the pilot projects initiative, (3) what criteria should be used to select pilot projects, (4) what institutional mechanisms would be needed to assure project oversight, implementation, and evaluation, and (5) how to maximize the likelihood that positive lessons learned from the pilots can be mainstreamed and begin to influence the implementation of NEPA in the future.

A number of perceived problems with both NEPA implementation and collaborative processes were identified through these early conversations. Among the reported problems with NEPA implementation were:

- Inconsistent implementation of NEPA's statutory requirements, implementing regulations and agency guidelines;
 - Inadequate coordination among federal agencies with overlapping jurisdictions and inadequate intergovernmental coordination with state agencies;
 - Overemphasis on NEPA documentation and litigation protection, rather than sounder strategic planning and decision-making;
 - Inefficient and duplicative processes; and
 - Inadequate attention to realizing the goals laid out in Section 101 of NEPA.
- The issues relating to collaborative processes and conflict resolution can be placed into four organizational contexts:
- Interagency collaboration,
 - Intergovernmental collaboration,
 - Governmentally organized multi-stakeholder collaboration, and

- Privately organized collaborative processes.

Across these contexts, various problems were raised, such as:

- A lack of guidance on options for agencies and inconsistent approaches to collaboration resulting in confusion;
- The resource intensive nature of such processes and inadequate process funding;
- Lack of clarity on stakeholder roles and responsibilities, and inadequate stakeholder guidance;
- Maintaining balanced stakeholder representation; and
- Overemphasis on process of collaboration as an end itself and inadequate attention to planning outcomes, decision-making, and implementation.

The U.S. Institute proposes that pilot projects may be useful in addressing the perceived challenges of NEPA implementation and providing clearer guidance regarding the use of collaborative processes in NEPA implementation to agencies, state and local governments, tribes and non-governmental interests with respect to public lands and natural resources management issues. Specifically, pilot projects could:

- Clearly distinguish problems and concerns related to NEPA and the manner in which NEPA is being implemented from concerns about other environmental statutes and/or broader societal concerns;
- Demonstrate innovative and practical solutions to clearly delineated NEPA implementation problems; and
- Provide information about the conditions under which collaborative problem solving, consensus-building, and dispute resolution processes can improve implementation of NEPA.

There are differing views regarding the effectiveness of NEPA implementation, reflecting legitimate underlying differences in values and perspectives about the nature and extent of the environmental impacts of proposed projects and how these impacts can best be avoided or mitigated. Most would agree, however, there is room for improvement in the application of NEPA procedures and in the achievement of its substantive objectives articulated in Section 101. Collaborative processes and conflict resolution strategies often involve or implicate NEPA review and analysis activities. Well-managed and highly visible pilot projects may bring to light important lessons for better integrating effective collaboration into NEPA activities and improving the quality and durability of management decisions informed by NEPA analyses.

The U.S. Institute recommends four basic features for a pilot projects initiative. First, there must be a sufficient number of pilot projects from which to draw reliable lessons across the four different contexts of collaborative processes (i.e., interagency, intergovernmental, governmentally organized, and privately organized) and across a spectrum of agencies that have responsibility for lands and natural resource management issues.

Second, it is important not to "reinvent the wheel." The use of collaboration and dispute resolution on environmental issues, of which NEPA implementation is a subset, is not new. For this reason, the pilot projects under this initiative should be oriented less toward introducing a new concept or approach and more toward solving specific problems regarding the use of collaboration and dispute resolution in NEPA implementation. At the same time, the initiative should include research and a retrospective analysis of past and present NEPA projects involving collaborative and dispute resolution processes, in parallel with current projects in the pilot program.

Third, pilot projects are not enough in and of themselves. Evaluation of the results of the pilot projects is essential in order to learn from both the successes and the failures. Articulating the criteria for assessing the outcomes of these pilot projects will be central to such an initiative. Dissemination of the results of the evaluations is essential to ensure that the lessons learned from these pilot projects are broadly understood and utilized.

Finally, a transparent, open, and public process must be designed and managed to build consensus on the desired outcomes for this pilot projects initiative in relation to NEPA implementation in connection with federal lands and natural resource management issues. The interviews conducted thus far, along with this request for public comment, are a step toward laying the initial foundation for such a process.

The U.S. Institute would like comments on how it can assure a balanced and effective approach to developing and managing such pilot projects. The U.S. Institute seeks written public comment and direct input at two public workshops on the approach it proposes to take to the NEPA pilot projects initiative. Based on the comments received from this notice and the public workshops, in addition to the feedback from earlier meetings and interviews, the U.S. Institute will provide a report and recommendations

to the Senators for their consideration. The supplemental information below provides greater detail on the preliminary concepts under consideration.

Based on the interviews conducted thus far and a review of the literature, the supplemental information provides a review of the perceived problems with NEPA implementation and collaborative processes, as well as the preliminary recommendations for the design of a pilot projects initiative to address the request of the Senators.

DATES: Comments must be submitted on or before June 25, 2001. The public workshops will be held in Denver, Colorado on June 8, 2001 and Washington, DC on June 14, 2001. A balanced set of stakeholder representatives will be invited to attend the workshops, which will also be open to the public. An opportunity will be provided for public comment. The meetings will begin at 8:30 a.m. and conclude at approximately 4 p.m. Members of the public who wish to attend one of the meetings are requested to contact the Meridian Institute (see **ADDRESSES** section) by June 1, 2001 so that a sufficient number of materials can be prepared and directions to the facility can be provided. Space may be limited, thus a RSVP is strongly encouraged.

ADDRESSES: Direct comments to: Meridian Institute, Attn. Tutti Tischler, P.O. Box 1829, Dillon, Colorado, 80435. Fax: 970-513-8348, e-mail: ttischler@merid.org by no later than June 25, 2001.

The meeting locations are:
June 8, 2001—Embassy Suites at Denver Airport, Conference Center, 4444 North Havana, Denver, CO
June 14, 2001—GSA National Capitol Region Training Center, Rooms A & B, 490 L'Enfant Plaza, Suite 3207, Washington, D.C.

If you are interested in attending either public workshop, please contact Ms. Tutti Tischler by June 1, 2001, Meridian Institute, P.O. Box 1828, Dillon, Colorado 80435, phone: 970-513-8340 ext. 252, fax: 970-513-8348, or e-mail: ttischler@merid.org. Ms. Tischler can provide directions to both meeting locations.

FOR FURTHER INFORMATION CONTACT: Logistical Information: Tutti Tischler, Meridian Institute, P.O. Box 1828, Dillon, Colorado 80435, phone: 970-513-8340 ext. 252, fax: 970-513-8348, or e-mail: ttischler@merid.org for directions to either meeting location and other related information.

Substantive Information: Sarah Palmer, U.S. Institute for Environmental

Conflict Resolution, 110 South Church Avenue, Suite 3350, Tucson, Arizona 85701, fax: 520-670-5530, phone: 520-670-5299, e-mail: palmer@ecr.gov

SUPPLEMENTARY INFORMATION:

I. Overview

A. The Senators' Request

At the request of U.S. Senators Max Baucus, Mike Crapo, Harry Reid, and Craig Thomas, the U.S. Institute for Environmental Conflict Resolution is exploring how pilot projects can be used to determine how collaboration, consensus building, and appropriate dispute resolution processes can improve the implementation of the National Environmental Policy Act (NEPA). The Senators have asked specifically about the potential application of collaborative approaches to NEPA activities in the context of natural resources management and public lands issues. In order to respond to this request, and at the suggestion of the Senators, the U.S. Institute is seeking input from those with interest and experience in NEPA review activities and collaborative processes.

B. The U.S. Institute for Environmental Conflict Resolution

Congress established the U.S. Institute in 1998 in the Environmental Policy and Conflict Resolution Act (Pub. L. 105-156). The Institute's primary purpose is to assist parties in resolving environmental, natural resource, and public lands conflicts. It was also charged with assisting in achieving the substantive goals of NEPA laid out in Section 101. The U.S. Institute is part of the Morris K. Udall Foundation, an independent federal agency of the executive branch located in Tucson, Arizona and overseen by a board of trustees appointed by the President. The U.S. Institute serves as an impartial, non-partisan institution providing professional expertise, services, and resources to all parties involved in such disputes, regardless of who initiates or pays for assistance. The U.S. Institute helps parties determine whether collaborative problem solving is appropriate for specific environmental conflicts, how and when to bring all the parties to the table, and whether a third-party facilitator or mediator might be helpful in assisting the parties in their efforts to reach consensus or to resolve the conflict.

C. Background and Context of the NEPA Pilot Projects Initiative

This project builds on the results of a workshop co-sponsored by the Institute for Environment and Natural Resources

at the University of Wyoming and the O'Connor Center for the Rocky Mountain West at the University of Montana in March of 1999 and reported on in "Reclaiming NEPA's Potential: Can Collaborative Processes Improve Environmental Decision Making?" The workshop focused on the potential for improving NEPA through the use of collaborative processes.

Chief among the important questions raised at this workshop were:

- How can both national and local interests be properly considered and appropriately balanced through collaborative NEPA processes?
- To what extent may multi-stakeholder collaborative groups participate in NEPA reviews and affect natural resource management decisions?
- When should cooperating agency status be granted to state and local governments and how can such cooperation be managed most fairly and productively?

• How can collaborative processes be used to improve the implementation of NEPA and in particular help achieve the substantive goals stated in Section 101?

In 1995, coinciding with the twenty-fifth anniversary of the passage of NEPA, the Council on Environmental Quality (CEQ) undertook a study of the effectiveness of NEPA implementation. This report, which refers to NEPA as a "framework for collaboration," focused on five critical areas within which improvements could be made to the implementation of NEPA, including:

- Strategic planning—the extent to which agencies integrate NEPA goals into their internal planning processes at an early stage;
- Public information and input—the extent to which an agency provides information to and takes into account the views of the surrounding community and other interested members of the public during its planning and decision-making processes;
- Interagency coordination—how well and how early agencies share information and integrate planning responsibilities with other agencies;
- Interdisciplinary place-based approach to decision making that focuses the knowledge and values from a variety of sources on a specific place; and
- Science-based and flexible management approaches once projects are approved.

This current effort is guided by an interest in soliciting broad-based and balanced feedback on a pilot projects initiative, designing a well-managed and transparent project, and providing timely and useful information. Based on

the Senators' request and with the assistance of the Meridian Institute, the U.S. Institute is seeking input from those with interest and experience in NEPA review activities and multi-stakeholder collaborative processes. To date, the U.S. Institute and Meridian staff have conducted approximately fifty interviews with individuals representing a diversity of interests and perspectives on this initiative.

D. Working Definitions

For the purpose of this draft document, the following working definitions will be used:

Collaboration and Collaborative Processes involve people who represent diverse interests, perspectives, and institutions that agree to work together to identify problems, share information, and, where possible, develop mutually acceptable solutions. Collaborative processes frequently take place prior to a formal decision being made by the responsible institution. The term collaboratives is sometimes used to refer to privately organized rather than governmentally organized collaborative processes.

Consensus-Building Processes constitute a form of collaboration that explicitly includes the goal of reaching a consensus agreement on policy matters, environmental conflicts, or other issues in controversy. Consensus is often, although not always, defined as "no dissent." Consensus building processes often, although not always, involve the assistance of a neutral convenor, facilitator, or mediator.

Dispute Resolution Processes aim to resolve specific and definable disputes over formal agency decisions that have been or are about to be made. The parties to a dispute resolution process are typically entities that can be granted standing to participate in the dispute resolution process. Under this definition, litigation is a form of dispute resolution process. The terms *appropriate* or *alternative dispute resolution* refer to non-adversarial processes that take place in advance of or in conjunction with formal litigation usually involving a neutral mediator to assist the parties in their negotiations.

Non-governmental interests refer broadly to non-governmental organizations (NGOs), such as national environmental groups, local citizens groups, and other public interest oriented groups, as well as companies, associations, and organizations representing commercial and private sector interests. Given the focus on federal lands and natural resource management issues in this document, non-governmental interests also include

resource users such as ranchers, loggers, timber companies, miners, mining companies, oil and gas companies, etc.

Stakeholders refers to the individuals, organizations, and institutions that have a stake in the outcome of a decision because they are either directly affected by the decision or have the power to influence or block the decision.

II. Findings From Preliminary Research and Interviews

A. Introduction

Based on a review of currently available literature and the results of the interviews described above, a number of challenges appear to be associated with NEPA implementation, as well as with the use of collaborative processes initiated in conjunction with NEPA implementation (whether the collaborative process is before or early in a NEPA process or, alternatively, after the NEPA process has begun and actual or potential disputes have emerged). The challenges with both NEPA implementation and collaborative approaches, which are reviewed below, should be considered as the basis for focusing the pilot projects.

B. Reported Problems Related to NEPA Implementation

Some of the stakeholders interviewed expressed concern about whether the Senators who initiated the request or the U.S. Institute believe "NEPA is broken and needs to be fixed" and, if so, whether there is a belief that the use of collaboration and dispute resolution is the way to fix the problem. It is important to point out that almost without exception the stakeholder representatives interviewed indicated they do not believe there is a problem with the statute itself, but many felt there are concerns with how the statute is being implemented.

The interviews also evidenced concerns about the underlying authority and standards for agency decisions contained in other environmental statutes. In some cases the criticisms initially leveled at the NEPA process were found to be based primarily on concerns with requirements of other substantive laws. In the case of federal lands and natural resource management issues, the statutes that intersect with NEPA include but are not limited to the Endangered Species Act (ESA), the Federal Lands Policy and Management Act (FLPMA), the National Forest Management Act (NFMA), and the Clean Water Act (CWA).

Since the focus of this effort is on the use of collaborative processes and appropriate dispute resolution in NEPA

implementation, it will be important to clearly distinguish between perceived problems and concerns with the authority and standards of decision making contained in other statutes, and perceived problems and concerns with how agencies are fulfilling their NEPA duties and obligations. While this will be a challenge when identifying criteria for selecting pilot projects, it will be even more of a challenge in evaluating the effectiveness of the pilot projects and translating any new insights from the pilots to concrete suggestions for improving NEPA implementation.

Some stakeholders have suggested that the U.S. Institute undertake a systematic retrospective analysis of collaboration and NEPA implementation to help inform the development of clearly delineated problem statements with respect to the pilot projects initiative. The U.S. Institute agrees with the need to have clearly delineated problem statements that can be used to develop criteria for selecting and evaluating pilot projects. However, it appears that there is sufficient clarity regarding problems reported with NEPA implementation to proceed with the development of a pilot initiative, which would include a systematic retrospective analysis in parallel with the pilot projects.

From its interviews and a preliminary review of the literature, the U.S. Institute has compiled the following list of perceived problems with NEPA implementation.

1. **Inconsistent NEPA Implementation.** Inconsistent implementation and interpretation by lead federal agencies of the statutory requirements of NEPA and the CEQ implementing regulations and guidelines.

2. **Efficiency and Effectiveness.** How to "streamline" NEPA implementation by making it more efficient, less time consuming, and equally, if not more, effective.

3. **Inappropriate Timing of Interagency or Intergovernmental Coordination.** Many times a lead agency consults with other agencies with overlapping regulatory authority after alternatives have been identified and publicly discussed with stakeholders, only to find that one or more of the alternatives under consideration is unacceptable to the agency with overlapping jurisdiction.

4. **Overemphasis on Documentation with Insufficient Attention to Planning and Decision Making.** There is an excessive focus on NEPA documentation and efforts to make NEPA documents "litigation proof" rather than using NEPA to improve strategic planning and decision-making.

5. **Inadequate Attention to Section 101.** CEQ's regulations for implementing the procedural provisions of NEPA (40 CFR 1502.2(d)) states that an environmental impact statement:

Shall state how alternatives considered in it and decisions based on it will or will not achieve the requirements of sections 101 and 102(1) of the Act and other environmental laws and policies.

Section 101 of the Act includes the declaration of environmental policy that is the cornerstone of NEPA. Section 102(1) of the statute directs that,

To the fullest extent possible the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act.

Some stakeholders believe there has been inadequate attention paid to the requirements of NEPA and its implementing regulations.

C. Reported Problems Associated With But Not Limited to NEPA Implementation

Both the interviews and the NEPA-related literature cite two additional issues that influence the NEPA implementation process but are not exclusive to that process. The first is information management and use of technical information. The second issue is the role of the Federal Advisory Committee Act in the NEPA process.

1. Information and Information Technology Related Problems

The quality of NEPA analysis depends in large part on the quality of information that is available to and considered by decision-makers and the general public. As a consequence, a number of reported information and information technology related problems may warrant consideration in the design of pilot projects. These include:

a. **Lack of Baseline Data.** The lack of high quality baseline environmental data, especially for land management agencies, that can be periodically updated and used as the basis for NEPA analysis, often results in the re-creation of high quality data on a case-by-case basis.

b. **Insufficient Utilization of Information Technology.** Information technology, especially decision-support tools and geographic information systems are not widely available or are under-utilized.

c. **Excessive Data Demands.** Guidance is needed on how to identify what data would be useful in improving the quality of the decision. While thorough documentation and requests for

additional information are often warranted, excessive data generation and reporting can overwhelm the ability of decision makers and the public to understand the key points.

2. The Federal Advisory Committee Act (FACA)

Federal agencies have the option of utilizing citizen advisory committees and work groups to advise agencies during the NEPA process. However, many report real and perceived limitations to the use of a federal advisory committee.

a. **Limitations and Perceptions.** Most federal agencies are limited in the number of advisory committees they can establish. In addition, there is a widespread perception that the FACA can be an impediment to undertaking governmentally organized multi-stakeholder collaboration. These real and perceived limitations can create incentives to circumvent the requirement to establish an official advisory committee when in reality a FACA-chartered committee may be the best course of action.

b. **Advisory vs. Decisional.** Federal advisory committees advise agencies on specific issues. There is a need for clearer guidance about how to ensure governmentally organized multi-stakeholder collaboration processes maintain this advisory role and yet, where appropriate, strive to achieve a consensus that includes commitments from the sponsoring agency (akin to what takes place in a regulatory negotiation).

D. Reported Problems Associated With Collaborative Processes and Dispute Resolution

From the literature surveyed and the interviews conducted, the U.S. Institute and Meridian Institute staff identified a number of perceived problems with the use of collaborative and appropriate dispute resolution processes. It was apparent from the interviews that it is useful to distinguish between among four types of collaborative processes based on their organizational context:

- Interagency collaboration and coordination involving affected agencies within the federal government;
- Intergovernmental collaboration and coordination involving the lead federal agency and affected agencies from other levels of government, including tribal, state, and local government;
- Governmentally organized multi-stakeholder collaboration that is initiated and organized by the lead federal agency, or a cooperating governmental agency, and involves

representatives of affected non-governmental interests; and

- Privately organized collaborative processes that are initiated, organized, and conducted by non-governmental interests who have a stake in the outcome of agency decisions where there is limited or no direct involvement of the lead federal agency.

While specific issues and concerns were raised within each of these contexts, there were several cross-cutting problems reported, including:

1. Problems That Arise When Initiating Collaborative Processes

a. Lack of Guidance for Deciding How to Collaborate. Agencies lack guidance on whether and how to engage in multi-stakeholder collaborative processes, separate one-on-one consultations with stakeholder representatives, or standard public participation techniques. In some cases, such processes are initiated after an agency decision has already been made, for example, which undermines the efficacy of the collaboration.

b. Inadequate Stakeholder Representation. Lead agencies often do not involve all government agencies and/or non-governmental interests that have a stake in the outcome of the collaborative process. There is a lack of awareness and practical guidance for determining the major stakeholders who need to be represented in a collaborative process.

c. Lack of Resources. Agencies have limited financial and personnel resources to undertake and organize a multi-stakeholder collaboration. Similarly, the lack of financial and personnel resources may limit some stakeholder groups from effectively participating in multi-stakeholder collaboration.

d. Involving Nationally Oriented Groups in Locally Oriented Processes. Where locally oriented, federally organized multi-stakeholder collaborative processes include issues that are of a broader national interest, it is difficult to involve national groups directly in the collaborative process.

2. Problems That Arise During Collaborative Processes

a. Roles and Responsibilities of Agency Representatives. Lack of clarity regarding the decisionmaking roles, responsibilities, and authority of agency representatives who are "at the table" in relation to those who are at "higher" levels. This is especially problematic in locally oriented processes that require decisions to be made at the regional and/or national levels.

b. Maintaining Balanced Stakeholder Representation. It can be difficult to

maintain balanced involvement of all major stakeholder interests throughout the course of the collaborative process. There is a need for guidance on how to handle instances where stakeholder representatives participate in a collaborative process until they feel their interests are not being fully satisfied and then pullout and resort to traditional adversarial strategies.

c. Length of Time Needed to Complete Multi-Stakeholder Collaboration. The time it takes to complete multi-stakeholder collaborative processes, especially consensus-based processes.

d. Goal Confusion. In some cases, the process of collaboration itself may develop into the primary goal of the participants rather than focusing on improved and informed decisions and designing a process that will effectively achieve this end.

3. Problems That Arise When Agency Decisions Are Made

a. Unrealistic Stakeholder Expectations. Nongovernmental stakeholders can be disappointed if the decision making framework is not specified. When non-governmental stakeholders participate in collaborative processes or assisted negotiations, sometimes the decision rules within the group are not clarified at the outset and the legal duties and obligations of the agency representatives for specific decisions or actions are not fully understood.

b. Inconsistent Decisions. Sometimes agency decision makers choose courses of action different from those arrived at by consensus in a collaborative process or by assisted negotiation in a conflict resolution process. The value of such participatory processes can be undermined. Guidance is needed to minimize this occurrence by assuring consistent communication within agencies during their participation.

c. Implementation Challenges. Recommendations from collaborative processes or conflict resolution processes may not always take into account their feasibility or resource requirements. Institutional structures may not exist or be limited to assure appropriate follow-through and monitoring to ensure implementation. Mechanisms for assuring the practicality of implementation requirements should be developed.

4. Problems Associated With Privately Organized Collaborative Processes

In addition to the cross-cutting issues raised in the sections above, there are some specific concerns reported regarding privately organized multi-stakeholder collaborations. Some

examples of issues that may need to be addressed include:

- What should agency personnel do when the process explicitly excludes certain stakeholder interests?
- How should they respond when there is clear evidence of an attempt to include representation of all stakeholder interests but not everyone chooses to participate?
- What should the agency do when the process includes a balanced representation of the diverse stakeholders that have an interest in the issues being discussed?
- Should federal agency staff participate in such processes if they are requested to do so and, if so, to what degree?
- Should the results of privately convened collaborative processes be given special weight or consideration by agencies and, if so, how and under what conditions?

III. The Potential Value of Pilot Projects

The results of the interviews and the preliminary review of the literature indicate there is some dissatisfaction with how agencies are implementing NEPA. These concerns are reflected in the list of reported problems outlined above. At the same time, many of the concerns that are attributed to NEPA implementation reflect broader concerns about the role of the federal government in public lands and natural resource management issues and with environmental decision-making in general.

Notwithstanding Congress' declaration more than 30 years ago of a national environmental policy in Section 101 of NEPA, it is clear the value conflicts that underlie environmental issues remain pronounced. Collaborative problem solving, consensus building, and dispute resolution processes have been used to address these value conflicts in a variety of situations since the mid-1970s. While these processes have been utilized in increasingly sophisticated ways and in a wide variety of circumstances by virtually every federal agency, as is evident from the problem statements outlined above, there is still much that can be learned about how to more effectively utilize these processes.

Undertaking a carefully designed pilot projects program will permit the U.S. Institute and those who have an interest in improving the quality of federal agency NEPA analyses and decision-making processes on public lands and natural resource management issues to:

- Clearly distinguish problems and concerns related to NEPA and the manner in which NEPA is being

implemented from concerns about other environmental statutes and/or broader societal concerns;

- Demonstrate innovative and practical solutions to clearly delineated NEPA implementation problems; and
- Learn more about the conditions under which collaborative problem solving, consensus-building, and dispute resolution processes can improve implementation of NEPA.

There are differing views regarding the effectiveness of NEPA implementation, reflecting legitimate underlying differences in values and perspectives about the nature and extent of the environmental impacts of proposed projects and how these impacts can best be avoided or mitigated. Most would agree, however, there is room for improvement in the application of NEPA procedures and in the achievement of its substantive objectives articulated in Section 101. Collaborative processes and conflict resolution strategies often involve or implicate NEPA review and analysis activities. Well-managed and highly visible pilot projects may bring to light important lessons for better integrating effective collaboration into NEPA activities and improving the quality and durability of management decisions informed by NEPA analyses.

As indicated by the interviews and preliminary review of the literature, pilot projects could yield important insights into possible improvements in NEPA implementation and guidance with respect to:

- CEQ regulations and implementing NEPA;
- Federal agency regulations;
- Tribal, state, and local government guidance; and
- NGO guidelines and practices for participating in NEPA implementation.

IV. Designing a Pilot Projects Initiative

A. Challenges

The design and implementation of a pilot projects initiative raises a number of challenges, including how to best:

- Ensure that all interests will be fairly represented in the selection, evaluation, and analysis of such projects,
- Identify and respond to potential institutional barriers,
- Address concerns on the one hand that this initiative might lead to unanticipated changes in NEPA implementation, and on the other, that reform of NEPA implementation may not be forthcoming, and
- Manage the projects with appropriate public oversight.

To address these challenges, the U.S. Institute recommends establishing some

fundamental conditions for undertaking a pilot projects initiative, identifying a set of criteria for selecting the pilot projects, and establishing a separate set of criteria for evaluating the results of the pilot projects.

B. Basic Features of a Pilot Projects Initiative

The U.S. Institute recommends four basic features for a pilot projects initiative. First, there must be a sufficient number of pilot projects from which to draw reliable lessons across the four different types of collaborative processes (i.e., interagency, intergovernmental, governmentally organized, and privately organized) and across a spectrum of agencies that have responsibility for federal lands and natural resource management issues.

Second, it is important not to “reinvent the wheel.” The use of collaboration and dispute resolution on environmental issues, of which NEPA implementation is a subset, is not new. For this reason, the pilot projects under this initiative should be oriented less toward introducing a new concept or approach and more toward solving specific problems regarding the use of collaboration and dispute resolution in NEPA implementation. At the same time, the initiative would include research and a retrospective analysis of past and present NEPA projects involving collaborative and dispute resolution processes, in parallel with current projects in the pilot program, in order to broaden the information gained.

Third, pilot projects are not enough in and of themselves. Evaluation of the results of the pilot projects is essential in order to learn from both the successes and the failures. Articulating the criteria for assessing the outcomes of these pilot projects will be central to such an initiative. Dissemination of the results of the evaluations is essential to ensure that the lessons learned from these pilot projects are broadly understood and utilized.

Finally, a transparent, open, and public process is needed to build consensus regarding the desired outcomes of this pilot projects initiative in relation to NEPA implementation on federal lands and natural resource management issues. The interviews conducted thus far along with this request for public comment are a step toward laying the initial foundation for such a process.

C. Input Sought on How To Interpret the Suggestion of the Senators To Focus on Federal Lands and Natural Resource Management Issues

The U.S. Institute seeks input on how broadly or narrowly it should interpret the suggestion from the Senators to focus on “federal lands and natural resource management” issues. This question should be considered in light of the work to “streamline” NEPA implementation in several agencies such as the Federal Highway Administration as well as in specific situations such as the U.S.D.A. Forest Service’s and the Department of the Interior’s National Fire Plan. There are concerns that NEPA streamlining efforts should seek to retain NEPA’s effectiveness and at the same time improve its efficiency. Streamlining efforts will likely require a significant level of collaboration and dispute resolution planning to meet these ends. The need for effective collaboration, particularly interagency and intergovernmental collaboration, may be even more significant in instances where efforts are being made to streamline NEPA implementation.

The U.S. Institute would value input on how broadly this initiative should define its focus on federal lands and natural resource management issues. The strictest interpretation might limit the focus to NEPA reviews conducted by land management agencies such as the U.S.D.A. Forest Service, Bureau of Land Management, and National Park Service. Alternatively, a broader focus would include federal agencies whose mission includes, but not exclusively, the management of a natural resource, e.g., military reserves, or the mitigation of impacts on natural resources, e.g., transportation projects, airport expansions. It might also include opportunities to work with tribal governments with resource management issues impacting tribal lands and adjacent federal or state lands.

D. The U.S. Institute’s Role

The U.S. Institute proposes to serve as the lead agency for the purpose of administering the NEPA Pilot Projects Initiative consistent with its mission to assist with the implementation of the provisions of Section 101 of NEPA. This role would include:

- Providing program administration and oversight;
- Making the final decisions on the criteria for selecting the pilot projects;
- Selecting the pilot projects;
- Collaborating with participating agencies as necessary and appropriate to select and oversee neutral third party service providers such as conveners,

facilitators, fact-finders, trainers, mediators, etc.;

- Identifying the criteria by which to evaluate the outcome of the pilot projects;
- Selecting and overseeing the work of independent evaluators;
- Reporting on the lessons that are learned from a retrospective analysis and prospective pilot projects; and
- Establishing and managing a federal advisory committee that will be used to provide input on all of the above.

Several commenters strongly recommended the use of a federal advisory committee to help guide the U.S. Institute on these matters to assure transparency and build trust in the NEPA pilot projects initiative. The U.S. Institute proposes to form a federal advisory committee made up of a balanced but manageable number of individuals representing organizations that have an interest in the initiative.

E. Criteria for Selecting Pilot Projects

A preliminary list of the criteria the U.S. Institute proposes to use in selecting the pilot projects is as follows:

- Geographic balance (while it is expected that a majority of projects will be drawn from the Western U.S., an attempt should be made to select projects from the entire nation);
 - Diversity of agency participation from lead federal agencies, states, counties, and tribes;
 - Diversity of the federal lands and natural resource management issues to be addressed;
 - Balance of projects across the four different categories of collaboration (i.e., interagency, intergovernmental, governmentally organized multi-stakeholder, and privately organized multi-stakeholder) as well as projects that employ dispute resolution processes;
 - Projects of local, state, regional, and national scale representing the spectrum of issues that are the focus of the NEPA analysis and collaborative process;
 - Projects that are occurring at a variety of different stages in the NEPA review and decision-making process (where a range of collaborative and dispute resolution processes could or are occurring).
- In addition, the U.S. Institute is considering giving priority to pilot projects that:
- Are explicitly designed to address one or more of the NEPA implementation and/or collaborative process problems identified above;
 - Have a genuine potential for success (e.g., for collaborative processes, decisions have not been predetermined, adequate incentives exist for

collaboration or dispute resolution, etc.); and

- Emphasize innovative approaches to the integration of the substantive aspirations of Section 101 of NEPA with the implementing procedures of Section 102.

The U.S. Institute encourages comments on this list.

F. Evaluation and Reporting

In order to have value, the proposed NEPA pilots project initiative must include both an evaluation component and a reporting component. The evaluation component will include evaluations of the results and outcomes of the pilot projects by independent and professionally qualified evaluators. A concerted effort will be made with the guidance of the federal advisory committee to establish agreed upon criteria for assessing the efficacy and effectiveness of the pilot projects. At the conclusion of the initiative, the U.S. Institute will report on lessons learned, taking into consideration the findings of the independent evaluations and the retrospective analysis of the research, and make recommendations for changes, if any, that might be made to existing NEPA policies, guidelines or regulations.

As noted above, the U.S. Institute proposes to establish a federal advisory committee to advise the Institute on critical components of the NEPA pilot projects initiative, including the criteria for conducting evaluations of the pilot projects and how to best select and oversee the independent evaluators. The proposed role for the advisory committee includes the review and interpretation of the evaluation results and the identification of what it sees as key findings that the U.S. Institute should consider.

V. Conclusion

In order to explore the proposal for pilot projects more fully, the U.S. Institute is holding two public workshops which will be facilitated by the Meridian Institute. The workshops are scheduled for June 8, 2001 in Denver, Colorado and June 14, 2001 in Washington, DC Representatives of resource user groups, environmental organizations, academia, state, local, and tribal governments, and federal agencies are being invited in order to participate in a balanced and constructive discussion on this initiative. These participants will not act as a committee and there will not be any attempt to seek a group recommendation on any issue. Additional seats will be available for members of the public, who will be

given limited time on the agenda to provide comments.

If you would like to attend the workshop, please contact the Meridian Institute (see **ADDRESSES** section) by June 1, 2001 so that it can determine the amount of interest and prepare sufficient materials.

Based on the input provided at this workshop and any written comments received, as well as the information summarized in this document, the U.S. Institute will prepare formal recommendations to the Senators on a NEPA pilot projects initiative. Further development of such an initiative relies on the feedback of the public, interested stakeholders, and the Senators who requested the information.

Public Comments Solicited

The U.S. Institute will take into consideration any comments and additional information received on or prior to the close of the 45-day comment period.

Selected References

National Environmental Policy Act 42 U.S.C. 4321–4337.

Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act. 40 CFR 1500–1508 (1992).

“The National Environmental Policy Act. A Study of its Effectiveness After Twenty-five Years.” January, 1997. Executive Office of the President, Council on Environmental Quality.

“Reclaiming NEPA’s Potential: Can Collaborative Processes Improve Environmental Decision Making?” March 1999. Workshop Proceedings. Co-sponsored by the Institute for Environment and Natural Resources at the University of Wyoming and the O’Connor Center for the Rocky Mountain West at the University of Montana.

Bingham, Gail and Lee M. Langstaff. “Alternative Dispute Resolution in the NEPA Process”. Resolve Center for Environmental and Public Policy Dispute Resolution. <http://www.resolve.org/Resources/pubs/default.htm>

Caldwell, Lynton H. 1998. “The National Environmental Policy Act. An Agenda for the Future.” Indiana University Press. 210 pp.

Miller, Anne Norton. 2000. “NEPA Where are we? Where are we going?” *Environmental Practice*. 2(4): 275–279.

Authority: 20 U.S.C. 5601–5609.

Dated: May 7, 2001.

Christopher L. Helms,
Executive Director, Morris K. Udall
Foundation.

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BILLING CODE 6820-FN-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before June 25, 2001. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740-6001. Requests also may be transmitted by FAX to 301-713-6852 or by e-mail to records.mgt@nara.gov. Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule,

and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT:

Marie Allen, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. Telephone: (301) 713-7110. E-mail: records.mgt@nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records.

Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Food Safety and Inspection Service (N1-462-01-2, 15 items, 12 temporary items). Working papers, including drafts and reference materials, relating to the preparation of plans and reports stemming from the Government Performance and Results Act. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of strategic plans, annual performance plans, and annual performance reports.

2. Department of Agriculture, Forest Service (N1-95-01-1, 3 items, 3 temporary items). Records relating to agency Y2K activities, including risk assessments, the testing and modification of automated systems, briefings, and training. Electronic copies of documents created using electronic mail and word processing are included.

3. Department of the Army, Army-wide (N1-AU-01-17, 1 item, 1 temporary item). Master file of the Central Issue Facility System, an electronic information system containing information concerning the receipt, storage, issue, exchange, and turn-in of clothing and equipment at installations.

4. Department of the Army, Agency-wide (N1-AU-00-39, 2 items, 2 temporary items). Master file and outputs of the Hazardous Substance Management System, an electronic information system used to support and facilitate the tracking and reporting of hazardous materials at installations. The system includes such data as quantities of hazardous chemicals and information concerning their location, handling, storage, disposal, release, and transfer. Copies of reports generated by this system that pertain to the release of hazardous material are sent to the Environmental Protection Agency (EPA) and incorporated into an EPA system that was previously approved for permanent retention.

5. Department of Defense, Defense Logistics Agency (N1-361-01-2, 1 item, 1 temporary item). The Safety and Health Information Reporting System, an electronic information system consisting of employee exposure records used to produce an occupational safety and health log and summary. Included are reports on hazards, accident investigations, and surveys and inspections. Records are proposed for retention for 30 years, as required by 29 CFR 1910.