

**Essential Elements of Effective Implementation of the National Environmental Policy Act
(NEPA)—Agency Decisionmaking and the NEPA Process**

by

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Abstract

This paper presents the findings of an online survey and interviews with National Environmental Policy Act (NEPA) professionals on their opinion on the essential and most important components of agency NEPA programs. A list of NEPA program components was developed based on a review of books, articles, and papers on ways to improve the NEPA process. Results of the online survey indicate that all of the listed elements are considered important for an agency NEPA program to be successful. No program element received an average score as high as 3 (somewhat important) and only 2 of the elements received an average score higher than 2 (very important). The highest ranked element (1. critically important) was senior management support for the NEPA process. Interviews with senior NEPA specialists confirmed that senior management support for the NEPA process was critical, and that other critical components flowed from that support. “Senior managers” were interpreted as being the agency’s senior NEPA manager or the senior manager at each facility, installation, or command. Education was most frequently identified as how agency NEPA staff could develop and maintain consistent senior management support for the NEPA process. The interview sample size was small, and further research could be conducted with other agency representatives to identify additional successful methods to develop consistent senior management support for the NEPA process.

1.0 Introduction

The Council on Environmental Quality (CEQ) regulations direct agencies to adopt procedures to ensure that decisions are made in accordance with NEPA (40 CFR 1505.1). The majority of the CEQ regulations focus on minimum agency requirements on when and how to prepare Environmental Assessments (EAs)/Findings of No Significant Impact (FONSI) and Environmental Impact Statements (EISs)/Records of Decision (ROD), agency and public involvement in NEPA documents, key terms, and other provisions of preparing EA and EIS documents.

Part 1500.1(c) recognizes that integrating environmental considerations into agency decisions is more important than the end document:

“Ultimately, of course, it is not better documents but better decisions that count. NEPA's purpose is not to generate paperwork--even excellent paperwork--but to foster excellent action. The NEPA process is intended to help public officials make

decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment.”

As such, Parts 1505.1 (Agency decisionmaking procedures) and 1507 (Agency Compliance) should be the “heart” of the CEQ regulations, but less than 10% of the regulations discuss this issue. Part 1505.1 lists requirements for agency procedures but provides no direction or guidance on *how* to “ensure that decisions are made in accordance with the policies and purposes of the Act.” Part 1507.1 (Compliance) states “It is the intent of these regulations to allow each agency flexibility in adapting its implementing procedures authorized by § 1507.3 to the requirements of other applicable laws.”

Yost¹ provided instructions to agencies on their implementing procedures, and directs agencies to provide “more specific direction for implementing the procedural provisions of NEPA”. Appendix C to Yost provides a “NEPA Procedures Checklist”. For the topic, “NEPA and Agency Decisionmaking,” no guidance is provided on *how* to integrate environmental considerations into agency decisions:

“Agency implementing procedures must serve as the vehicle for ensuring that critical issues of timing and integration are properly established in agency planning and decisionmaking. It is for this reason that Section 1505.1(b) provides that agency implementing procedures shall include “[d]esignating the major decision points for the agency’s principal programs likely to have a significant effect on the human environment assuring that the NEPA process corresponds with them.”

In order to conform with this section, an agency’s procedures should include such information as a description of when the NEPA process starts, i.e. ‘the earliest possible time;’ a designation of major decision points; an identification of the official making the major decisions; a description of what is decided at each major decision point; and a description of the environmental data and analysis that are to be made available to the decisionmaker at each major decision point.]”

Yost further states:

“Fifth, there is no need to include every detail of agency decisionmaking in the implementing procedures. The NEPA regulations contemplate the publication of further explanatory guidance with specific information that may not be appropriate for agency implementing procedures (Section 1507.3(a)). This further guidance, which may be in the form of an operating manual, administrative directives, explanatory bulletins, and other publications, must also be reviewed by the Council and made available to the public.”

Current agency procedures may reflect a post-enactment, litigation-rich band-aid approach to NEPA compliance. Moving forward, how agencies integrate environmental considerations into agency decisions, and critical functional components of agency NEPA programs, should be cornerstones of an agencies' NEPA program. Research was conducted to identify the essential and most important components of agency NEPA programs. It was the author's hope to identify "best management practices" of agency NEPA programs that foster integrating environmental considerations into agency decisionmaking processes. Put another way: where should a NEPA specialist start if they were to build a better agency NEPA program? Or—for the sports-minded—how can we build a program that is successful year after year, like the New York Yankees, Nebraska football, or Duke basketball?

2.0 Research Methodology

Research for this paper included reviewing books, articles, and papers on NEPA for studies of ways to improve the NEPA process, an online survey asking environmental professionals their opinion on what are the critical components of an agency NEPA program, and in-person interviews with senior NEPA professionals on the survey findings and their opinion on what are the critical components of an agency NEPA program.

The books, articles, and papers reviewed are listed in the bibliography. Based on those readings, a list of NEPA program components was prepared and organized into a questionnaire. A Ph.D. candidate in Sociology was recruited to review the questionnaire for understandability and to help identify an online survey tool. The survey tool selected was the Survey Builder hosted by George Mason University's Center for History and New Media.² The survey's URL was at: <http://chnm.gmu.edu/tools/surveys/6642/>. A copy of the online survey is included as Attachment 1. Responses to the first question was mandatory, as was demographic information. Responses to the second question, which asked respondents to rank the importance of a program element, was not mandatory. A small information sheet on the survey was distributed to attendees at the National Association of Environmental Professional's (NAEP) Annual Conference, May 21-25, 2012, in Portland, OR; emailed to NEPA professionals, and posted on the LinkedIn NEPA group page.

A total of 59 responses were received. Responses were tabulated, separated by respondent type (Federal/Contractor/State or other; years of experience, and specialization area),

and analyzed. Most responses were from agency staff (45%) or contractors (47%), with 9% from state, local, or other organizations. Half of the respondents had more than 15 years of experience, 17% had 10-15 years of experience, and 19% had 5 to 10 years of experience.

Finally, in-person or telephone interviews were conducted with 5 senior NEPA professionals on the survey findings and their opinion on what are the critical components of an agency NEPA program. Requests for interviews with additional agency NEPA specialists were extended but not accepted. In hindsight, the author substantially overestimated the number of current agency senior NEPA specialists that would be willing to discuss NEPA program management, even though the interviews weren't necessarily limited to a critique of their agency activities, or offers of confidentiality. David Keys also provided valuable insights on NEPA programs and the 1982 National Sciences Foundation study.³ Interviews were conducted with:

- Ms. Carol Borgstrom and Ms. Yardena Mansoor, Office of the General Counsel, Department of Energy
- Mr. Carl Bausch, Department of Transportation (retired).
- Mr. David Guzewich, U.S. Army and Department of Homeland Security (retired)
- Mr. Robert Cunningham, U.S. Forest Service (retired).

For each interview, the purpose of the interview was explained, and the findings of the online survey were presented. The interviews were dynamic and no universal set of questions was used for all interviews. The purpose of the interviews was to identify: 1) their experience and recommendations on how to effectively integrate environmental considerations into other agency decisionmaking processes, and 2) the most important elements of effective NEPA programs.

3.0 Findings: Online Survey to Identify Essential Elements of NEPA Program

The books, articles, and papers listed in the bibliography were evaluated for a discussion of NEPA programs or improving agency NEPA compliance. Writings that focused on improving EA/EIS preparation were not included. It was also not the primary intent of this paper to present an expanded annotated bibliography of these critiques.

Much has been written on deficiencies in NEPA implementation. For example, Caldwell wrote several books and papers on ways to improve or strengthen NEPA.

“When problems of policy implementation arise, there is a tendency...to seek technical solutions. The real difficulties, however, often lie elsewhere—usually in values and perceptions which technical remedies cannot fix.... “No technical fix or administrative reorganization will achieve the NEPA’s intent. To implement NEPA as intended requires a president committed to its objectives and who uses his appointive, budgetary, and leadership powers to this end.”⁴

Clark describes management weaknesses that need to be addressed, including “effectively integrating [NEPA] into agency planning and decision making.”⁵ Similarly, Lindstrom & Smith wrote:

“NEPA’s execution has faltered largely because of executive and judicial failure to implement, enforce, and interpret NEPA’s broad policy objectives...Most of them have incorporated and recognized only the EIS requirement and not the entire NEPA statement of environmental policy....An important factor in this misinterpretation has been the significant role the courts have played in narrowing NEPA’s effectiveness.”⁶

This paper also does not attempt to address Sections 201-209 of NEPA. For example, Section 204(3) states: “It shall be the duty and function of the Council... (3) to review and appraise the various programs and activities of the Federal Government in the light of the policy set forth in title I of this Act for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto”.

Based on the readings, a list of NEPA program components was prepared and organized into a questionnaire (see Table 1 and Attachment 1). Respondents were first asked to “review each program element and rate its importance to the success of agency NEPA programs (1 means that element is critically important, 5 means it is not at all important).” Results of the online survey indicate that all of the listed elements are considered important for an agency NEPA program to be successful. No program element received an average score as high as 3 (somewhat important) and only 2 of the elements received an average score higher than 2 (very important) (see Figure 1). Therefore, a reasonable interpretation of the results is that agency NEPA programs need all of the listed elements to be successful.

The highest ranked element (1. critically important) was senior management support for the NEPA process. There was no substantive difference in responses from Federal agency

employees versus contractors. The top three responses were 1) “senior management support for the NEPA process, to include the consideration of environmental impacts along with technical and economic considerations”, 2) “adequate funding for EAs/EISs or other program elements”, and 3) “an agency culture in which NEPA and related environmental staff can effectively participate in the decisionmaking process.”

Anticipating that respondents might consider all program elements as important, the second question attempted to force respondents to rank each program element (“Next, please rank the relative importance of each element. Only rank one element as #1 (most important), one as #2 (next most important), etc.”). Senior management support for the NEPA process was the top answer with an average score of 3.2. The next highest program element with a score of 4.5 was “Agency culture in which NEPA and related environmental staff have effective participation in the agency decisionmaking process.” Program elements ranked 2 through 7 received a similar average score of between 4.5 and 5.2.

The questionnaire also included an open-ended question (“Are there other program element not previously listed (please specify)?” Responses are included in Table 3. About 25% of respondents answered the question. No theme was identified in the responses. A few noted that all the program elements are important, and it was very difficult to rank the importance of the elements. Many of the responses were specific examples of a program element described generally in the question. For example, “It is very important to be able to brief/sit down/train incoming military officers and senior staff so that they are even aware of NEPA and related environmental requirements...” is a specific example of “Provide basic or advanced training on NEPA and the impact assessment process.” All of the responses were thoughtful and the list of program elements could be expanded to incorporate many of the concepts, such as “An oversight system that holds line officers accountable for their NEPA program.” However, some are difficult to quantify as a functional program element (“NEPA is a thinking persons [sic] game” would likely be universally acknowledged as true. Is that concept “an agency culture,” “qualified NEPA staff,” or “basic or advanced training”) or the desired outcome of a comprehensive NEPA program?

There were differences in respondents based on years of experience. Respondents with fewer years of experience put “an agency culture in which NEPA and related environmental staff can effectively participate in the decisionmaking process” at the top of their list. However, the

online survey deliberately targeted senior NEPA specialists for responses resulting in a small sample size, particularly for junior staff, and the survey methodology did not control for statistical significance. Therefore, the observed differences might not be real, or might be more pronounced. Based on these online survey results, telephone or in-person interviews with current and former senior agency NEPA managers were conducted.

4.0 Findings: Interviews with Current and Former Senior NEPA Managers

The results of the online survey were presented and the interviewees were asked if the results surprised them. All interviewees said the response was not surprising, and most (four of five) said they agreed that senior manager support was the most important component of a successful agency NEPA program. There was some discussion of who is the “senior manager” whose support is so critical. The responses were either the agency’s senior NEPA manager or the senior manager at each facility, installation, or command. For the Department of Defense, the senior manager would typically be a Colonel or Navy Captain in charge of the installation, or the senior civilian in charge of the installation.

One interviewee understood that point of view, and agreed it is a positive ingredient to have, but believed that the most essential element is the agency NEPA manager (the person in charge) who understands the NEPA process and the people (NGOs, consultants, staff, etc.). Agencies need to have a NEPA manager that is flexible, pragmatic, and understands that compromise is necessary. “It’s a nearly impossible task and the person in charge needs to be very good.” The agency NEPA manager needs to have a system in place to integrate NEPA into the decisionmaking process to the extent possible—with or without senior manager support.

Interviewees were asked how NEPA specialists could build and maintain consistent senior management support. For those who believed that senior manager support was most critical, educating the managers on the importance of the NEPA process was universally identified. Interviewees said their agency had leadership training that included a NEPA/environmental planning module. Peer-to-peer training was seen as effective in communicating how and why NEPA/environmental planning helps them achieve the organization’s mission (success stories) is most effective (not simply because it’s a legal requirement). The NEPA process has to have value to the decisionmaker, so the agency senior managers need to see and understand that value.

As adult learners, senior managers are problem centered (not concept centered) and need to validate information based on their beliefs and experiences.⁷ As such, training for senior managers should incorporate case studies or success stories on how the NEPA process has helped the agency's basic mission requirements.

The interviewee that believed having a quality senior NEPA manager as the critical element was also asked how to develop that element. Asked how the agency can recruit (where are you going to find them?), train (not classroom NEPA 101, but on-the-job-training and mentoring with a limited budget?), and retain staff, the interviewee agreed "it's a difficult issue."

As a follow-up question, interviewees were asked about the value of policy statements or guidance documents to build and maintain consistent senior management support. For example, agencies faced a similar need in implementing Executive Order (EO) 12873, *Federal Acquisition, Recycling, And Waste Prevention*, October 20, 1993, and successor EOs (EO 13101, EO 13423, and EO 13514). While nice to have, interviewees generally did not see such documents as critical. The Department of Energy (DOE) recently published such a memo, which is included as Attachment 2.

5.0 Conclusions and Potential for Future Research

As described in Section 1, it was the author's hope to identify "best management practices" of agency NEPA programs that foster integrating environmental considerations into agency decisionmaking processes. Put another way: where should a NEPA specialist start if they were to build a better agency NEPA program?

The initial research for this paper, consisting of reviewing books, articles, and papers on ways to improve the NEPA process, appears to have reasonably captured the important elements of agency NEPA programs. Responses to the online survey identified a few additional concepts that could broaden a program element or be added to the list of program elements.

The online survey and interview results pointed to senior management support as a critical element of successful NEPA programs. Further research could be conducted to refine who are the senior managers whose support is critical (i.e., Department or agency head, facility or installation head, agency senior NEPA managers; or all of the above), or to refine how agencies can achieve consistently high senior management support. Additional in-person

interviews (a larger sample size) with senior NEPA professionals could also be conducted to confirm the results and refine the survey findings and their opinion on what are the critical components of an agency NEPA program.

The questionnaire could also be revised to include other program elements (such as “an oversight system that holds line officers accountable for their NEPA program”) and a resurvey be conducted.

Sample program implementation guidance could also be developed that describes each program element, details how the agency will implement it, staff responsible for implementation, and how the program element will be measured.

Figure 1. Responses to Question 1

Please review each program element and rate its importance to the success of agency NEPA programs (1 means that element is critically important, 5 means it is not at all important).

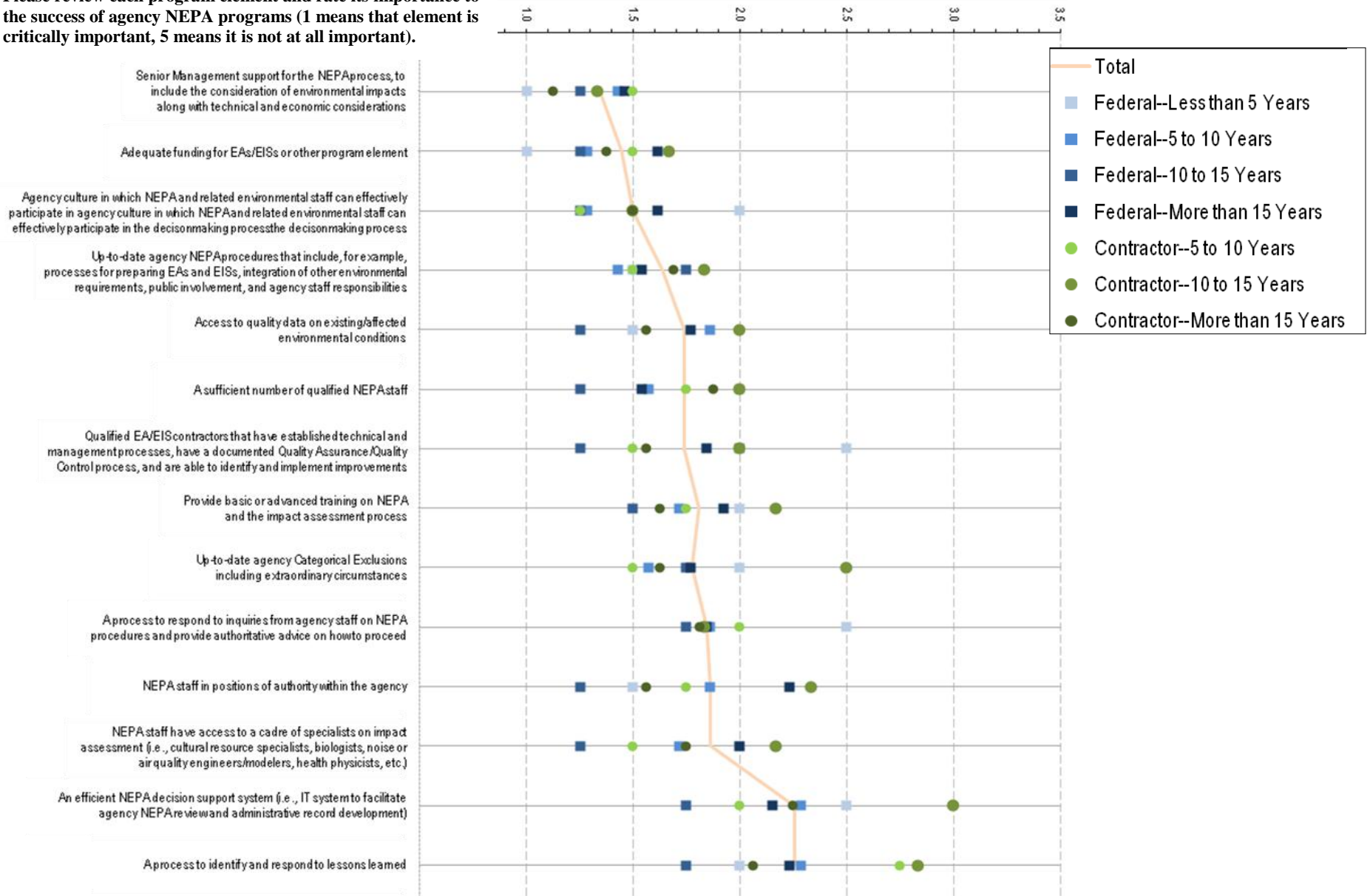


Table 1. Responses to Question 1

Please review each program element and rate its importance to the success of agency NEPA programs (1 means that element is critically important, 5 means it is not at all important).	Rank
Senior Management support for the NEPA process, to include the consideration of environmental impacts along with technical and economic considerations	1.3
Adequate funding for EAs/EISs or other program elements	1.4
Agency culture in which NEPA and related environmental staff can effectively participate in the decisionmaking process	1.5
Up-to-date agency NEPA procedures that include, for example, processes for preparing EAs and EISs, integration of other environmental requirements, public involvement, and agency staff responsibilities	1.6
Access to quality data on existing/affected environmental conditions	1.7
Sufficient number of qualified NEPA staff	1.7
Qualified EA/EIS contractors that have established technical and management processes, have a documented Quality Assurance/Quality Control process, and are able to identify and implement improvements	1.7
Provide basic or advanced training on NEPA and the impact assessment process	1.8
Up-to-date agency Categorical Exclusions including extraordinary circumstances	1.8
Process to respond to inquiries from agency staff on NEPA procedures and provide authoritative advice on how to proceed	1.8
NEPA staff in positions of authority within the agency	1.9
NEPA staff have access to a cadre of specialists on impact assessment (i.e., cultural resource specialists, biologists, noise or air quality engineers/modelers, health physicists, etc.)	1.9
Efficient NEPA decision support system (i.e., IT system to facilitate agency NEPA review and administrative record development)	2.3
Process to identify and respond to lessons learned	2.3

Table 2. Responses to Question 2

Next, please rank the relative importance of each element. Only rank one element as #1 (most important), one as #2 (next most important), etc. The least important elements won't be ranked.	Rank
Senior Management support for the NEPA process.	3.2
Agency culture in which NEPA and related environmental staff have effective participation in the agency decisionmaking process.	4.5
A sufficient number of qualified NEPA staff.	4.6
Up-to-date agency NEPA procedures including processes for preparing EAs and EISs, integration of other environmental requirements, public involvement, and agency staff responsibilities.	4.7
NEPA staff in positions of authority within the agency.	4.88
Up-to-date agency NEPA procedures including Categorical Exclusions	4.91
Adequate funding for EAs/EISs or other program elements.	5.1
Training on NEPA and the impact assessment process.	5.2
Process to respond to inquiries from internal agency staff on NEPA procedures and provide authoritative advice on how to proceed.	5.6
Qualified EA/EIS contractors that have established technical and management processes, have a documented Quality Assurance/Quality Control process, and are able to identify and implement improvements.	5.76
Access to quality data on existing/affected environmental conditions.	5.81
Access to a cadre of specialists on impact assessment (i.e., cultural resource specialists, biologists, noise or air quality engineers/modelers, health physicists, etc.).	5.95
An efficient NEPA decision support system.	5.98
Process to identify and respond to lessons learned.	6.5

Table 3. Responses to Open Ended Question 15: “Are there other program element not previously listed (please specify)?”

It is very important to be able to brief/sit down/train incoming military officers and senior staff so that they are even aware of NEPA and related environmental requirements and how the NEPA staff can work with them/their staff to ensure that impact on mission requirements can be minimized or avoided. NEPA is too often seen as a problem to get around - an annoyance.
From a program perspective it is important to have a strategic approach to completing the array of projects one might face. Which projects need to be done quickly and with the least amount of effort and which projects need more time, greater public involvement, enhanced collaboration and perhaps shared decision making. And why. Very important - NEPA is a thinking persons game.
An oversight system that holds line officers accountable for their NEPA program.

All elements can be or are "critically important." Also: develop recommended mitigation to present to decisionmakers as alternatives not included in the proposed action or other alternative actions; develop and implement appropriate methods of analysis to fit specific situations; keep it simple, make it plain (readability); graphical representation of data; critical thinking (development of reasons and explanations).
The agency conducting a risk communication course for public meetings. Risk communication training and experience - very important
It is critically important that the project sponsor (who may be a state agency) see eye-to-eye with the Federal lead NEPA agency.
agency approaches and procedures for Context Sensitive Solutions, Adaptive management, Risk management, Collaborative decision-making, among others
Regular project review meetings at all levels - day-to-day work, MILCON, Real Property Planning Boards, Plans Analysis and Integration Office
How important is it to have legal staff with experience with NEPA? -Very important.
Clearly enunciated environmental policies are very important.
Access to legal services; modern IT services; highly motivated environmental staff; etc.
A cooperative relationship with resource and state agencies is also critical.
Writing for non-scientists is critically important. Adequate recordkeeping and comprehensive A/Rs are critically important to the Analysis' ability to withstand legal challenges. Having decisionmakers (Line Officers) who have at least a basic understanding of NEPA is (SHOULD BE) critically important (but is very often disregarded). Often when NEPA analyses are challenged in court the agency may lose because of poor recordkeeping, and/or (related) overuse of technical jargon without proper inclusion of the relevant data in the Admin record. "Bulletproofing" the record by piling up loads of data doesn't work if the analysis documents don't get to the point and highlight the important factors on which the decision maker based his/her decision. Further, the documents have to be written in a way that non-scientists can understand. Writing for NEPA Analysis- I would rank up there with 1 or 2
Funding to support mitigation and minimization activities.
NEPA and agency staff comprehension of Cumulative Effects Evaluations and how to complete them without legal challenges.
Really, really difficult to rank. Since I have a civilian NEPA career behind me (for Navy and Marine Corps), if there is one thing I wish I'd had was #4 - a way to work with the project proponents to reduce impacts by tweaking the proposed project and, if needed, to incorporate mitigation into the project to reduce impacts. Too often I was seen as someone to get around or ignore, instead of as part of a team committed to getting the project executed as quickly and efficiently as possible.
Forcing survey respondents to rank the relative importance of the above elements, in my opinion, is a meaningless exercise. You are not going to get good data from doing this.

Bibliography

- Bartlett, R. (1986). Rationality and the Logic of the National Environmental Policy Act, *The Environmental Professional*, Vol. 8, page 105.
- Caldwell, L., Bartlett, R., & Keys, D. (1982). *A study of ways to improve the scientific content and methodology of environmental impact analysis; Final Report to the National Science Foundation on Grant PRA-73-10014n*, Indiana University. School of Public and Environmental Affairs, Bloomington, IN, 453 pages.
- Caldwell, L. (1982). *Science and the National Environmental Policy Act: Redirecting policy through procedural reform*, University of Alabama Press, 178 pages.
- Caldwell, L. (1998). *The National Environmental Policy Act: An agenda for the future*, 209 pages.
- Clark, R. & Canter, L. (1997). *Environmental policy and NEPA: Past, present, and future*, 339 pages.
- Council on Environmental Quality (CEQ). (1979). *Memorandum for NEPA Liaisons; Subj: Agency implementing procedures under CEQ's NEPA regulations*, CEQ, Washington, D.C. Available online: <http://ceq.hss.doe.gov/nepa/regsexec11979.html>, 34 pages.
- CEQ. (1997). *The National Environmental Policy Act: A study of its effectiveness after twenty-five years*, 60 pages.
- CEQ. (2007). *Memorandum to heads of executive branch departments and agencies, implementation instructions and requirements for executive order 13423*, Washington, D.C. Available online at <http://www.fedcenter.gov/Documents/index.cfm?id=6825>, 53 pages.
- Department of Energy. (2004). *Senior Managers' Implementation Guide*, DOE G 450.1-10, Washington, D.C., 10 pages.
- Futrell, J., Reed, P., Arnold, N., Cohn-Needham, H., Entwisle, E., Henderson, T. & Parker, G. (1981). *NEPA in action: Environmental offices in nineteen federal agencies*, Environmental Law Institute Report to the CEQ, Washington, D.C. 298 pages.
- Gaines, L. & Lurie, S. (2007). *NEPA for the 21st century: A comparative analysis of other organizations' environmental review structures*, Final Report, Oregon State University, Institute for Natural Resources, Corvallis, OR, 46 pages.
- ICF International. (2008). *Effective project management for NEPA*. Report Prepared for AASHTO, 89 pages.
- Knowles, M. S. (1975). *Self-directed learning. A guide for learners and teachers*, Prentice Hall/Cambridge. 135 pages.
- Lindstrom, M & Smith, Z. (2008). *The National Environmental Policy Act: Judicial misconstruction, legislative indifference, and executive neglect*. Texas A&M University Press, 193 pages.
- Luther, L. (2006). *The National Environmental Policy Act: Streamlining NEPA*. CRS Report for Congress, Order Code RL33267, 41 pages.
- The NEPA Task Force. (2003). *Modernizing NEPA implementation*, Report to the CEQ, 132 pages.
- Keys, D., Canter, L. & Senner, R. (2011). "Strengthening the National Environmental Policy Act of 1969," Paper Presented to the National Association of Environmental Professionals (NAEP) 2011 Annual Conference, Denver, CO, 31 pages.

Office of the Federal Environmental Executive. (2004). *Environmental management system managers guide*, Washington, D.C. Available online at:
http://www.fedcenter.gov/_kd/Items/actions.cfm?action=Show&item_id=14583&destination=ShowItem,
10 pages.

Richards, K., Seesholtz, D., Grice, J., Auer, M., Barbour, J., Fischer, B., Freitag, C. & McArdle, G. (2007). *Internal organization and external contracting for the NEPA process: Lessons from new institutional economics and strategic organizational design*, Indiana University, School of Public and Environmental Affairs, Bloomington, IN, 49 pages.

Taylor, S. (1984). *Making Bureaucracies Think--The environmental impact statement strategy of administrative reform*. Stanford University Press, Stanford, CA, 410 pages.

Attachment 1: Online Survey

National Environmental Policy Act (NEPA) Program Management Survey

This survey asks your opinion on elements that are critical to the success of agency NEPA programs. Please rate each element's importance to the success of agency NEPA programs.

1. How important is it to have up-to-date agency Categorical Exclusions including extraordinary circumstances?

- 1 Critically important
- 2 Very important
- 3 Somewhat important
- 4 Not too important
- 5 Not important at all

(Required)

2. How important is it to have up-to-date agency NEPA procedures that include, for example, processes for preparing EAs and EISs, integration of other environmental requirements, public involvement, and agency staff responsibilities?

- 1. Critically important
- 2 Very important
- 3 Somewhat important
- 4 Not too important
- 5 Not important at all

(Required)

3. How important is it to have a process to respond to inquiries from agency staff on NEPA procedures and provide authoritative advice on how to proceed?

- 1. Critically important
- 2 Very important
- 3 Somewhat important
- 4 Not too important
- 5 Not important at all

(Required)

4. How important is it to have a process to identify and respond to lessons learned?

- 1. Critically important
- 2 Very important
- 3 Somewhat important
- 4 Not too important
- 5 Not important at all

(Required)

5. How important is it to have an efficient NEPA decision support system (i.e., IT system to facilitate NEPA project review and administrative record development)?

- 1. Critically important
- 2 Very important
- 3 Somewhat important

- 4 Not too important
- 5 Not important at all

(Required)

6. How important is it to have a sufficient number of qualified NEPA staff?

- 1. Critically important
- 2 Very important
- 3 Somewhat important
- 4 Not too important
- 5 Not important at all

(Required)

7. How important is it to have NEPA staff in positions of authority within the agency?

- 1. Critically important
- 2 Very important
- 3 Somewhat important
- 4 Not too important
- 5 Not important at all

(Required)

8. How important is it to provide basic or advanced training on NEPA and the impact assessment process?

- 1. Critically important
- 2 Very important
- 3 Somewhat important
- 4 Not too important
- 5 Not important at all

(Required)

9. How important is it to have Senior Management support for the NEPA process, to include the consideration of environmental impacts along with technical and economic considerations?

- 1. Critically important
- 2 Very important
- 3 Somewhat important
- 4 Not too important
- 5 Not important at all

(Required)

10. How important is it to have an agency culture in which NEPA and related environmental staff can effectively participate in the decisionmaking process?

- 1. Critically important
- 2 Very important
- 3 Somewhat important
- 4 Not too important
- 5 Not important at all

(Required)

11. How important is it to have access to quality data on existing/affected environmental conditions?

- 1. Critically important
- 2 Very important
- 3 Somewhat important

- 4 Not too important
 5 Not important at all

(Required)

12. How important is it for NEPA staff to have access to a cadre of specialists on impact assessment (i.e., cultural resource specialists, biologists, noise or air quality engineers/modelers, health physicists, etc.)?

1. Critically important
 2 Very important
 3 Somewhat important
 4 Not too important
 5 Not important at all

(Required)

13. How important is it to have qualified EA/EIS contractors that have established technical and management processes, have a documented QA/QC process, and are able to identify and implement improvements?

1. Critically important
 2 Very important
 3 Somewhat important
 4 Not too important
 5 Not important at all

(Required)

14. How important is it to have adequate funding for EAs/EISs or other program elements?

1. Critically important
 2 Very important
 3 Somewhat important
 4 Not too important
 5 Not important at all

15. Other program element not previously listed (please specify) and its importance?

Next, please rank the relative importance of each element. Only rank one element as #1 (most important), one as #2 (next most important), etc. The least important elements won't be ranked.

1. Up-to-date agency NEPA procedures including Categorical Exclusions.

1

2. Up-to-date agency NEPA procedures including processes for preparing EAs and EISs, integration of other environmental requirements, public involvement, and agency staff responsibilities.

1

3. Process to respond to inquiries from internal agency staff on NEPA procedures and provide authoritative advice on how to proceed.

1

4. Process to identify and respond to lessons learned.

1

5. An efficient NEPA decision support system.

1

6. A sufficient number of qualified NEPA staff.

1

7. NEPA staff in positions of authority within the agency.

1

8. Training on NEPA and the impact assessment process.

1

9. Senior Management support for the NEPA process.

1

10. Agency culture in which NEPA and related environmental staff have effective participation in the agency decisionmaking process.

1

11. Access to quality data on existing/affected environmental conditions.

1

12. Access to a cadre of specialists on impact assessment (i.e., cultural resource specialists, biologists, noise or air quality engineers/modelers, health physicists, etc.).

1

13. Qualified EA/EIS contractors that have established technical and management processes, have a documented QA/QC process, and are able to identify and implement improvements to their processes.

1

14. Adequate funding for EAs/EISs or other program elements.

1

15. Other program element not listed (if any) and its overall rank.

Thank you. What is your background and experience with NEPA?

Where do you work?

- 1. Federal agency
- 2. State or local government
- 3. Contractor
- 4. Academic/education

5. Other (please specify)

What is your primary job responsibility?

- 1. NEPA
- 2. Cultural or natural resources, or related environmental planning
- 3. Other environmental (i.e., RCRA, CERCLA)
- 4. Engineering
- 5. Other

Approximately how many years of NEPA experience do you have?

- 1. None
- 2. Less than 5 years
- 3. 5-10 years
- 4. 10-15 years
- 5. More than 15 years

Submit

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Attachment 2: Secretary of Energy Memorandum



The Secretary of Energy
Washington, D.C. 20585

June 12, 2012

MEMORANDUM FOR HEADS OF DEPARTMENTAL ELEMENTS

FROM:

STEVEN CHU

Handwritten signature of Steven Chu in black ink.

SUBJECT:

Improved Decision Making through the Integration of
Program and Project Management with National
Environmental Policy Act Compliance

Compliance with the National Environmental Policy Act (NEPA) is a pre-requisite to successful implementation of DOE programs and projects. Moreover, the NEPA process is a valuable planning tool and provides an opportunity to improve the quality of DOE's decisions and build public trust. Hence, timely attention to NEPA compliance is critical to accomplishing our missions.

Earlier this year, the DOE Field Management Council (FMC) established a NEPA Improvement Team (the Team), with membership drawn from experienced DOE NEPA compliance and program and project management staff. The Team found that DOE already has many tools available to help improve the efficiency of its NEPA compliance efforts, many of which are encompassed in the DOE NEPA regulations (10 CFR Part 1021) and the DOE NEPA Order (DOE O 451.1B). In addition, DOE and the Council on Environmental Quality (CEQ) have developed a considerable body of information, guidance and experience on ways to improve the efficiency of the NEPA process. This guidance includes, for example, advice on document preparation, public participation, and interagency and intergovernmental consultation (available on the DOE NEPA Website at www.energy.gov/nepa).

In particular, the Team noted recent CEQ guidance entitled "Improving the Process for Preparing Efficient and Timely Environmental Reviews under the National Environmental Policy Act" (77 FR 14473; March 12, 2012), which highlights several principles directly relevant to the management of DOE's NEPA process, including:

- NEPA encourages straightforward and concise reviews and documentation that are proportionate to potential impacts and effectively convey the relevant considerations to the public and decision makers in a timely manner while rigorously addressing the issues presented;
- NEPA shall be integrated into project planning to ensure planning and decisions reflect environmental considerations, avoid delays later in the process, and anticipate and attempt to resolve potential issues rather than be an after-the-fact process that justifies a decision already made; and



- Agencies are encouraged to develop meaningful and expeditious timelines for environmental reviews.

CEQ's latest guidance serves as a reminder that we must strive continuously to strengthen our NEPA compliance efforts. To this end, the Team has identified several specific principles that managers and staff must observe.

Mutual Competence: NEPA Compliance Officers (NCOs) and Document Managers (NDMs) should acquire a basic understanding of good project management practice. Similarly, program and project managers should be knowledgeable about CEQ and DOE NEPA compliance requirements.

Headquarters and Field Organization Teaming: Field and Headquarters program and project managers, Field and Headquarters NCOs, and the Office of NEPA Policy and Compliance should team up to provide strong support to NDMs, starting early in NEPA document development. Consultation and coordination between the Field and Headquarters elements are particularly important during review of draft and final environmental impact statements, and, in certain important cases, environmental assessments.

Schedule Integration and Information Requirements: Program and project managers must work with NCOs and NDMs to identify NEPA compliance requirements as soon as practical after an action or project is proposed and must also incorporate appropriate NEPA activities with realistic durations into project schedules. This should include opportunities for early public involvement, which is essential to identifying issues that need to be addressed in the NEPA process. Managers must also ensure that data meeting acceptable quality assurance requirements are available for use in NEPA document preparation, consistent with project schedules.

Accountability: Program and project managers are to define individual roles on a project team, including NEPA compliance staff, holding members accountable and, where appropriate, reflect these roles in individual performance standards. Project Peer Review teams should assess the NEPA plan, schedule, and progress to ensure that project milestones will be supported and communicate their findings to appropriate managers.

DOE Order 413.3B: For projects subject to DOE Order 413.3B, *Program and Project Management for the Acquisition of Capital Assets* (November 29, 2010), the Federal Project Director (FPD) (or the Program Manager or Head of Field Organization prior to appointment of an FPD) is responsible for all phases of project planning and execution, including compliance with NEPA. (See Tables 2.1 and 2.2 of DOE Order 413.3B.) For each project, development of a sound NEPA strategy should commence at Critical Decision-0 (CD-0) for incorporation into the Tailoring Strategy. At CD-1, the preliminary range of reasonable alternatives should be identified, along with provision for critical scheduling, risk management, and Independent Project Review.

I cannot overstate the importance of integrating the NEPA compliance process with program and project management and of applying best management practices to NEPA compliance in DOE. My expectation is that these principles will be embraced by all levels of DOE management, as well as by program, project management, and NEPA compliance staff, working together to advance the Department's missions.

References

- ¹ Yost, N. (1979). *Memorandum for NEPA Liaisons; Subj: Agency Implementing Procedures under CEQ's NEPA Regulations*, Washington, D.C.: Council on Environmental Quality. Available online: <http://ceq.hss.doe.gov/nepa/regs/exec11979.html>.
- ² Survey Builder (2009), George Mason University. Retrieved from Center for History and New Media (CHNM) <http://chnm.gmu.edu/tools/login/index.php>.
- ³ Caldwell, L., Bartlett, R., & Keys, D. (1982). *A study of ways to improve the scientific content and methodology of environmental impact analysis; Final report to the national science foundation on grant PRA-73-10014n*, Bloomington, IN: Indiana University, School of Public and Environmental Affairs.
- ⁴ Caldwell, L. (1998). *The National Environmental Policy Act: An agenda for the future*, Bloomington, IN: Indiana University Press, p46-47
- ⁵ Clark, R. (1997) NEPA: The Rational Approach to Change, in Clark and Canter, L. (Eds.). *Environmental policy and NEPA: Past, present, and future*, Boca Raton, FL: St. Lucie Press, p22.
- ⁶ Lindstrom, M & Smith, Z. (2008). *The National Environmental Policy Act: Judicial misconstruction, legislative indifference, and executive neglect*. College Station, TX: Texas A&M University Press, p10.
- ⁷ Knowles, M. S. (1975). *Self-directed learning. A guide for learners and teachers*, Englewood Cliffs: Prentice Hall/Cambridge.