

## PERSPECTIVE

### Does NEPA Have Tao?

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Be it a prehistoric flint-striker for starting fires, a wrench for repairing an engine, or a computer model for simulating ground-water contaminant transport, tool making is one of the paramount traits distinguishing humans from other species. Progress witnessed in most disciplines, the sciences in particular, greatly depends on developing “tools of the trade.” While many environmental disciplines have benefited greatly from development of modern tools, the National Environmental Policy Act of 1969 (NEPA) has lagged noticeably. Rigorous tools, techniques, and approaches are needed if NEPA is to achieve its full potential.

#### The Right Path

According to ancient Chinese tradition, the philosopher Lao-Tse wrote the *Tao Te Ching*, which lays out the ancient philosophy of Taoism. The word “Tao” is loosely translated to mean “the way or path.” According to the *Tao Te Ching*, to be in harmony or in step with nature, one must first find Tao, or the *right path*.

Similarly, before we begin considering modern techniques and approaches for increasing the effectiveness of NEPA practice, we should first pause for a moment to ask ourselves a fundamental question: Does NEPA have Tao? Such a question has implications far wider than

simply playing a philosophical word game; once we are sure that NEPA is on the right path, then we can begin asking questions about best methods of practice.

Thus, the first question that should be asked is not how we should increase the effectiveness of NEPA, but rather, if NEPA is even being implemented *correctly*. To determine a correct Tao or path for NEPA we might first begin by asking where problems with the present process exist.

#### The Five Big Problems

While NEPA has contributed greatly to scientifically-based decision making in the federal government, it is handicapped by a number of problems. As I see it, five major obstacles need to be addressed before NEPA truly meets the mandate that Congress established for it over 30 years ago. My candidates for the five most significant problems are:

1. As acknowledged earlier, NEPA practice suffers from a lack of systematic, rigorous, and established tools and techniques for performing analyses and basing decisions.
2. As viewed by the courts, NEPA is essentially a procedural act, providing little or no substantive protection to the environment.
3. NEPA is still viewed in many quarters as a documentation process rather than as a true planning process. Decisions are frequently made “behind closed doors” and then NEPA documentation is prepared to justify the decision already made.

4. By and large, the practice of NEPA lacks professionally established standards and/or a certification process to ensure that knowledgeable and experienced practitioners perform the analyses.

5. The ratio of Environmental Assessments to Environmental Impact Statements is approximately 100 to 1. Such a skewed number is a strong indicator that the threshold level of significance is too high.

As I see it, we are faced with five fundamental challenges that must be addressed before NEPA “has Tao.” None of these “Big Five” problems are insurmountable. Each has its own path or solution. The papers presented in this special issue of *Environmental Practice*<sup>1</sup> may help to resolve some aspects of these problems. Many issues and points surrounding the “Big Five” will be addressed in these following papers; others will require further thought. We invite all readers of *Environmental Practice* to submit papers in the future that will address salient issues regarding NEPA and its current practice.

#### Note

1. *Environmental Practice*, 2003, Special Issue on NEPA, the National Environmental Policy Act, *Environmental Practice* 5(4):December, Oxford University Press, Cary, NC.

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