

**DESERT TORTOISE COUNCIL**

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**Via email only**

7 November 2021

Attn: Amy B. Coyle, Deputy General Counsel  
Council on Environmental Quality  
730 Jackson Place NW  
Washington, DC 20503  
[Amy.B.Coyle@ceq.eop.gov](mailto:Amy.B.Coyle@ceq.eop.gov)

RE: National Environmental Policy Act Implementing Regulations Revisions (CEQ-2021-0002, RIN 0331-AA05, Document number 2021-21867)

Dear Ms. Coyle,

The Desert Tortoise Council (Council) is a non-profit organization comprised of hundreds of professionals and laypersons who share a common concern for wild desert tortoises and a commitment to advancing the public's understanding of desert tortoise species. Established in 1975 to promote conservation of tortoises in the deserts of the southwestern United States and Mexico, the Council routinely provides information and other forms of assistance to individuals, organizations, and regulatory agencies on matters potentially affecting desert tortoises within their geographic ranges.

The following summary in the Federal Register notice, dated 7 October 2021, describes the proposal: "The Council on Environmental Quality (CEQ) is proposing to modify certain aspects of its regulations for implementing the procedural provisions of the National Environmental Policy Act (NEPA) to generally restore regulatory provisions that were in effect for decades before being modified in 2020. CEQ proposes these changes in order to better align the provisions with CEQ's extensive experience implementing NEPA, in particular its perspective on how NEPA can best inform agency decision making, as well as longstanding Federal agency experience and practice, NEPA's statutory text and purpose, including making decisions informed by science, and case law interpreting NEPA's requirements. The proposed rule would restore provisions addressing the purpose and need of a proposed action, agency NEPA procedures for implementing CEQ's NEPA regulations, and the definition of 'effects.' CEQ invites comments on the proposed revisions."

We appreciate this opportunity to express our full support for CEQ to revise the NEPA regulations. Here in California, Arizona, Nevada, and Utah, the Mojave desert tortoise (*Gopherus agassizii*) (synonymous with Agassiz's desert tortoise) and Sonoran desert tortoise (*G. morafkai*) (synonymous with Morafka's desert tortoise) occur mostly on lands managed by the Bureau of Land Management (BLM), Department of Defense (DOD), and National Park Service (NPS), where NEPA regulations worked relatively well for many years prior to the 2020 decisions that would undermine those protections, if implemented, in favor of less-regulated development on public lands managed by these and other federal agencies. At the time of this preliminary draft, on 5 November 2021, we see that there have been 14,507 comments, most of which support revisions that return NEPA to its intended environmental protection function, which underscores the importance of these revisions.

We fully support the intent of the revisions that are listed in the Federal Register notice: The revisions would address the climate crisis and in a manner that enables meaningful public participation; respect Tribal sovereignty; protect our Nation's public resources; promote better environmental and community outcomes; enhance clarity on NEPA implementation to better effectuate NEPA's statutory requirements and purposes; ensure that Federal decisions are guided by science to better protect and enhance the quality of the human environment; provide full and fair processes that inform the public about the environmental effects of government actions; and enable public participation.


The climate crisis is one of many impacts that is having a severe adverse effect on desert tortoises and their habitats in the Mojave and Sonoran deserts of the southwest United States. It contributes to prolonged and severe droughts; the spread and proliferation of invasive plant species with little nutritional value; greater frequency, size, and duration of fires; loss of native plant species; degradation/loss of habitat needed by tortoises for shelter and adequate nutrition; and other impacts. Consequently, we support revisions to the NEPA regulations that require addressing the climate crisis when analyzing the impacts of proposed actions to the human environment.

We also concur that the last-minute changes by the past Administration in 2020 do not support science-based decision making; are not compatible with the current Administration's intent to reinstate policies to improve public health; fail to protect the environment; do not prioritize environmental justice; fail to provide access to clean air and water; and do not reduce greenhouse gas emissions that contribute to climate change, all of which we believe the revisions would help restore.

We fully support the Phase 1 rulemaking that would: (1) Eliminate language in the description of purpose and need for a proposed action when it is an agency's statutory duty to review applications for authorization (40 CFR 1502.13) and make a conforming edit to the definition of "reasonable alternatives" (40 CFR 1508.1(z)); (2) remove limitations on agency NEPA procedures for implementing CEQ's NEPA Regulations (40 CFR 1507.3); and (3) return to the definitions of "effects" in the 1978 NEPA Regulations (40 CFR 1508.1(g)). We applaud CEQ's intent to amend these provisions by generally reverting to the language from the 1978 NEPA Regulations that was in effect for more than 40 years, subject to minor revisions for clarity.

We appreciate this opportunity to provide input and trust that our comments and support for these revisions will help protect tortoises during all authorized projects where NEPA review is part of the process. Please respond in an email that you have received this comment letter so we can be sure our support has been registered with the appropriate personnel and office for this effort.

Regards,

A handwritten signature in blue ink, appearing to read "E. LaRue, Jr.", is placed over a light blue rectangular background.

Edward L. LaRue, Jr., M.S.  
Desert Tortoise Council, Ecosystems Advisory Committee, Chairperson