

Actions to Modernize NEPA Implementation

The National Environmental Policy Act (NEPA) requires federal agencies to study the environmental effects of their actions through an interdisciplinary environmental planning process intended “to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic and other requirements of present and future generations of Americans.”

The Council on Environmental Quality (CEQ) is taking a wide variety of practical steps to modernize NEPA implementation and make it more effective, efficient, and timely.

The actions are culled from the over 50 practical recommendations made in the CEQ Task Force report, *Modernizing NEPA Implementation*, which is the first comprehensive review of NEPA practice in over a decade.

The actions to implement the Task Force’s recommendations include developing guidance and several handbooks on:

- integrating the NEPA process with environmental management systems.
- coordinating NEPA with one or more major environmental consultation and coordination requirements (e.g., Section 404 of the Clean Water Act; Section 106 of the National Historic Preservation Act).
- establishing Categorical Exclusions and applying them to a proposed action.
- developing concise and focused Environmental Assessments with adequate alternatives and mitigation.
- collaboratively monitoring proposals that rely upon the use of CEs and EAs.
- components of successful collaborative agreements.
- using programmatic analyses, and their appropriate scope, range of issues and depth of analysis.
- training for interested and affected parties (e.g. decisionmakers, tribes, NGOs, permit applicants, state and local governments and the public).

More information is posted on the Task Force web site (<http://ceq.eh.doe.gov/ntf>).

Update to Modernize NEPA Implementation

The Council on Environmental Quality (CEQ) is now working with the agencies to implement a suite of recommendations culled from the over 50 practical recommendations made in the CEQ Task Force report, *Modernizing NEPA Implementation*. The CEQ National Environmental Policy Act (NEPA) Task Force released its final report in September 2003, recommending that CEQ take a wide variety of practical steps to modernize NEPA implementation and make it more effective, efficient, and timely. The Task Force consisted of an interagency group of experienced career Federal employees, including National Environmental Policy Act (NEPA) experts, who conducted an extensive review of NEPA implementation. CEQ hosted four regional public roundtables of NEPA experts and the public that considered and validated the Task Force recommendations. Our objective now is to make concrete progress implementing the recommendations of the Task Force.

More information about NEPA is available on the NEPANet web site (<http://ceq.eh.doe.gov/nepa/nepanet.htm>) and information specific to the Task Force is posted on the Task Force web site (<http://ceq.eh.doe.gov/ntf>).

NEPA

Signed into law by President Richard Nixon on January 1, 1970, NEPA calls upon Federal agencies to evaluate the effects of proposed actions on the human environment (including the natural, social, cultural, and economic environment). NEPA requires federal agencies to study the environmental effects of their actions through an interdisciplinary environmental planning process intended “to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic and other requirements of present and future generations of Americans.” The NEPA process is designed to inform federal decisionmakers of the potential environmental effects of their proposed actions and to involve the interested and affected federal, state, local and tribal governments and the public in federal decisions affecting the quality of the human environment.

NEPA Task Force

- The CEQ NEPA Task Force consisted of senior career officials who worked closely with all stakeholders (e.g., tribal, federal, state and local agencies, NEPA practitioners and litigators; citizen, environmental and business and industry groups) to provide the first comprehensive NEPA review in nearly a decade.
- Numerous parties identified the need for greater efficiency and effectiveness in planning and decisionmaking under NEPA, including the need to take better advantage of recent advancements in technology and management techniques for

complex projects, and to improve communications and collaboration between Federal agencies and the public.

- CEQ convened the NEPA Task Force in 2002 to support Federal agencies' efforts to modernize their practices to reflect the roles that technology, best practices, and better collaboration with the state, local, and tribal governments, and the public can play in government in the 21st century.
- The NEPA Task Force included Federal employees with decades of experience working with NEPA including representatives from the Environmental Protection Agency, U.S. Forest Service, Bureau of Land Management, National Oceanic and Atmospheric Administration, Army Corps of Engineers, U.S. Geological Survey, Federal Aviation Administration, and Department of Energy.
- The Task Force: interviewed Federal agencies; solicited and reviewed public comments, literature, reports, and case studies; and interacted with officials from state, local, and tribal governments, and interest groups. The Task Force received comments from more than 650 respondents representing Federal, Tribal, State and local government agencies, other organizations and individuals.

NEPA Task Force Recommendations:

- The NEPA Task Force final report, *Modernizing NEPA Implementation*, contains recommendations that provide a reference and resource for decisionmakers and interested parties working to bring the NEPA implementation processes in line with 21st Century methods and needs.
- The Task Force's recommendations were vetted with the public and NEPA experts at four regional roundtables held at Squaxin Island, WA; Philadelphia, PA; Memphis, TN; and Copper Mountain, CO. The roundtables and public input received in response to *Modernizing NEPA Implementation* validated the recommendations with some minor modifications (e.g., eliminate use of Federal Advisory Committee Act groups to implement several recommendations).
- CEQ is now working with federal agencies to implement a suite of recommendations that were identified as both top priorities and most useful in guiding agencies in the modernization of their NEPA practice.

Actions to Implement the Task Force Recommendations:

Adaptive Management and Environmental Management Systems

An interagency work group will develop and recommend guidance on integrating the NEPA process with environmental management systems to facilitate the use of adaptive management for the operational and environmental aspects associated with implementing the proposed action.

Several agencies will sponsor demonstration projects that use an environmental management system (EMS) in conjunction with the NEPA process to make decisions that will use adaptive management by employing an EMS to help manage the operational and environmental effects of the decision.

An interagency work group will develop a “best practices” handbook on environmental management systems and adaptive management processes with case studies that highlight their successful characteristics.

Aligning (Harmonizing) NEPA and other Laws

An interagency work group will develop a handbook to address the coordination of NEPA with one or more major environmental consultation and coordination requirements (e.g., Section 404 of the Clean Water Act; Section 7 of the Endangered Species Act; Section 106 of the National Historic Preservation Act).

Categorical Exclusions

An interagency work group will develop and recommend guidance on how to establish (i.e., develop and revise) categorical exclusions (CEs). The proposed guidance will include methods available to: describe a category of actions; substantiate the determination that the category of actions does not individually or cumulatively have a significant effect on the quality of the human environment; and involve the public in the development of CEs.

An interagency work group will develop and recommend guidance on applying a CE to a specific proposed action. The proposed guidance will address how agencies can substantiate the determination that a CE is appropriately used for a proposed action, and how agencies can better inform the interested and affected parties of this determination.

An interagency work group will develop and recommend guidance to federal agencies on ways to collaboratively monitor proposals that rely upon the use of CEs to satisfy NEPA.

Collaboration

CEQ will prepare and publish a “Citizens’ Guide to NEPA”.

An interagency work group will develop and recommend guidance to federal agencies on the components of successful collaborative agreements, and develop examples (templates) applicable to various types of NEPA analyses and stages of the NEPA process (from initiation or scoping through publication of NEPA documents).

An interagency work group will develop a “best practices” handbook on collaboration with case studies that showcase the characteristics of successful collaborative efforts.

Environmental Assessments

An interagency work group will develop and recommend guidance to federal agencies on environmental assessments (EAs). The proposed guidance will address: the requirements and contents of EAs; scope of public involvement; use of alternatives; use of mitigation, particularly when the EA concludes with a mitigated finding of no significant impact; and the appropriate range in size of EAs based on the magnitude and complexity of environmental issues, public concerns, and project scope.

An interagency work group will develop and recommend guidance to federal agencies on ways to collaboratively monitor the use of EAs.

Programmatic Analyses

An interagency work group will develop and recommend guidance on how agencies can describe, in the programmatic document, when and how issues raised at the programmatic level will be subsequently addressed.

Several agencies will sponsor demonstration projects that identify, implement, and document the use of programmatic analyses, tiering, and associated documentation.

An interagency work group will develop and recommend guidance on the different uses of programmatic analyses, and the appropriate scope, range of issues, depth of analyses, and the level of description required for documenting programmatic analyses.

Training

An interagency work group will develop and recommend training for senior decisionmakers that describes how a well run NEPA process benefits management. The workgroup will also develop a decision model on how to use a NEPA process that emphasizes early involvement and collaboration.

An interagency work group will develop handbooks that describe how interested and affected parties (e.g. decisionmakers, tribes, NGOs, permit applicants, state and local governments and the public) can be involved in the NEPA process in order to inform and focus a timely process.

An interagency work group will develop and recommend training for interested and affected parties (e.g. decisionmakers, tribes, NGOs, permit applicants, state and local governments and the public) on the principles of NEPA and NEPA requirements,

agencies' missions, scoping, collaboration skills, dispute resolution, and effective public involvement.

Principles Guiding the Implementation:

- Ensure timely and cost effective environmental reviews while maintaining environmentally sound decision-making that help achieve the Nation's environmental, social, and economic objectives.
- Ensure that Federal agencies are supplied with the knowledge and skills to provide more effective, efficient, and timely NEPA compliance.
- Ensure that federal agencies responsible for NEPA compliance coordinate their efforts and apply their resources to efficiently align the NEPA analysis with other environmental laws, regulations, and decisions.
- Ensure that federal agencies establish appropriate mechanisms to coordinate federal, state, tribal, and local environmental review and permitting activity.
- Operate openly and inclusively with all interested and affected parties to ensure that all perspectives are heard, shared, and considered.
- Identify, recognize, and seek to replicate effective environmental impact assessment processes already in existence.

For more information, visit <http://ceq.eh.doe.gov/ntf>