



National Association of Environmental Professionals
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ANNUAL NEPA REPORT 2012

of the
National Environmental Policy Act (NEPA) Practice

Submitted to
NAEP Board of Directors

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This report reviews NEPA document submittals and statistics, NEPA litigation and agency procedures for calendar year 2012. Additional sections provide commentary on the implementation of the NEPA process and expert expectations for the future. The purpose of this report is to document the status of NEPA compliance and perspectives during the reporting year. We welcome reader comment and inquiry to naep@naep.org.



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Introduction

Ronald E Lamb, CEP

The National Association of Environmental Professionals' (NAEP's) National Environmental Policy Act (NEPA) Practice (formerly known as the NEPA Working Group) is pleased to present our sixth NEPA Annual Report. This report contains summaries of the latest developments in NEPA as well as the NEPA Practice's efforts for the past year. This annual report is prepared and published through the initiative and volunteer efforts of members of the NAEP's NEPA Practice.

In the 2011 Annual Report we noted considerable effort was being expended to “streamline” the NEPA process. As discussed in this year's *NEPA Regulatory Update, Moving Ahead for Progress in the 21st Century (MAP-21)*, and *Legislative Update*—this theme continues. As NEPA practitioners we welcome efforts to improve the process while ensuring the integrity of decision-making and sound environmental analysis. We also urge caution to not lose sight of what we expect from the NEPA process—good decision-making and agency disclosure.

Consider what business gurus Chip and Dan Heath say about business decision-making¹:

Q: “How do you institutionalize good decision-making in your organization?”

A: “You need a process whereby everyone can handle a decision the same way. There should be attention paid to disconfirming information. Attention to alternate ways to frame the problem. Attention to what will happen if things go unexpectedly well or poorly. The process doesn't guarantee a good outcome. But it sets guardrails to keep you from falling into the common decision-making traps.”

Q: “With so much information available, how come we're not making better decisions?”

A: “There's so much information that it's easy to build a case for what we wanted to do all along. You have to wire opposition into your decision-making process...”

If business savvy organizations do not have something like the NEPA process to follow, they need to create it. Perhaps this is a new, untapped market for environmental professionals!

In terms of agency disclosure, it is important to remember what the NEPA process means to state and local governments, Tribes, and other potential stakeholders. During a series of hearings before the U.S. House of Representatives Committee on Resources, numerous speakers stressed the importance of the NEPA process. The mayor of Albuquerque succinctly stated:

“I participated in scoping and comment periods and I have often relied upon NEPA to keep me abreast of Federal management activities and projects that impacted places where I worked or recreated. As a councilor, I see NEPA as an important avenue of communication between local government and the Federal Government. I consider NEPA to be primarily a

¹ Inc. March 2013, page 24. www.inc.com/magazine/201303/leigh-buchanan/what-if-your-gut-is-gasp-wrong.html



planning tool. This law gives us a clear and predictable planning framework that citizens and communities can use in order to participate in decisions affecting local public lands and these decisions have a huge impact on local economies and cultural and recreational resources. Many citizens and local governments rely upon the structure that NEPA provides to understand the impacts and alternatives associated with a nearby federally funded project...NEPA is among our best tools for planning Federal projects. It gives voice to our citizenry and provides a predictable avenue for democratic involvement..."

– Martin Heinrich, City Councilor, Albuquerque, NM, Testimony Before the Committee on Resources Task Force on Improving the National Environmental Policy Act U.S. House of Representatives, August 1, 2005.²

Environmental professionals are innovative problem solvers. Working through organizations such as NAEP, we can identify practical ways to improve the NEPA process while ensuring the integrity of decision-making and meaningful public involvement.



² <https://bulk.resource.org/gpo.gov/hearings/109h/22851.txt>



The NEPA Practice³ 2012

Ron Lamb and Joe Trnka⁴

The mission of the NEPA Practice is to improve environmental impact assessment as performed under the National Environmental Policy Act.

The NAEP's NEPA Practice³ supports NEPA practitioners through monthly conference calls, networking opportunities, an online Forum, outreach with the President's Council on Environmental Quality (CEQ), educational opportunities, and projects such as this *Annual NEPA Report*. Of particular note was the CEQ pilot project sponsored by NAEP and developed by NEPA Practice members ([www.whitehouse.gov/administration/eop/ceq/ Press_Releases/NEPA/October_19_2011](http://www.whitehouse.gov/administration/eop/ceq/Press_Releases/NEPA/October_19_2011)). Under this pilot project, Best Practice Principles for Environmental Assessments (EAs) was prepared. Experience-based Best Practice Principles will focus on the preparation of effective EAs that are timely, cost-effective, and incorporate those environmental issues that are relevant to the decision-making process. As discussed briefly in the *NEPA Regulatory Update*, the CEQ will seek public comments on the report findings and provide the final Best Practice Principles to agency NEPA practitioners and use them as a training and educational tool.

The NAEP's *NEPA Training Fundamentals* developed in 2011 was used as a benchmark for new training programs, including the American Public University (APU) development of an online graduate certificate in NEPA.

Presentations at the NEPA Practice's monthly conference calls in 2012 included:

- Ms. Dinah Bear on H.R. 4377, the "Responsibly and Professionally Invigorating Development Act of 2012" (RAPID Act) and provisions for NEPA "streamlining."
- Ms. Nathalie Tisseaux, National Oceanic and Atmospheric Administration (NOAA), and Mr. Michael Booth, Cardno TEC, on NOAA climate change screening.
- Mr. Lamar Smith, Federal Highway Administration (FHWA), on the Moving Ahead for Progress in the 21st Century (MAP-21) transportation legislation and provisions for "efficient environmental reviews."
- NEPA Practice members also supported NAEP webinars on Native American Consultation (January 2012), CEQ Guidance on NEPA Review (April 2012), Review of 2011 NEPA

³ Traditionally known as the NEPA Working Group, NAEP's Committee and Working Group structure was updated and streamlined in 2012. The NEPA Practice is now under the Environmental Policy Committee.

⁴ Questions concerning this report should be directed to:

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Cases (June 2012), and the CEQ and Office of Management and Budget (OMB) Memorandum on Environmental Collaboration and Conflict Resolution (November 2012).

NEPA Practice monthly conference calls are typically held at 2:30 p.m. (Eastern) on the 2nd Wednesday of each month. NAEP members are welcome. To be added to the NEPA Practice email list and call reminders, email your request to naep@naep.org or to ronaldlamb@comcast.net.

