

PRESIDENT'S MESSAGE

The Seventh Annual Report on the National Environmental Policy Act—2013

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Since 2007, the National Association of Environmental Professionals (NAEP) National Environmental Policy Act (NEPA) Practice group, a subcommittee of the Energy and Environmental Policy Committee, has produced the Annual NEPA Report, which reviews NEPA document submittals and statistics, NEPA litigation, and agency procedures that have been revised in the previous year. Additional sections provide commentary on the implementation of the NEPA process and expectations for the future. It has become an authoritative source of information on the current state of NEPA compliance.

The 2013 report, which is the seventh and was completed in May 2014, contains a perspective by Congressman John D. Dingell, the longest-serving member of Congress and an author of the original legislation. Dingell notes that NEPA can be summarized in one concept—look before you leap—and that NEPA has led to preservation of vital natural resources in addition to protecting the well-being of the general public. He worries that elimination of NEPA reviews will lead us back to the days of disregard for the concerns of the public. However, it is up to the environmental professionals now charged with implementing NEPA to ensure that the process remains solvent and strong.

The annual report provides statistics on the draft, final, and supplemental environmental impact statements (EISs) that are published each year. It also contains information on preparation times for final EISs made available. The 2013 report includes special sections on ten years of NEPA metrics collected by the United

States (US) Department of Energy. Recent NEPA case law is reviewed, and important regulatory events during the year are summarized. Efforts to streamline NEPA and recent congressional legislative trends are also reviewed. The commentaries in the annual report provide the perspectives of active NEPA professionals and provide good insight into current issues.

I remember attending a meeting of the US Department of Transportation (DOT) on NEPA streamlining in St. Louis around the year 2000, and the conference on the 25th anniversary of NEPA in Chattanooga, Tennessee, in 1995. Assuming streamlining is a worthwhile goal, much progress has been made, but the NEPA process has been somewhat resistant to streamlining. This is likely because not all proposed federal actions are simple or straightforward, and there is not always one solution to every problem. The NEPA process is designed to slow things down when a project is difficult or controversial. In most cases, difficult or controversial projects should be slowed down while better alternatives and more thoughtful solutions are designed. All EIS reviews should not be forced into the same timeline. Neither should all environmental assessment reviews.

While more than 95% of all actions can be categorically excluded, for those that do not fit into a categorical exclusion, the needed environmental assessment and EIS analysis has become more comprehensive as emphasis increases on cumulative-effects analysis, climate change, cooperating agencies, and opportunities for public involvement. In the 2013 report, the Department of Energy notes that its 1994 Secretarial Policy Statement, which emphasized senior management attention, attention to schedules, designation of NEPA document managers, and the reduction of review cycles, has reduced EIS completion times.

The NAEP NEPA Practice report also reviews activities of the Council on Environmental Quality (CEQ) during 2013 that

assisted in more efficient environmental reviews. One was a new handbook on integration of NEPA and section 106 of the National Historic Preservation Act (NHPA) (CEQ, Executive Office of the President, and Advisory Council on Historic Preservation, 2013). Because NEPA is an umbrella statute, it is sometimes dependent on the completion of processes under other laws to determine the environmental significance of actions on certain resources. One of these is the NHPA. A second CEQ effort was the release of the NEPA–California Environmental Quality Act (CEQA) integration handbook (Executive Office of the President and California Governor's Office of Planning and Research, 2013). Actions in states with a their own version of NEPA often require compliance with both laws before they can proceed. The California version of environmental impact assessment (EIA) has diverged over time in requirements and terminology, which can be a barrier to environmental practitioners when they try to produce integrated documents. The handbook reviews these differing requirements and recommends that an integrated document include CEQA-only and NEPA-only sections for some areas such as alternatives and mitigation.

The US Environmental Protection Agency (EPA) and DOT also made important contributions to NEPA in 2013. One important EPA development was the release of an Inspector General report on the need to verify agreed-upon actions that

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result from the EPA's role as a commenter on EISs. The DOT has been busy implementing the NEPA-related provisions of the Moving Ahead for Progress in the 21st Century Act (MAP-21; US Congress, 2012). There are numerous project-delivery provisions that change the NEPA process for the transportation agencies, including combining the final EIS and record of decision, new categorical exclusions, and planning-NEPA linkages. There is much for NEPA professionals to keep up with.

The NAEP committee report is a tribute to the high caliber of expertise that exists in

NAEP and to what committed volunteers can do. Take a minute to log into the member section of the website and read one of the NEPA annual reports archived there.

References

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US Congress. 2012, July 6. *HR 4348: Moving Ahead for Progress in the 21st Century Act (MAP-21)*. 112th Congress, Washington, DC, 584 pp. Available at <http://www.dot.gov/map21>.