

NEPA Analysis Process: Developing Alternatives

R. Hardt: Now let's talk about developing alternatives.

Alternatives explore other ways of meeting the Purpose and Need. The NEPA act itself tells us that we have to include alternatives in any proposal which involves unresolved conflicts concerning alternative uses of available resources.

We can determine that there are no unresolved conflicts if we've established consensus based on input from interested parties, or if there are no reasonable alternatives that would be substantially different in design or effects.

Be cautious about concluding that there is consensus about this. If you are able to do this, make sure to document the basis for concluding consensus and identify the parties that participated.

But if we can't show that there's consensus about this, we need to analyze reasonable alternatives. As we said before, the Purpose and Need is very important in helping define the range of alternatives.

To be reasonable, an alternative has to respond to the Purpose and Need, it has to be technically and economically feasible, needs to be consistent with the basic policy objectives for management of the area -- normally we interpret this to mean it's in conformance with the land use plan -- its implementation must not be remote or speculative, and it must not be substantially similar in design and effects to an alternative that is already analyzed.

M. Conry: Richard, I've been asked whether it's a reasonable range of alternatives or range of reasonable alternatives. Is that worth clarifying here?

R. Hardt: Well, yeah, in a way, it's both. The alternatives that we analyze in detail should be reasonable, but moreover, the range itself may not include every alternative. For a proposal that there's a very large possible number of alternatives, CEQ guidance tells us that we only need to look at a reasonable number of examples that cover the full spectrum of the range of alternatives.

M. Conry: Okay.

R. Hardt: So, in a way, it's a reasonable range of reasonable alternatives.

So in addition to reasonable action alternatives, we have to address the no action alternative. Now, for an EIS, the CEQ regulations tell us that we need to analyze the no action alternative. In developing the handbook, CEQ explained that their interpretation of the regulations generally is that for an EA we need to show some consideration of a no action alternative.

NEPA Analysis Process: Developing Alternatives

Now, this consideration in an EA, it could be the same level of treatment as for the action alternatives, or it could be just a description of the current and future state of the environment in the absence of proposed action.

Now, the nature of the no action alternative is sometimes a little bit hard to interpret it. It differs for different kinds of actions. Generally, for an internally generated proposal, no action means we don't take the action. And for an externally generated proposal, no action means we would reject the proposal or deny the permit. There's more information about the nature of the no action alternative in the NEPA Handbook.

C. Humphrey: Is it okay in NEPA documents just to have a no action and a proposed action, or do you need more than that?

R. Hardt: Well, of course, it depends, but there are circumstances in which that's appropriate in which there aren't reasonable ways to accomplish the action other than what we've described, other alternatives are substantially similar. This is often the case when something that we're able to tier to has already really limb the range of alternatives. For example, if our RMP has made decisions such that all that's really to us in question is, do we do it or do we not do it? It has already told us what we would do if we're going to do it. So tiering can really help us limit that scope, limit that range of alternatives, so that it may be appropriate to have just a proposed action and a no action alternative, but we really need to be very thoughtful in looking at the other alternatives.

Now, in a situation like that, it may be a particularly good time to do a good job of documenting alternatives that were considered but not analyzed in detail. We need to present those in an EIS. We recommend that we present those in an EA in the document itself to explain alternatives that may have been raised either through internal or external scoping, for example, that we're not going -- that we do not determine are reasonable alternatives, explain why they're not reasonable.

M. Conry: Richard, the CEQ regulations don't discuss the treatment of alternatives between EAs and EISs in a whole lot of detail, but the courts in the past have implied that there's some sort of difference. Can you talk a little bit about that?

R. Hardt: Well, yes, the courts have provided some implication that the standard is different, but they haven't articulated a different standard. The way we view this, you should go through the same process in evaluating alternatives for whether or not they're reasonable, whether it's an EA or an EIS. And as I said, we urge you to use the same process of describing alternatives considered but not analyzed in detail in an EA as well as an EIS where it's required.

NEPA Analysis Process: Developing Alternatives

So in the handbook we really present a framework in which we are treating the range of alternatives similarly for both an EA and an EIS.

C. Humphrey: Okay. Great.

M. Conry: And, Richard, we've seen a number of citizen-developed alternatives. Sometime we analyze them and sometimes we don't. Sometimes we include them in alternative analyzed but not analyzed -- excuse me -- in alternatives considered but not analyzed in detail. Do you have experience in treating this?

R. Hardt: Yeah, we often get a lot of suggested alternatives that really aren't responsive to the Purpose and Need. For example, when someone else might not even really accept our Purpose and Need and they're telling us to do a different alternative, that's really not helping us develop a range of alternatives to respond to that Purpose and Need. In there it's important, I think, to document why we feel it's not responsive. But often we'll get proposals that do respond to our Purpose and Need but they're rather sketchy. They haven't been fully developed. I think it's important that we be willing to have the ID team take that concept, try to understand it, and really develop into it a full alternative that can be analyzed in detail.

C. Humphrey: It's time to do an exercise now. If you would get out your Participant Guide and go to Exercise 5, we're going to do an exercise on developing alternatives. So, as you can see on Exercise 5, we have two Purpose and Needs there, and what we would like you to do is take a moment and come up with what you think are three reasonable alternatives for each of these Purpose and Need statements and then when you're done with that, then you'll see the tab on your screen that says Exercise 5 Debrief, and you can compare your answers with ours.

So, good luck!