The Shipley Group
Environmental Training • Consulting • Staffing

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NEPA Efficiencies vs. Austerity Budget Shortcuts

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Cutbacks in NEPA compliance, for the sake of budget austerity, would save federal dollars and lessen regulatory hassles, according to some current political talking points.

But such viewpoints are wrong as long as the National Environmental Policy Act (NEPA) remains a federal law. These mistaken talking points also ignore the Clean Air Act, the Clean Water Act, and dozens of other environmental laws. Repeal of these major laws is unlikely, in light of concerns about public health and safety.

Federal agencies still have to comply with federal laws, including NEPA. Interested and affected parties know that they can legally challenge and delay federal proposed actions when agencies have unwisely taken regulatory shortcuts because of budget shortfalls. Sequestration is surely the best current example of a questionable budget policy even though its effects on the economy are still unclear.

Austerity shortcuts are not the same as project efficiencies. Austerity shortcuts are compliance issues and possible legal mistakes.

A simple example of an unwise NEPA strategy is failure to analyze reasonable alternatives for the sake of simplifying an analysis. I am reminded of an agency manager who argued that the No Action Alternative was not going to be implemented, so analysis of its impacts was unnecessary. Yes, his EAs were concise, but they did not survive appeals to Interior's Board of Land Appeals.

For years Shipley consultants have relied on two primary objectives in our NEPA workshops and in NEPA consulting:

> ***Objective 1: To assist federal agency specialists and their managers to comply as efficiently as possible with NEPA's legal requirements.***
>
> ***Objective 2: To ensure that NEPA documents are as clear and understandable as possible, thus fulfilling NEPA comprehensibility standards.***

Shipley NEPA training is a key ingredient in any plan for making NEPA compliance more efficient. *And efficient legal compliance is the key assumption behind both of Shipley's objectives.*

Our objectives are especially relevant in light of today's austerity policies. Austerity often comes with compliance costs. In today's austerity climate, existing employees often inherit new and unfamiliar duties when a colleague transfers or retires. Or, in some cases a newly hired employee is expected come up to speed on NEPA compliance without any relevant training.

Our view is that the learning curve for a new hire to become a seasoned NEPA professional is somewhere around 2 years or perhaps even longer. *This time is shortened with early and practical training sessions.* Shipley NEPA sessions are always practical, chiefly because our consultants tailor them using recent agency documents. Our consultants also have years of field experience answering NEPA compliance questions.

Listed below are seven suggestions for efficiencies in the NEPA process. The assumption behind these suggestions is that a successful NEPA process is merely efficient project management. These suggestions do not rely on unwise austerity shortcuts.

Suggested Efficiencies for NEPA Practitioners

1. **Use early NEPA scoping, both internally and with external parties, to refine an initial proposed action and to learn what questions and concerns exist in the minds of the public.**
2. **Collaborate with managers and assigned NEPA team members to fill in all items in Shipley's Project Initiation Memo/Letter.**
3. **Allot time for the key team members to complete a preliminary storyboard for the potential Environmental Assessment or Environmental Impact Statement.**
4. **Set aggressive page targets for all assigned document sections; also develop an aggressive schedule for sections, subsections, and chapters.**
5. **Review submitted text and graphics as early as possible and then repeatedly, as new materials are drafted.**
6. **Arrange for one or several external reviewers (folks not on the NEPA team); schedule these reviewers and be sure their time is in the budget for the project.**
7. **Conduct a final debriefing on the NEPA project, covering strengths and weaknesses in the NEPA process and its documentation.**

1. Use early NEPA scoping, both internally and with external parties, to refine an initial proposed action and to learn what questions and concerns exist in the minds of the public.

Scoping, as described in Section 1501.7 of the Council on Environmental Quality (CEQ) Regulations, encourages agencies to prepare concise, analytic NEPA documents. Such streamlined documents would be en efficient way for agencies to control allocated project tasks and budgets.

Agencies seem never to have followed the guidance in Section 1501.7. So CEQ issued a informative guidance memo in March of 2012 encouraging agencies to be more aggressive in determining the scope of proposed projects. The guidance memo specifically reminded agencies that many of the

suggestions in the CEQ Regulations, as issued in 1978, apply equally to EAs and EISs. The phrasing in the 1978 Regulations was focused more on EIS preparation; so many agencies never applied the guidance to EAs. For more information about CEQ's guidance see Shipley newsletter 87 (February 2012). Shipley Group maintains an archive of past newsletters at http://www.shipleygroup.com/news.html.

The key efficiency suggestion in1501.7 was in subsections (a)2 and 3. These subsections direct agencies to prioritize issues, often called impact topics, so that documents are focused on important issues. Minor or unimportant issues should be only briefly discussed. This CEQ suggestion alone could shorten the average EA by 20 or 30 percent.

Shipley suggestion 1 mentions possible questions from the public. Questions, as discussed at www.plainlanguage.gov, are a helpful guide for writers of any governmental documents.

Shipley consultants recommend that NEPA writers solicit questions from their publics. Then, once identified, such questions become informative content headings in NEPA documents, both EAs and EISs.

2. Collaborate with managers and assigned NEPA team members to fill in all items in Shipley's Project Initiation Memo/Scoping Document.

One of the weakest points in many projects is the initial assignment. Shipley's Project Initiation Memo/Scoping Document addresses this weakness by recommending that project workers and their manager collaborate on their vision of proposed project and its documentation. A copy of Shipley's Project Memo is attached to this newsletter.

As recommended in suggestion 2, all major project contributors should collaborate in completing the Project Initiation Memo. Realistically, a finished memo likely could take a NEPA team several weeks. And a late-stage task would be a meeting between the team members and the key manager to settle any differences of opinion. If filled out carefully, all contributors to the NEPA Project Initiation Memo should have their task assignments roughly in mind. In some instances contributors might receive clear task assignments, based on tasks listed in the Project Initiation Memo.

Work on task assignments continues with Shipley's third efficiency suggestion below. Work on the third suggestion asks all contributors to jointly complete a storyboard for the EIS or EA. From the storyboard contributors should get their writing assignments for specific pages. The goal is that all contributors are beginning to work together on a clear vision of both the NEPA process and the essential documents.

The Project Memo/Letter is an internal contract between the team members and the key manager. As appropriate, the content points in a Project Initiation Memo also become major content specifications in a Statement of Work for an outside contractor.

3. Allot time for the key team members to complete a preliminary storyboard for the potential Environmental Assessment or Environmental Impact Statement.

Shipley Group consultants recommend that project teams take time to collaborate on a fully developed storyboard for EISs and for major EAs (and also for agency websites). Storyboards allow all contributors to visualize each page or screen for a website—the headings and subheading, all projected graphics, and menus of linked topics. Most important, a sketched storyboard reminds writers when they should be emphasizing major impact conclusions or other highlights. Major conclusions should appear in the opening lines of sections and subsections. For emphasis, writers should never lead up to a major conclusion after a number of pages explaining the rationale for the conclusion.

Storyboards also encourage contributors to assign page targets for each topic, subsection, or chapter. Such assigned pages are de facto assignments, so an hydrologist learns that the impact section on hydrology is section 4.8 and that it is allotted an estimated length of 8 pages, including graphic s. Notice that contributors are encouraged to meet such targets. As necessary, additional hydrology information can appear in an appendix or, preferably, in a formal hydrology report in the project file. Writers are therefore encouraged to write text and to design graphics to fill in the assigned number of pages in the projected EIS or EA.

Contrast the preceding storyboard approach with the traditional strategy for writing a draft document. Most of the time, a traditional hydrologist is given no page targets, so the draft hydrology text turns out to be 20, 30, or more rambling pages. Who is assigned to summarize hydrology findings for the EIS or EA? Usually the hydrologist will argue that all 20 or 30 pages are essential.

So the project leader or a technical editor works on a summary. Of course, the hydrologist needs to review the summary and is likely unhappy with the resulting summary. Note that the traditional writing strategy assumes that a lot of time will be devoted to writing and rewriting draft text before the text for an EIS or EA is close to final. The traditional approach often wastes days or even weeks of project time. The final budget always exceeds initial estimates.

For more information on storyboards, see newsletter 61 (November 2008) in the Shipley Group archive of past newsletters.

4. Set aggressive page targets for all assigned document sections; also develop an aggressive schedule for sections, subsections, and chapters.

The text under suggestion 3 introduces the concept of page targets for each section or subsection. Such targets are a good project management tool.

Suggestion 4 emphasizes aggressive page targets and aggressive schedules. By “aggressive” I am indirectly recommending that if the last EA was 100 pages long, start with a new target length of 80

pages or even 60 pages. Tell contributors that an EA should be a disclosure summary. Challenge all contributors to work toward the 60 page target, but reward them if they end up with 80 pages.

Make your project schedule similarly aggressive. Have frequent sessions monitoring progress on a project. Encourage all contributors to suggest strategies for meeting aggressive deadlines. And again, reward contributors who meet deadlines!

5. Review submitted text and graphics as early as possible and then repeatedly, as new materials are drafted.

Reviews are an essential Quality Assurance step. Without early and ongoing reviews the best writers will slip with major content errors as well as the inevitable errors in words and phrases. Every experienced writer knows that early reviews are crucial.

Shipley Group consultants suggest that reviews begin at the storyboard stage (Suggestion 3 above). Reviews at the storyboard stage usefully begin before writers have written sections of text.

What is the objective of a very early storyboard review? An early review validates the decisions already recorded in the storyboard. During the review both the reviewers and writers explain their assumptions and vision of what will go where. The benefits of this verbalization are that it helps writers rehearse the text they plan to write. And, of course, any new ideas should be added to the storyboard.

6. Arrange for one or several external reviewers (folks not on the NEPA team); schedule these reviewers and be sure their time is in the budget for the project.

The best reviewers are those unfamiliar with content to be recorded. They provide fresh eyes!

Reviews in many projects are too late and too limited in scope. So Suggestion 6 suggests appointing formal reviewers and supporting them with agency funding and ample time listed on the project schedule.

7. Conduct a final debriefing on the NEPA project, covering strengths and weaknesses in the NEPA process and its documentation.

A final lessons-learned session is an often ignored step in an extensive project. All contributors and managers should meet to discuss and then record what went well and what didn't.

Without such a written summary of a completed NEPA process, the next NEPA project team will likely make many of the same mistakes.

We invite you to follow up with a call to the Shipley Group office for more information or for a consulting or training opportunity with your company or agency.

Project Name _____

Project Number _____

Scoping Document/Project Initiation Letter

(Potential Content)

1. **Identify the proponent and the responsible official (if the two are different).**

2. **Summarize the proposal.**
   - *Who proposes to do **what**, **where**, and **when***
   - *Need for the action (**why**)*
   - *Objectives of the proposal (purpose). Objectives include project outputs and any known environmental resource objectives.*

3. **Specify the scope of the decision to be made.** *What actions and decisions are to be considered and which ones are excluded? As appropriate, reference higher-level planning procedures, such as forest plans or resource management plans.*

4. **Profile the scope of the environmental analysis.**
   - *Actions (connected, cumulative, similar) included in the analysis of all resources*
   - *Possible mitigation measures already anticipated to be necessary*
   - *Alternative actions, insofar as known*
   - *Anticipated environmental issues (projected resource impacts that will assist the decisionmaker and the public to choose between the alternatives)*
   - *Probable outside land holdings (federal, state, local, or private) of importance to a discussion of cumulative impacts*

5. Identify the anticipated level of documentation, along with a short rationale.

- ☐ EIS
- ☐ EA
- ☐ CE/CX/CATEX with documentation
- ☐ CE/CX/CATEX without documentation

_____

_____

_____

6. List any known consultation requirements or permits.

- Air quality
- Water quality, wetlands, floodplains, etc.
- Threatened, endangered, and sensitive animals, plants, or fish
- Cultural sites
- Others? _____

7. Profile the current management direction in and near the project area. *This often is a summary profile of the existing environment, with reference to high-level planning documents. (See item 3 above.) This profile also sets the baseline conditions in nearby areas that have had, are having, or will have impacts on the project area.*

8. Summarize projected public involvement.

- *List other federal, state, local, private individuals, or private groups known to be interested or potentially affected by the proposed project. (See item 6 above.)*
- *List proposed strategies for contacting and involving the parties listed.*

9. Summarize the schedules for the analysis and the documentation.

- *Analysis steps: baseline surveys, review of the literature, team meetings on alternatives, interaction of actions and resources (synergy between resource impacts), mitigations, revised alternatives, etc.*
- *Documentation checkpoints: draft of purpose and need and issues (Chapter 1); preliminary description of alternatives (Chapter 2); organizational structure of Chapters 3 and 4; initial drafts of impact sections (Chapter 4), etc.*
- *Checkpoints (dates) when the responsible official will review the IDT's evolving work*
- *Publication dates for internal drafts and then publishable versions of the DEIS, FEIS, ROD, EA, FONSI, or CE*

10. Summarize documentation expectations (quality standards).

Estimated length (page count) _____

Page layout and expectations as to graphics (baseline maps, etc.) _____

Headings and associated numbering conventions _____

Tracking between chapters, including previews, repetition, and other design decisions _____

Record keeping standards for the administrative record/analysis file _____

11. List all IDT members.

Team leader _____

Core team members _____

Outside contributors _____

Document writer/editor (if different from above) _____

Managers responsible for members' time and funding (if different from responsible official) _____

12. Review and reaffirm, as necessary, how the team will make decisions. *Will the team use a voting process or work toward consensus? Such decisions are especially important if a team member has a differing viewpoint than the leader or other members. Remind members that the IDT does not choose an alternative, nor do members sign the Finding of No Significant Impact (FONSI).*

13. Request dated signatures from the responsible official (or his/her deputy), the IDT leader, and all team members.