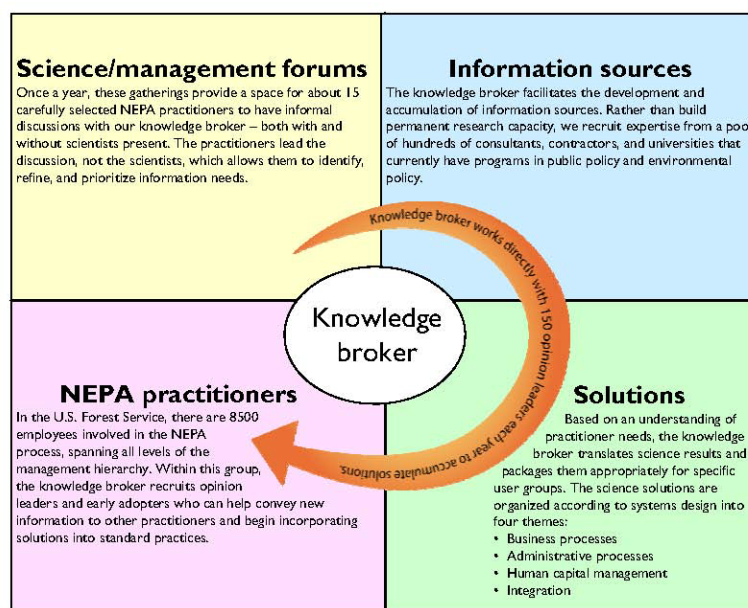


# The Purpose of Forest Service NEPA Activities<sup>1</sup>

Nanus suggested that "the basic nature" of an organization can be defined by determining its present purpose and its value to society.<sup>2</sup> The Forest Service NEPA organizational structure could be described as a complex open system, as the organization structure is open to and dependent on the environment, especially regarding connections with external and internal components.

The Forest Service does not seem to have a unified picture of the underlying goals for its compliance with NEPA.<sup>3</sup> Field interviews with a number of Forest Service personnel as well as a review of documents posted to the Forest Service intranet reveal a lack of clear organizational direction regarding the purpose of NEPA activities.<sup>4</sup> In fact, it is possible to detect at least three purposes.



<sup>1</sup> Excerpt from Richards K., Seesholtz D., et al. [In press] Internal organization and external contracting for the NEPA process: lessons from new institutional economics and strategic organizational design.

<sup>2</sup> Nanus, B. 1992. Visionary leadership: creating a compelling sense of direction for your organization. San Francisco: Jossey-Bass.

<sup>3</sup> U.S. General Accounting Office. 1997. Forest Service decisionmaking: a framework for improving performance. GAO/RCED-97-71 p. 40.

<sup>4</sup> See our companion report, Contrasts in NEPA: approaches by U.S. Forest Service Region 1 and Region 6: a pilot study. See also, MacGregor, Donald G.; Seesholtz, David N. 2008. Factors influencing line officers' decisions about National Environmental Policy Act project design and development. Gen. Tech. Rep. PNW-GTR-766 Portland, OR: U.S. Department of Agriculture, Forest Service, Pacific Northwest Research Station. 27 p.; Sterns, M.J.; Mortimer, M.J. [In press]. Comparing NEPA processes across federal land management agencies. Advance copy available at [http://www.fs.fed.us/pnw/about/programs/fsd/NEPA/Comparing\\_NEPA\\_Fed\\_agencies\\_VT.pdf](http://www.fs.fed.us/pnw/about/programs/fsd/NEPA/Comparing_NEPA_Fed_agencies_VT.pdf)

## 1) Improve the decisionmaking process.

The original intent of NEPA was to assure that all Federal agencies use “a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment.”<sup>5</sup> To this end, NEPA directed the agencies to work with the Council on Environmental Policy (CEQ) to develop “methods and procedures...which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations.”<sup>6</sup>

The CEQ regulations elaborate:

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. These regulations provide the direction to achieve this purpose.<sup>7</sup>

Many in the Forest Service, especially those in positions of leadership, espouse this philosophy of NEPA compliance, and consider Environmental Impact Statements (EISs), Environmental Assessments (EAs) and related documents to be tools to promote better decisionmaking. For them, the process facilitates more systematic consideration of environmental values affected by Federal actions. “Decision confidence is of significant importance to line officers, since they must speak for the project to audiences and constituents both inside and outside of the agency. Line officer management of the NEPA process and the work of their staff is a significant source of confidence in decisionmaking and goes beyond the information content of the NEPA documentation (e.g., EA).”<sup>8</sup>

## 2) Inform and engage the public

NEPA also requires that all of the detailed statements be made available not only to the “Federal, State and local agencies, which are authorized to develop and enforce environmental standards,” but to the public as well.<sup>9</sup> The more detailed regulations developed by CEQ provide that

NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. [P]ublic scrutiny [is] essential to implementing NEPA. Most important, NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail.<sup>10</sup>

More specifically, the regulations require that agencies “[m]ake diligent efforts to involve the public in preparing and implementing their NEPA procedures.”<sup>11</sup> The regulations provide detailed guidance on hearings, public meetings, notice, public comment, and response to comments.<sup>12</sup>

<sup>5</sup> 42 U.S.C. § 4332(A)

<sup>6</sup> 42 U.S.C. § 4332(B)

<sup>7</sup> 40 C.F.R. 1500.1(c)

<sup>8</sup> MacGregor, Donald G.; Seesholtz, David N. 2008. Factors influencing line officers' decisions about National Environmental Policy Act project design and development. Gen. Tech. Rep. PNW-GTR-766 Portland, OR: U.S. Department of Agriculture, Forest Service, Pacific Northwest Research Station. 27 p. 42 U.S.C. § 4332(C).

<sup>10</sup> 40 C.F.R. 1500.1(b).

<sup>11</sup> 40 C.F.R. 1500.6(a).

<sup>12</sup> 40 C.F.R. 1500.6(b)-(f)

In a recent study by Virginia Polytechnic Institute and State University comparing NEPA processes across four federal land management agencies, including the Forest Service, the most common response by personnel from each of the agencies to the question posed as to the purpose of the NEPA processes was to disclose to the public and other interested parties the likely consequences of agency actions, the analyses undertaken to determine those consequences, and the procedures through which NEPA requirements have been met. Just as frequently, Forest Service personnel also responded that the purpose of the NEPA process is to actively involve the public, to ensure deeper consideration of environmental impacts than might otherwise be considered, and to make better decisions.<sup>13</sup>

The view of NEPA as a means to promote public involvement is espoused not only by many in the Forest Service leadership but by virtually all environmental organizations.<sup>14</sup>

### 3) NEPA as a legal hurdle

The Forest Service wins the majority of its legal cases; however, judicial review of national forest management decisions is steadily increasing.<sup>15</sup> Some members of the Forest Service, particularly field personnel, are inclined to regard NEPA as an obstacle to overcome, a procedure to be endured, so that they can get on with the truly important work of conserving and managing the nation's forests.<sup>16</sup> Additionally, many individuals of the public and interest groups use the Forest Services public participation process to challenge the management agenda of the agency and the current administration.<sup>17</sup>

With increasing frequency from 1984 to the present, environmentalists trained their sights on the Forest Service. The agency inherited, from the Corps of Engineers, the unflattering distinction of being Public Enemy Number One. The battle ground was principally, though hardly exclusively, the Pacific Northwest and Rocky Mountain Regions, where not only established organizations like the Sierra Club and the Audubon Society criticized the agency but a whole new generation of interest groups sprouted up to protect the spotted owl, the grizzly bear, the Pacific salmon, old-growth forests, and the yew tree.<sup>18</sup>

As many Forest Service employees see it, they are caught in a bind, where the very procedures they need to follow to get them to their goal keep them from getting there. As one influential Forest Service report stated,

Too often, the Forest Service is so busy meeting procedural requirements, such as preparing voluminous plans, studies, and associated documentation, that it has trouble fulfilling its historic mission: to sustain the health, diversity, and productivity of the nation's forests and grasslands to meet the needs of present and future generations.<sup>19</sup>

<sup>13</sup> Sterns, M.J.; Mortimer, M.J. [In Press] Comparing NEPA processes across federal land management agencies.

Advance copy available at

[http://www.fs.fed.us/pnw/about/programs/fsd/NEPA/Comparing\\_NEPA\\_Fed\\_agencies\\_VT.pdf](http://www.fs.fed.us/pnw/about/programs/fsd/NEPA/Comparing_NEPA_Fed_agencies_VT.pdf)

<sup>14</sup> Luther, L. 2006. The National Environmental Policy Act: streamlining NEPA. Congressional Research Service Report for Congress, RL33267.

<sup>15</sup> Malmshiemer, R.W.; Keele, D.; Floyd, D.W. 2004. National forest litigation in the US courts of Appeals. *Journal of Forestry*. 102(2): 20-25.

<sup>16</sup> U.S. Department of Agriculture, Forest Service. 2002. The process predicament: how statutory, regulator, and administrative factors affect national forest management, p. 15 and app. C, p. C-11.

<sup>17</sup> Germain, R.H.; Floyd, D.W.; Stehman, S.V. 2001. Public perceptions of the USDA Forest Service public participation process. *Forest Policy and Economics* 3(2001):113-124.

<sup>18</sup> Clarke, J.N.; McCool, D. 1996. Staking out the terrain: power and performance among natural resource agencies. 2nd ed. Albany, NY: State University of New York Press. 62 p.

Those who are frustrated by the seemingly endless requirements of the NEPA process for more information and documentation may view the environmental analysis process and its associated studies as the tail that wags the dog. Where the NEPA process was intended to be an aid in decisionmaking, it has become an obstacle. The legal formalization of the procedures has substituted for professional judgment.<sup>20</sup>

Worse, this logic goes, in many cases that have pitted Forest Service personnel against special interests, generally environmentalists, the NEPA procedures have been used as a roadblock to taking considered, even urgent, action to protect the health of forests imperiled by disease or fire.<sup>21</sup> In some cases, environmental groups have issued legal challenges to Forest Service NEPA procedures on an almost automatic basis. This has led to the perception among some Forest Service personnel that NEPA is a necessary evil. Under this view, NEPA documents are designed not to inform decisions or involve the public, but to withstand legal challenges.

...some groups have successfully used appeals to obstruct timber sales, and Forest Service employees therefore treat almost every ground-disturbing project as a potential target. They spend a tremendous amount of time trying to "bullet-proof" project planning against appeals and litigation. Challenges themselves, if they materialize, can be enormously time-consuming.<sup>22</sup>

### **The Importance of Purpose**

As the Forest Service considers how to organize its NEPA activities, it is important that the organization first clarify the purpose of its program. This is a case in which function dictates form.

In short, it is necessary for the Forest Service to realistically determine its goals first, particularly as expressed by the top leadership of the agency. Only then can it design an organizational strategy that will best promote those objectives.<sup>23</sup>

Whichever goal or goals the Forest Service adopts for NEPA compliance, it is important that the objectives be clearly enumerated. First, a clear set of goals will help evaluate how to accomplish NEPA. Second, the Forest Service will need to develop metrics of performance and incentive systems to promote the NEPA goals. If the goals themselves are ill-defined, it will be impossible to design a satisfactory management approach.

<sup>19</sup> U.S. Department of Agriculture, Forest Service. 2002. The process predicament: how statutory, regulatory, and administrative factors affect national forest management.

<sup>20</sup> Ibid, p.11.

<sup>21</sup> Ibid, p.7.

<sup>22</sup> Ibid, p.36.

<sup>23</sup> This is not a small undertaking and would take a significant agency transition to make a substantial difference. Forest Service "initiatives" have been many, with few actually having a long-term impact on the agency. Some would argue that the late 1980s "Ecosystem Management" approach initiated by the Forest Service, which became the pattern for other federal and many state agencies, was the last significant agency transition. Before that, the Forest Service underwent a major shift related to the integration of planning requirements under the National Forest Management Act. Of the two, "the adoption of an ecosystem management framework provides greater change than the earlier requirements of integrated forest plans under NFMA." Page 124 in Kaiser B.A. 2006. The National Environmental Policy Act's influence on USDA Forest Service decisionmaking, 1974-1996. *Journal of Forest Economics*. 12: 109-130.