

**The Public and Experts' Review of
The National Environmental Policy Act Task Force Report
Modernizing NEPA Implementation
To
The Chairman of the Council on Environmental Quality**

Background

In September 2003, The National Environmental Policy Act (NEPA) Task Force presented its' report, *Modernizing NEPA Implementation*, to the Chairman of the Council on Environmental Quality (CEQ). The report provided over 25 practical recommendations designed to improve federal agencies' implementation of NEPA by making environmental impact assessment processes more effective, efficient and timely. The report recommended CEQ focus on implementing the following priority recommendations:

1. Issue guidance to clarify and promote consistent practices for the development, public review, approval, use and documentation of Categorical Exclusions¹.
2. Issue guidance to:
 - a. Recognize the broad range in size of Environmental Assessments²;
 - b. Clarify that the size of Environmental Assessments should be commensurate with the magnitude and complexity of environmental issues, public concerns, and project scope;
 - c. Describe the minimum requirements for short Environmental Assessments; and
 - d. Clarify the requirements for public involvement, alternatives, and mitigation for actions that warrant longer Environmental Assessments such as those with mitigated findings of no significant impact.
3. Form a Federal Advisory Committee to provide advice to CEQ on:

¹ Categorical Exclusions are categories of federal agency activities that, barring extraordinary circumstances, do not individually or cumulatively cause significant environmental impacts and therefore do not require preparation of more detailed analysis and documentation in either an Environmental Assessment or an Environmental Impact Statement.

² Environmental Assessments are concise public documents that provide sufficient information to determine whether an Environmental Impact Statement is required.

- a. Identifying, developing, and sharing methods of engaging Federal, State, local, and Tribal partners in training designed to educate them about the principles of NEPA, agencies' missions, and collaboration skills.
 - b. Developing guidance addressing the components of successful collaborative agreements and providing templates applicable to various situations and stages of the NEPA process.
 - c. Developing training for the public on NEPA requirements and effective public involvement.
 - d. Developing a "Citizen's Guide to NEPA."
4. Convene a Federal Advisory Committee to provide advice to CEQ on the different uses of programmatic analyses, tiering, and associated documentation; and, where necessary, provide advice on guidance or regulatory change to clearly define the uses and appropriate scope, range of issues, depth of analyses, and the level of description required in NEPA documentation.
 5. Convene an adaptive management work group to assess the applicability of NEPA guidance and regulations related to adaptive management and to consider integrating the NEPA process with environmental management systems. The work group should initiate a pilot study to identify, implement, and document representative actions using an adaptive management approach during the NEPA process and work collaboratively with CEQ to identify aspects of the analyses and documentation requiring guidance or regulatory action. Finally, the work group should prepare appropriate adaptive management guidance or regulatory changes.

CEQ sought additional outside expert advice and public input to determine whether there was support for the recommendations before moving forward. The Clark Group was retained to convene and facilitate four public roundtable meetings of experts who have long been involved in the underlying principles and day-to-day practice of NEPA. The goals of the roundtables were to (1) inform the public and NEPA practitioners about the NEPA Modernization Task Force report and recommendations to CEQ; (2) seek the participants' opinions on which Task Force recommendations should be implemented; and (3) obtain advice on how to implement the key recommendations.

Experts were invited from academia, business and industry, non-governmental organizations (NGOs), and tribes, and included lawyers, practitioners, and federal decisionmakers who use the NEPA process. Each roundtable was held in a different region of the country to insure the result was informed by as many views as possible. The roundtables were open to the public and each one included two public comment sessions.

The first of these roundtables was held on October 30-31, 2003 in Squaxin Island, Washington, co-hosted by the Northwest Indian Fisheries Commission and the Squaxin Island Tribe. The second roundtable took place on November 13-14, 2003 in Conshohocken, Pennsylvania, near Philadelphia. It was co-hosted by the Surface Transportation Policy Project and the American Association of State Highway Transportation Officials. The third roundtable was held December 11-12, 2003 in Memphis, Tennessee. It was co-hosted by Jacksonville State University's Environmental Policy and Information Center, the Southern Environmental Law Center, and Duke University's Environmental Leadership Program at the Nicholas School of the Environment and Earth Sciences. The final roundtable was held January 8-9, 2004 in Copper Mountain, Colorado, co-hosted by the National Ski Areas Association and the Greater Yellowstone Coalition.

The roundtables sought views and input and a consensus emerged on several key points and recommendations. To assist CEQ in framing its response to the NEPA Task Force Report, The Clark Group synthesized the views expressed at the roundtables. This report presents those views and opinions by focusing on those recommendations that CEQ should begin implementing. There was agreement that any expectation of success in agency NEPA implementation must recognize that the agencies will need resources, funding and NEPA expertise, to modernize their NEPA implementation. All the roundtables concluded that modernization efforts should be open to the public, led by CEQ, and CEQ should be funded to carry out such a program.

NEPA Remains Strong: NEPA Implementation Needs Improvement

The diverse attendees at the roundtables affirmed the view that the National Environmental Policy Act remains an eloquent law, serving as a foundation for modern American environmental protection. NEPA has served the nation well for 30 years. However, based on their many years of experience in NEPA implementation, no one is completely satisfied in the way NEPA is implemented by the agencies and how the public participates in the process. The NEPA planning and implementation processes need improvement to better serve government decisionmakers and the public, as well as the private applicants who find their proposals subject to NEPA.

The experts at each of the roundtables pointed out that NEPA is still a misunderstood law and process. Added to that, participants in each of the regions commented that agencies interpret NEPA differently and that often the same agency interprets NEPA differently in different regional offices.

Agency leadership needs to pay more attention to managing the NEPA process and to focus on using the NEPA process as a tool that should be used in a consistent fashion to help them make good decisions, not just to satisfy some legal requirements. The opportunity to bring the scope of the analysis into line with the scope of the decision at hand is not always fully realized. It is as frustrating to the public, the NGO community,

and the applicants, as it is to agencies and the Congress that the NEPA process can take too long and cost too much. Practitioners who prepare or manage the process also believe that layers of management between the preparers and the decisionmakers contribute to cost and delays. Across the spectrum of participants at the roundtables, there is the strong view that reform must come from the agency leadership and that the Chairman of CEQ must engage that leadership.

CEQ Leadership is Essential to the Modernization Effort

The participants, ranging across the political spectrum, look to CEQ to guide the NEPA process and believe that CEQ is trusted by those who use NEPA. They did not view any of the NEPA Task Force recommendations as detrimental to the intent or practice of NEPA; however, the way recommendations may be implemented continues to be a cause for concern. There is a consensus that CEQ's commitment to proceeding in an open and public manner must apply throughout the implementation of any of the recommendations to protect against implementing measures that could undermine NEPA.

The public and the agencies look to CEQ to defend the statute. The participants at the roundtables, experts and public alike, generally believe that CEQ's regulations are flexible and enjoy strong support from those with a stake in the process. Several felt the Task Force should have explicitly recommended that CEQ protect the integrity of NEPA. The fact that Congress is considering exemptions or legislative modifications of the NEPA process indicates Congressional dissatisfaction with the way NEPA is being implemented. However, exceptions to applying NEPA to proposals in a way that limit the consideration of the environment and the involvement of the public were seen as undermining and eroding the trust between the public and the agencies, the very trust that is needed to make the process work better.

CEQ's leadership is viewed as essential to modernizing the NEPA process. It was clear from all the roundtables that CEQ should lead the effort to implement the recommendations. Furthermore, Federal Advisory Committee Act (FACA) committees should not be used to implement any recommendations. This was one of the few points on which the roundtables disagreed with the Task Force. Instead of using FACA committees, the roundtables support using interagency working groups that are well managed to avoid taking too long, accomplishing too little, and failing to provide opportunities for input from outside the federal government. Consequently, managing the work groups is considered critical to the success of the modernization effort.

More Training, Greater Clarity, and A Citizen's Guide to NEPA are Needed

Training for all participants in the NEPA process is essential for its improvement. Several roundtables identified a critical need to improve NEPA training because a majority of agency leadership does not appear to understand the full value of NEPA to

their decisionmaking. Too many leaders consider the statute to be one of many mandates and consequently never fully realize the potential within NEPA to bring discipline and structure to decisionmaking. One of the roundtables specifically highlighted the need to reemphasize the value of the process as the need to refocus on the role of section 101, a task that is currently being addressed by a Federal Advisory Committee at the U.S. Institute for Environmental Conflict Resolution.

There clearly is a need for managers, practitioners, decisionmakers, and the public to better understand their role in the process. Managers and decisionmakers can only help reduce cost and time and make the process better if they understand the process and what it is supposed to achieve. Few agency managers have had any NEPA training and agency decisionmakers often do not hear the word NEPA until they are confronted with complying with its provisions. Also, some agency NEPA practitioners have had little NEPA training prior to being assigned the duties.

The public also needs to better understand NEPA and their opportunities for effective participation. The public often hears the word NEPA for the first time when confronted with a federal project in their “backyard”. NGOs, tribes, state and local governments, and the general public often have elevated expectations from the NEPA process and they will all be better able to contribute in a substantive manner if they are trained in how the process works and what it is intended to achieve.

Training for all parties must address a multitude of issues including: public involvement, successful collaboration, scoping, cooperating agencies, tribal relations, adaptive management, and dispute resolution. Representatives from academia suggested CEQ seek assistance and consider forming a collaborative effort with colleges and universities to ensure high quality training and education.

It was suggested that CEQ first focus on federal leaders and practitioners and begin by reviewing current agency NEPA training programs. Training for senior leadership should focus on how to work with and use the NEPA process to effectively assist and support their decisionmaking. The training should emphasize openness through early involvement and collaboration and thereby facilitates identifying issues and participants early in the process, in order to lead to a more efficient NEPA process, better decisionmaking, and greater trust between federal agencies and other stakeholders.

Training that is developed must be able to reach the broadest audiences possible. Consequently, the NEPA training should also be available as telecast classes and workshops, as interactive training on the web, and as a handbook. Finally, but by no means least, there is a clear need for a *Citizens’ Guide to NEPA*. At two of the roundtables, it was specifically called out as “job one”. The Guide must be a CEQ publication, and could be created in a short time at minimal cost.

Collaboration is Necessary to Build Greater Trust and Confidence

The Task Force recognized, and the roundtables agreed, that early public participation and collaboration among all the agencies and interested parties affected by the NEPA process is key to improving NEPA implementation. It is important to realize that collaboration doesn't work if the actors don't know their roles. Clashes will continue to arise on contentious proposals when the interested parties are not effectively engaged. Training the interested parties is essential and should focus on their needs as well as on the needs of the agencies. A "best practices" handbook on collaboration is also seen as a valuable tool to increase collaboration by emphasizing those characteristics of collaborative efforts that have been successful.

The roundtable participants strongly believe that the use of a FACA Committee to engage interested parties to address collaboration and training is off the mark. Interested parties can be engaged without the time and expense of establishing a formal FACA Committee. Specifically, several participants recommended using work groups with public outreach, or future roundtables, as a way to engage those outside government. The roundtable participants also noted that the Task Force report did not address the resource disparities among agencies. Several participants recommended that CEQ take a more active role in ensuring that agencies receive the funding necessary for training, outreach and collaboration.

Agencies collaborate in different ways depending upon the agency's mission – some federal projects are implemented by the agency, while other projects are private actions that require agency permits or funding. Therefore, CEQ should develop training that addresses how project applicants and the public can be involved early in the process, and how their roles can be described in Memoranda of Agreement.

Federal collaboration with one specific group – tribes – was a significant issue in both the Western and Rocky Mountain roundtables. Agency leaders and staff often need a better understanding of the special needs and circumstances of tribes (for example, tribal and agency decisionmaking processes that occur before the NEPA process is initiated and the involvement of trust resources) that should be addressed in all NEPA training.

Finally, there is a great deal of misunderstanding by agencies and the public about the goal of a collaborative NEPA process. Collaboration does not require consensus and it is not a zero sum game. The collaboration is in the analysis; consequently, CEQ should reinforce the fact that the decision still belongs to the agency with decisionmaking authority and include this message in all NEPA training.

NEPA Provides Involvement in Government Decisionmaking

At the very heart of the Act and its success is sharing information with the communities that are affected by proposals considered during the NEPA process. One continuing challenge in achieving the Act's full collaborative potential and intent is the reluctance of

federal agencies to involve those who are interested and affected in the NEPA process. One major example is agencies failure to award cooperating agency status to other federal, state and local agencies and tribes who are able and committed to participate.

CEQ guidance and emphasis on cooperating agency status has recently improved conditions. However, concerns remain over the role of cooperating agencies as well as over their capacity to participate. For example, there is the misperception that being involved in analyzing environmental effects requires the cooperating agency to support the final agency decision. With regard to capacity, potential cooperating agencies may lack the capacity and/or resources to fully participate in additional NEPA process when they are already involved in numerous tribal, state, and federal government processes, or when they lack a basic understanding of NEPA planning, implementation, law, and practice.

In these cases, agencies should find ways to provide additional opportunities for collaboration or to help build additional capacity. These concerns should be addressed when implementing the NEPA training recommendations to ensure that roles are understood and the process is better explained.

A particular concern that was not specifically addressed in the Task Force report was raised with regard to tribes. Many agencies limit cooperating agency opportunities because current regulations and procedures link cooperating agency status with the proposals' effects on a reservation. CEQ should make it clear that tribes can enter into cooperating agency agreements on projects that affect tribal resources and interests regardless of their location.

In addition to the perception that many agencies are reluctant or have difficulty communicating with interested parties and the public, is the view that the increasing use of Environmental Assessments and Categorical Exclusions cuts the public out of an increasing number of federal decisions. The proposed recommendations regarding guidance to address public involvement were viewed by many participants as a vehicle to increase the agency efforts to engage the public and reassure them that they are not being excluded from the NEPA process.

It was also suggested that technology is the answer to these and other communications breakdowns. Certainly the Internet and other technologies can help make the process and the decisionmaking more open and collaborative, but it is not only communication that is lacking. The commitment to openness should be reaffirmed and the CEQ commitment to implementing recommendations in a public and open fashion was commended.

Guidance on Categorical Exclusions and Environmental Assessments is a Top Priority

The Task Force recommendation regarding issuance of new guidance for Environmental Assessments (EAs) and Categorical Exclusions (CEs) was widely supported. Each of the

four roundtables had criticism of the ways agencies are using the EA and CE processes. There is little doubt among the participants that the lines between CEs and EAs, and between EAs and EISs have been blurred. The use of CEs and mitigated Findings of No Significant Impacts (FONSI) are gaining favor but are infrequently monitored and cumulative effects analyses are generally not effective or efficient. There is also a concern that a growing number of EAs often don't take a robust look at alternatives, the heart of the NEPA process.

CEQ should issue guidance for EAs and CEs to supplement the regulations. EA guidance must address the need for public involvement. Including all stakeholders in the process can improve it by focusing on the issues that matter and may reduce the threat of litigation. It is also essential that the new guidance address what constitutes reasonable alternatives and recommend methods for alternatives development.

Guidance must consider monitoring. Agencies continue to list mitigation actions in their FONSI, but there is little if any monitoring of mitigation actions and their effectiveness, and few means to ensure these commitments are honored. CEQ should also re-evaluate the role of monitoring with respect to the effects of CEs. Specifically, there is currently little understanding of the intra-agency and interagency use of CEs and the cumulative effects of using CEs.

In addition, due to widespread distrust among many NGOs and members of the public that CEs are used to unfairly exclude them from the NEPA process, guidance must clearly describe CE development and use. CEs should be developed based on an administrative record that shows how similar past actions have been found to have no significant effect. It was clear that all interested parties want a real opportunity to engage in the development of CEs when they are first included in the agency NEPA procedures, as well as at the later time when the CEs are used and applied to a particular activity. This will increase openness and trust in the NEPA process.

Guidance should also insist on document readability and eliminating bureaucratic jargon. EAs are too long, too confusing, and include irrelevant information to the decision. While there may be a need for CEQ to enforce page limits, document length can be an issue due to coordinating compliance with other legal requirements. However, it is poor quality, not the length, which makes a document unreadable. One role of the NEPA document is to communicate the environmental issues considered by the agency in their effort to ensure environmental health and quality for the community. If a document is confusing to the general public because it is written using scientific jargon, or written at a PhD level, this avenue of communication is lost and distrust will grow within affected communities.

The old adage, "A picture is worth a thousand words," reinforces the suggestions that site photos and Geographic Information Systems (GIS) maps and analyses be more fully incorporated into environmental analyses and documents to provide more contexts for citizens in an easily interpreted manner. CEQ, in conjunction with EPA, should consider developing a method to review and improve the readability of NEPA documents.

Adaptive Management is the Next Big Step in NEPA Modernization

Adaptive management is seen as the next major step in making NEPA more effective and efficient; however, it is still a very misunderstood concept. As one panelist said, “I am scared to death of adaptive management, but I’m still a fan”. Part of the reason for concern is a distrust of the federal government to carry through commitments to post-NEPA project monitoring.

All the roundtables fully supported the emphasis placed on Adaptive Management by the NEPA Task Force. Science has advanced dramatically since the CEQ regulations were issued and the regulations remain flexible enough to allow managers and decisionmakers to take advantage of these advances. While the understanding of adaptive management has been evolving over the last decade, the move to implement this framework into federal agency NEPA procedures and practice has only recently begun.

Moreover, the recent emphasis on Environmental Management Systems (EMS) provides an additional opportunity to capitalize on the synergy among adaptive management, EMS and NEPA. The directive to develop EMS for federal facilities is beginning in earnest as agencies strive to meet the deadlines imposed by Executive Order 13148.

Honoring monitoring commitments and agreements is seen as crucial to making adaptive management a reality. Some success has been achieved by integrating adaptive management with EMS. EMS requires active, ongoing monitoring of those environmental aspects identified in the EMS process; consequently, it holds the promise of providing a mechanism for institutionalizing monitoring and being used in conjunction with the NEPA process to manage the action and follow-up actions taken as future adaptive measures.

EMS also requires periodic audits that, along with continual monitoring, can uncover needed adjustments in program and project implementation early on. Many participants agreed that corrective action that is taken early may be consistent with a response that is covered by a categorical exclusion or environmental assessment, before issues compound over time and call for major corrective actions that trigger the need for an environmental impact statement. In short, EMS is seen as a way to institutionalize monitoring and thereby facilitate integrating adaptive management and the NEPA process to provide for better planning.

Several challenges must be addressed to fully benefit from adaptive management techniques. First, monitoring the effects of federal actions must be a priority and become an essential component of all project management. There is the concern that federal managers have so many mandates that dedicating resources to monitoring is unlikely. When funding becomes an issue for agencies, most make monitoring the first expense that is cut.

Second, there is still a strong public distrust of agencies in several sectors and this is exacerbated when agencies that do monitor fail to make those reports available. Consequently, the need to adapt based on new monitoring information is cause for concern on the part of communities, other federal agencies, Tribes, and state and local governments. When done collaboratively and openly, monitoring offers agencies the opportunity to share the cost of data collection and updating, creates a vehicle for collaboration and refining predictive methodologies, and provides a cost-effective way to understand the cumulative effects of multiple agency actions within an ecosystem. Adaptive management and EMS can, in fact, help build trust when people see that actions are being changed to address effects different than those predicted during the NEPA process and that their concerns continue to be addressed.

All the varied interests represented at the Roundtables appear anxious to develop pilot projects to identify where additional guidance is needed. It was clear that future guidance should address certain issues: triggers for taking adaptive measures; methods to monitor and meet monitoring commitments; integrating EMS with both adaptive management and NEPA; and collaboration throughout the NEPA process and subsequent adaptive management actions. The extent of private parties' involvement, and their financial commitments when they are applicants seeking federal funding or approval, must also be addressed.

It is clear that CEQ should focus on the principles rather than develop a specific definition when developing the guidance in order to provide flexibility to implement adaptive management. Several participants cautioned that agencies must understand when adaptive management will not be effective and that it is not as useful where the potential environmental effects are devastating and difficult to ameliorate. With the uncertainty inherent in adaptive management, there must be a way for a project to be stopped if it becomes clear that there will be significant environmental effects that were not previously considered.

Finally, methods to share information on lessons learned in the adaptive management and EMS processes would benefit the professionals in the field and CEQ should disseminate adaptive management and EMS case studies and lessons learned.

Clarification on Programmatic Analyses is Needed

Confusion still looms about what a Programmatic NEPA analysis really is, which creates many opinions on their utility and worth. It is even unclear how many programmatic EISs are accomplished in any given year. EPA figures show that only 75 have been written since 1987; however, that number is disputable because they are self reported and not every programmatic EIS, such as EISs for forest plans and land resource management plans, is labeled as "programmatic."

Programmatic analyses and tiering hold the potential for agencies to save money and resources when agencies first prepare programmatic analyses and then tier from that

programmatic analysis to a more focused or site-specific analysis. Programmatic analyses are also valued for their ability to address and assess the cumulative effects of agency actions.

Although not universal, several participants strongly believe the value of programmatic NEPA analysis is often sharply undermined when the programmatic and tiered analysis is used in a manner that is characterized as a “shell game”. When interested parties are told that issues are deferred to the subsequent tiered analysis, only to hear “we did that in the programmatic,” then the value of programmatic analyses, as well as trust in the NEPA process, is eroded. Consequently, CEQ should call upon agencies to provide a road map in programmatic NEPA documents that describes when issues raised early in the process, during scoping, will be addressed and who will be involved when they are.

CEQ should encourage agencies to conduct pilot projects that will explore the broader use of programmatic analyses within and across agencies and within ecosystems and to clearly describe what constitutes a programmatic analysis and its appropriate role in agency planning.

Aligning NEPA with other Laws Should Increase Efficiency

Many who attended the roundtables opined that NEPA should act as a framework to manage conforming to other laws. NEPA is designed to promote good management and efficient planning. Too often the NEPA process is slowed by the need to obtain permits and comply with other federal laws when those permitting and compliance activities are conducted sequentially rather than concurrently. Some agencies are trying to harmonize their NEPA procedures to account for other legal requirements, but this should be accelerated. In some cases, turf protection is the only thing standing in the way of aligning various requirements.

Several years ago, the Federal Highways Administration (FHWA) created the “Redbook” to provide guidance and assist practitioners in coordinating NEPA and Section 404 of The Clean Water Act. This successful effort should be emulated in the creation of a national “Redbook” that examines the proper coordination of NEPA and other major laws and requirements. It is important to realize that progress in coordinating compliance will also require additional resources and a greater commitment on the part of senior leadership. The investment will return manifold rewards by showing how NEPA can be effectively used to make government processes more efficient.

Conclusion

NEPA implementation must be improved. There is a general consensus that if all the interested and affected parties (decisionmakers, managers, practitioners, non-governmental organizations, applicants, the legal community, affected Tribal, State and local governments, and members of the public) would focus more on realizing the value

of the statute, the results could bring a good deal more comity to the process. CEQ leadership is essential to move forward. In addition to leading the implementation of these efforts, CEQ should have the resources and be available to better assist individual agencies in revising and modernizing their NEPA procedures and practices.

It is particularly noteworthy that the roundtables did not oppose the fundamental components of any of the recommendations with the exception of the use of Federal Advisory Committee Act Committees. Priorities did not always specifically align with those assigned in *Modernizing NEPA Implementation*; however, a clear view emerged that efforts should begin to implement the following recommendations.

Training, Collaboration and the “Citizen’s Guide”

For decisionmakers, managers, NGOs, state and local governments, tribes and the public to play an effective role in NEPA, they need a good deal more training. Current training is often oriented toward the preparation of “documents”, rather than making better decisions and implementing the policies and direction set out in Section 101. It is important to realize that collaboration doesn’t work if the actors don’t know their roles. While trust is the most essential element of effective cooperation and collaboration, its foundation lies in the training of agencies, practitioners, and the public on the NEPA process and the appropriate expectations each can have of the other. Publishing a “Citizen’s Guide to NEPA” and more NEPA training focused at particular parties (e.g. decisionmakers, tribes, NGOs, permit applicants, etc) should be at the top of the list of recommendations to be implemented.

The roundtables refined the Task Force recommendations by specifying that the training for senior decisionmakers include a decision model on how to work with and use the NEPA process that emphasizes early involvement and collaboration. The roundtables also called for a handbook on collaboration as an essential element of training for all participants. The Task Force recommendation to identify and develop methods of engaging Federal, State, local, and Tribal partners in training designed to educate them about the principles of NEPA, agencies’ missions, and collaboration skills was strongly endorsed by the roundtable members and the public. The one point on which the roundtables differed from the Task Force was on the use of a FACA committee. They recommended using work groups and extensive public outreach to ensure that all the stakeholders had a voice in developing the training.

Guidance on Categorical Exclusions (CEs) and Environmental Assessments (EAs)

Categorical exclusions and environmental assessments have become the overwhelming majority of analyses undertaken by agencies. Given this trend and the greater understanding of cumulative effects, experts agree that additional guidance on categorical exclusions and environmental assessments is required. CEQ has the authority to issue guidance on categorical exclusions and environmental assessments and should make this a high priority.

The roundtables confirmed that it was important for the guidance to address opportunities for collaboration and public input in developing and using CEs and EAs.

Seen as equally important was the need for the guidance to address the role of monitoring, particularly when EAs use mitigation measures to reduce the significant level of impacts and then rely on the mitigated FONSI to proceed without further analysis in an EIS. For EAs, guidance should include a discussion of the appropriate role of alternatives. A minor refinement of the Task Force recommendations was the emphasis on improving the readability of all NEPA documents.

Adaptive Management, Environmental Management Systems & Monitoring

Adaptive management offers much promise, particularly when coupled with environmental management systems. However; numerous issues need to be addressed, such as how monitoring is conducted, when supplementation is required, and the role of the public. CEQ should sponsor several demonstration (or pilot) projects in different ecosystems to identify and highlight issues to address in future guidance. Those demonstration projects should also show the efficacy of improving NEPA implementation by using environmental management systems and the NEPA process to advance adaptive management.

The roundtable and public input felt this deserved a higher priority, above the recommendation on programmatic analyses and tiering. The use of work groups and demonstration studies were endorsed and the roundtable and public input consistently placed a strong emphasis on the need to examine the use of environmental management systems along with the NEPA process to develop adaptive management projects.

There was also a strong emphasis placed on the need for monitoring. Conducting monitoring in a collaborative and open manner was strongly recommended, along with publishing case studies of demonstration projects that employ monitoring.

Programmatic Analyses and Tiering

The use of programmatic analyses must be clarified and their value must be reinforced by using demonstration projects to identify their many different applications. It is important that guidance on programmatic NEPA analyses and documents call upon agencies to describe when, where and how issues that are raised but not addressed at the programmatic level will be subsequently handled.

In addition to slipping the priority, the roundtable and public input differed from the Task Force on the use of a FACA committee. The input opposed the use of such a committee, recommending instead that work groups develop demonstration projects that employ extensive public involvement to engage all stakeholders. Finally, they recommended publishing the demonstration projects as case studies.

Aligning NEPA and other Laws

Finally, among the many additional recommendations and ways to make the NEPA process more efficient, developing guidance on aligning (or harmonizing) the NEPA process with ways to comply other laws was seen as essential. This recommendation was not a priority Task Force recommendation; however, the roundtable and public input recommended it be considered a priority. Specifically, the roundtables echoed the Task Force reference to the FHWA “Redbook” and called for a similar handbook to address the coordination of NEPA with other major environmental consultation and coordination requirements.

Final Thoughts from the Roundtables

While there was no goal of reaching consensus on all of the recommendations, there was a general consensus on the value of NEPA and the value of pursuing these recommendations. The roundtable and public input also generally voiced support for the general recommendations that CEQ:

- Facilitate and enhance the use of technology in all aspects of the NEPA process.
- Increase its staff to provide more leadership and to provide more individual assistance and oversight to agencies.
- Host an annual legal forum to evaluate current case law and identify any guidance needed as a result.
- Compile all existing CEQ guidance by topic.

In broad terms there was a consensus that the Task Force report recommendations will help move forward toward one overarching, critical goal: to strengthen the NEPA process and the trust among all interested and effected parties. Continuing on the current path without affirmatively implementing improvements runs the risk of losing much of NEPA’s promise and potential.

NEPA is seen by many as the Magna Carta of environmental protection. These recommendations provide CEQ the opportunity to modernize NEPA implementation and strengthen trust among all participants in the NEPA process.