

Video Transcript: 2023-2024 NEPA Refresher for Omnibus Submission

Automated Voice 0:00

The broadcast is now starting All attendees are in listen only mode

Rebecca Briggs 0:10

Hi everybody that's here a little early, it's just one o'clock so I'm going to give it a couple more minutes to let folks filter in.

Stu Goldberg 0:59

Do you want to do questions at the end?

Rebecca Briggs 2:01

Thanks everyone, I'm just gonna give it one more minute some of the stragglers come in and then we'll get going.

Rebecca Briggs 2:52

okay, let's go ahead and get going. It looks like the number of people joining is slowing down.

Rebecca Briggs 2:59

Thank you all for taking the time to join us today. For those of you that don't know me, my name is Becky Briggs. I've worked for the National Sea Grant office as one of the regional program officers and the previous environmental clients lead for the office. But I'm excited to introduce all of you today to Stu Goldberg, who is the new environmental compliance coordinator for the national Sea Grant office. He joined our office in March of 2023., and prior to coming over, Stu worked at the National Marine Fisheries Services, NMFS, at the Pacific Islands regional office in Honolulu, Hawaii for five years where he was the essential fish habitat regulatory program coordinator and a consultation biologist. He has a PhD in marine science from UC Santa Barbara and postdoctoral experience at Scripps, UCSB, University of Hawaii; and he also worked at an environmental NGO in DC as a policy fellow. So Stu just has a wealth of information both from the policy side and from the science side, and I'm really excited to have him join our office. Um, for today, I'm going to pass this over to Stu in just a moment, and he's going to lead you through the NEPA refresher for the 2024-2027 omnibus. As a reminder to everybody, Chelsea sent an email out earlier this week that had the updated guidance for the omnibus. Please make sure that you are carefully looking at that guidance, there are some things that are different this year for the omnibus. And make sure that you're always working with your program officer with any questions or concerns you have along the way. We'll do our best to give a little bit more insight on what's expected

for NEPA this year, which hasn't changed drastically from previous on omnibuses. Um, I will be monitoring the chat and the questions box. If you have any questions, please feel free to pop them into the questions box and we'll get to those at the end. Um, with that, I'm gonna go ahead and hand this over to Stu.

Stu Goldberg 4:53

Thanks, Becky. And thanks to everybody for attending today. Um, as Becky mentioned And I'm new, and so this is going to be my first foray into the omnibus season. And so this webinar is intended to be a review of what you need to do with regards to NEPA for the upcoming omnibus applications. And I won't be presenting any new information today, just reviewing and clarifying some of the NEPA roles and duties for program offices for the national office and then discussing aspects of, you know, the questionnaires and, and some specific examples and some tips. So, for a deeper dive um, you can go to inside Sea Grant and look at our previous NEPA 101 and 202 webinars. Um, there's last year's or two years ago refresher, and there's also the guidance document that Chelsea sent out. Okay, so today's agenda, we're talking about the National Environmental Policy Act, NEPA. We're going to review some materials for your applications related to NEPA and the questionnaires, talk about when the questionnaire may or may not be needed, and then there'll be some discussion with some examples of the questionnaires and the questions. And then a follow up with some common tips and questions that you've that we often get and asked about the NEPA questionnaire. And then at the end, there'll be some q&a As Becky alluded to. Next slide.

Stu Goldberg 6:37

Okay, so to begin with, let's talk about the law itself. The purpose of the Act in in summary is to basically develop a federal policy to protect human health and the environment. It has an overarching intent, and that's to ensure that federal actions consider the impacts on the environment prior to their implementation. So, all this boils down to one thing: we must consider what we're doing is federal agencies and that means our actions, what's funded, what's permitted and will they have impacts that need to be considered for for NEPA. Okay, next slide.

Stu Goldberg 7:24

So NEPA has two main objectives. The first is to disclose and analyze and consider environmental information when making decisions about federal actions. And the second is to involve the public. So informing the public of these potential impacts, providing an alternative to these actions and involving them in the decision making process. So in a nutshell, making that information known. Okay, next slide.

Stu Goldberg 8:04

So, NEPA is a picture of an umbrella because NEPA seems like it's an umbrella law. There's many other laws and regulations that are involved with NEPA. So that means when we're considering NEPA, it may lead you to another regulation, and you may have to comply with that regulation. So, for example, NEPA

itself doesn't protect endangered species. That's why we have the Endangered Species Act. So the process may feed into the Endangered Species Act, which obviously particularly or specifically protects endangered and threatened species. And it's a similar idea for the Magnuson Stevens act for the essential fish habitat. Consultations are considerations and the Marine Mammal Protection Act. So our projects may intersect with with those types of mandates. For example, you know, EFH, is designed to protect habitat for federally managed fish stocks. So you know, you may have a project in a coral reef, where you're collecting marine debris and nets from corals and reefs and so you may have to do a consultation for EFH for that. Alternatively, you may have to do some permitting or consultation for MMPA. You know, say you have an activity on a beach and there's resting marine mammals that you may need to consider.

Stu Goldberg 9:38

Okay so, now we have kind of a general overview of NEPA. And we're going to move on to talking about some of the roles and responsibilities of the program office, the programs and in the national office. Okay, so on the left of the slide, we have some bullet points for the programs and we'll start there. So for the programs, the national office, we basically need the information that's described in the 2024 to 2027 omnibus guidance for your application and submission. And when we get that information that helps us meet our mandates. And so we also need any permits or documents that may need to be used to justify regulatory compliance. And sometimes, with these, you know, awards or these projects, you know, you may not have the permit right now, or there might be a condition you can't meet immediately, and so there's a need to fulfill specific award conditions. And these are just conditions that need to be met in order to do certain aspects of the project. And more often than not, most of the NEPA related SACs, as we call these specific specific award conditions are related to permits. So for example, you're tagging some some fish, and you don't have the permit or the the necessary document to do that tagging. You can still start other aspects of the project, but you can't start the tagging portion until that permit or documentation is provided. And lastly, we need your support for federal consultation. So consultations like ESA, and EFH, they can only be done between, there needs to be a federal Nexus and they're usually led by federal agencies. So we would need your support on the ground for any, you know, extraneous information that would support our consultations. And the moving to the right column. What are, what's the national office responsibilities and role. So we review the submitted materials that the programs provide. We assess them for their environmental impact. And you know, what way we have to go with NEPA. Along the way, we document the entire NEPA process, um, and if there's any applicable consultations for, say, the Endangered Species Act, or the MSA and the EFH consultations or the MMPA, you know, we would lead those and coordinate with the programs for support. And lastly, we, you know, create those specific award conditions that need to be followed up with. So next slide.

Stu Goldberg 12:46

Okay, so continuing with, with some of the program roles and responsibilities, getting a little more specific with the information that needs to be conveyed to sub awardees. So programs wouldn't need to educate sub awardees so they know, you know, the proper forms to complete the information that's needed, and that type of, that those types of things, and then they would need to do a quality check for

the NEPA documents before they go to the national office. So, you know, we talked about keeping track of SACs keeping tracks of the permits, noting if permits are needed or if they're not needed. Another important thing is, it's important to notify your federal program officer or your PO, if you've may have program development projects, if they're research-based program development projects and provide any NEPA documentation that may be needed for those. Lastly, in terms of the bullets, it's important to let us know, let your POs know if your projects are changing, if you're having changes to your research projects that might require additional NEPA analysis. Okay, so now we're going to transition a little bit to the NEPA materials and more specific considerations for questionnaires to include in your submission. And next slide.

Stu Goldberg 14:21

I just wanted to, you know, remind you, again, we have the omnibus application guidance for Sea Grant that Chelsea sent out. So, this is the place to start. Next slide.

Stu Goldberg 14:34

All right, talking about the NEPA questionnaire, so on the right side of the slide, I have the most updated 2022 NEPA questionnaire. All right, talking about the NEPA questionnaire, so on the right side of the slide, I have the most updated 2022 NEPA questionnaire. And so, every project should have a NEPA questionnaire or a NEPA statement. And so what is a NEPA statement? A statement is something that is used for actions that may be getting accepted from NEPA, and I'll discuss these soon below. Every project needs to include the relevant permit information as applicable, which I have mentioned a couple times. So can you provide the names and numbers of the existing permits? Can you provide information about forthcoming permits? And if no permits are needed, can you please state that clearly? So I can't stress enough to work with your program officer as soon as possible on NEPA for the omnibus. Provide your questions and send your materials to the to your PO as soon as possible. For example, you may have questions on if certain projects can be grouped together into one questionnaire, or how to do NEPA later for future placeholder projects. These are all things that the POs can help you with. And since we get hundreds of projects, if we work on them earlier, it's better.

Stu Goldberg 16:03

Okay, so now we're going to talk about projects requiring the questionnaire, going to transition to talk about the questionnaire first. So a questionnaire must be completed for each sub project or action, whether it be a competition, and an extension or education sub project; unless there are similar actions that can be appropriately grouped, described, or reviewed into one questionnaire. So, if you can bunch them all in because there's similar, than you only have to do one questionnaire for that group of projects or sub projects. Most projects will require NEPA and then require a questionnaire by default. And an example, the examples of these types of categories or actions are listed in the table below. So just walk through them really quick. So you'll need a questionnaire for projects that include research, including lab based research or social science research. Going from left to right on the top row, permits if your project needs a permit, or an authorization or some type of waiver, that would need a

questionnaire. If you're proposing activities that have biological take or release, and/or tagging of an organism. And if you're doing environmental sampling, like collecting water or sediment, or things like that. Now we're on the bottom row of the table on the far left. If you're doing actions or things that are permanent, or having temporary environmental effects. If your action is sited near endangered or threatened species and protected areas. If your project is requiring the use of hazardous and or toxic substances, like if you are using fixatives to preserve samples. Or if you have known or unknown risks to human health. So all these things, they're kind of discussed in the omnibus guidance on page 15 and 16. So please refer to that document. So all this said, you know, we talked about here, the project's requiring a questionnaire and there are times though, however, when NEPA may not be needed, and this is where we go to the next slide, when we talk about the questionnaire versus the statement.

Stu Goldberg 18:31

So NEPA may not be needed if your project meets one of the potential exceptions to NEPA below. And we say potential here, because I'm streamlining and adapting information from the omnibus guidance, so there may be caveats to what is excluded. So definitely refer to that guidance, to verify and contact your POs with questions. So this is the list and the table in the middle, for potential exceptions to the questionnaire, and I am going to go from top row from left to right. Program management activities. Workshops and or conferences. And I just want to highlight, or make this caveat that these are exceptions if they don't qualify for the previous activities that were on the slide above. So workshops and or conferences, communications activities, placeholder or future competed activities that might need a follow up SAC. Fellowships are potential exceptions to the questionnaires because Sea Grant does not have discretion on the research activities that are being done. Hiring actions, um they're not having an environmental impact. And purely administrative actions. So, if your projects meet these categories, which are also described on page 15 and 16 of the omnibus guidance, you can use the NEPA statement in lieu of the questionnaire. And so I'm just going to read the NEPA statement, which is at the bottom of the slide. So, this projects activities are exclusively comprised of insert activity here, and therefore no, no environmental compliance questionnaire is being submitted as allowed by SGO guidance. Okay, next slide.

Stu Goldberg 20:38

So now we've talked about when to use a questionnaire when to possibly use a NEPA statement. But we're just gonna, we have that background, but sometimes parsing out whether extension or education activities require NEPA is tricky. And so here are just a few examples to help us determine if we need a questionnaire or not to help the national office do or compliance for NEPA. So if your project has research activities, you need a questionnaire. If you're having direct interaction with the environment, in your project, you need a questionnaire. If you're having extension agents, the degree of implementing versus advising in an activity in the natural environment is important. So if the extension agent is actively doing the work, versus kind of overseeing it and not getting involved, then that would need a questionnaire. And then the last bullet there is it says, What are you funding? And do you have discretion to say no. And what I mean by that is, if you have an extension agent that is going on a fishing boat, that fishing boat would be going out on its own no matter what, you're not funding that. So you wouldn't, you would have the discretion to say no to that activity, because it would happen anyway.

Okay, and I just want to take a second to plug the reminder, about separate versus batching questionnaires. So again, you can take similar actions or like actions and appropriately group them and describe them and collate them in one questionnaire. So contact your PO early and often for these questions or concerns or how to do that. Next slide.

Stu Goldberg 22:41

All right. So that's a good segue to review parts of the questionnaire. So this is the 2022 updated questionnaire on the right of the slide. And ideally, the PIs should be taking the first crack, or the awardees, at completing this questionnaire because they're the most familiar with their project. Now, this doesn't mean that they should be copying and pasting right from their project narrative. We'd prefer if they could answer the questions uniquely in a clear and concise way. As the NEPA POC, you should review the questionnaire to ensure it has all of the info the national office needs for the NEPA review that we have to do. And if you feel that the PII is not answering all the questions, or if there's missing information, or if it's just been copied and paste, pasted, please send it back to them and have them redo it. Another important NEPA POC job is to check for permits and make sure the PII knows to include them. So, for example, sometimes permits they'll be renewed annually. But if you include an expired permit, we're going to need documentation that the permit has been renewed or that it is expected to be renewed in a short amount of time. And then when that is renewed, to share it with us. So every NEPA questionnaire should include permit information, even if that permit information is just a statement that no permit is needed. Okay, next slide.

Stu Goldberg 24:29

Okay, so where is this questionnaire? You can find it on inside Sea Grant. You can go to the bottom of the implementation. So inside Sea Grant, go to the implementation tab at the top, and then go down to the bottom left where NEPA compliance is. You'll see a step by step guidance for how to complete the questionnaire, and you'll also see some examples of questionnaires for field work, lab work, and socioeconomics. Just want to put the caveat out there that some of the examples for the questionnaires are not updated yet for the 2022 questionnaire, but the content is very similar, and the questions are very similar so it's still applicable. And I'll be working on updating these to the website, and then upcoming weeks. Okay, so these examples will show you the level of detail we need for each project. And after the webinar, feel free to let me know if there's some other examples you're looking for.

Stu Goldberg 24:29

Okay, so here's a screenshot of the step by step guide for filling out the questionnaire. And you can see that there's a lot of detail on the left, the left is the high view, 30,000 foot view, of the of the guidance, and it's pretty detailed, and we'll tell you what's needed for each question. Okay, next slide.

Stu Goldberg 26:18

So these are just screenshots to show you, you know what these look like. These are the three example questionnaires. From left to right, we have a field work one, we have a lab work one, and then on the far right socioeconomics. These again are in the step-by-step guidance on inside Sea Grant, and feel free to use these as you may have similar projects. Next slide.

Stu Goldberg 26:46

Okay, so let's do a brief general overview of the questions from the Environmental Compliance questionnaire. So there's four sections in the questionnaire. There is the proposed activity section, which has 10 questions. There's the location section, that has four questions. There's project partners, permits and consultations, with two questions. And then there's safety with two questions. Again, please don't cut and paste on the project narrative, provide brief and uniquely, uniquely answer each question. Okay, next slide.

Stu Goldberg 27:28

Okay, so here's an example. Cut and paste from the example questionnaire for research. So the question is proposed activity Question one, describe the proposed activity, including the purpose objectives and goals. And so if you read it, it says, I'll just read the first paragraph it says micro plastic marine debris is a pollutant of growing concern. And then in bold, it says this project integrates land and ocean observations and models with expertise from the Natural and Social Sciences to comprehensively assess the issue of NPMD in the Delaware Estuary. So you can see the purpose is clearly stated right up front in bold. And then following that is a list of the objectives which, are clearly described and listed. And you can provide, you know, bulleted lists, it's totally acceptable. And then a broad overview of the actual research is provided below. So again, this question and the answer should not regurgitate the project narrative background. If your PI sends you something that is much longer than this, I recommend sending it back and have them you know, rewrite it to be a little more concise similar to what this is. Okay, next slide.

Stu Goldberg 28:54

So these are the location questions. And there's four of them. And the one that is most important, is where we have a lot of requests to get more information on, is describing, is the first one describing the proposed activity location, including appropriate geographic coordinates, river mile markers, or etc, for all distinct phases of the proposed activity. So we need you to be as specific as possible. So if you can provide coordinates, please do. We know that sometimes the location you're working at you might not be able to tell us right now, you might decided later in that case, can you just generally tell us where the work is taking place? It's also helpful if you can tell us about your research locations' relationship to people, and what its typical use is. For example, is it for recreation or commercial fishing? Is it used for boating? Is it an aquaculture site? Is it protected? Those types of things. Okay, next slide.

Stu Goldberg 30:10

Okay, so here's an example for location question one. Describe the proposed activity location, including, if available and appropriate, geographic coordinates, etcetera. So this clearly shows where it's happening in the Delaware Bay in bold, and then it provides three locations and their coordinates. And so it has the exact names and locations, and that's very helpful. Next slide.

Stu Goldberg 30:42

Okay, so these are two questions for the project partners permits and consultations. So the second one is what we're going to focus on in this presentation. And so it is our federal and state or local permits, authorizations, waivers, determinations, or consultations required for the proposed activity to begin. So, again, you should be telling us all about all permits, even if you don't have them yet. And if your work doesn't require permits, please state that clearly. So here's the example. Next slide.

Stu Goldberg 31:20

So here's the question. And it says this is the Delaware Department of Natural Resources and Environmental Control Collection permit number 12345. So it provides the type of permit, the permit number, the agency it comes from; it's all clearly listed, and the permit should be appended to the questionnaire that you submit. Okay, next slide.

Stu Goldberg 31:43

Okay, moving on to the final section of the questionnaire section four, uh the section on safety. So we're going to focus on the second question that has to do with the use or transport of hazardous toxic substances. This is a [section] section that is concerned with human health along with environmental health. Next slide.

Stu Goldberg 32:14

Okay, so describe the potential to generate, use, store, transport, or dispose of hazardous or toxic substances. And so if you look at the bold, it talks about collecting plankton and fixing them with formaldehyde and hydrogen peroxide and other chemicals. And it talks about the storage and handling, and that will be done in accordance with University of Delaware's EH&S office. So it talks about the exact chemicals, and it talks about the plan for chemical safety. Okay, next slide.

Stu Goldberg 32:55

Okay, so we're going to talk about now that we've talked about the questionnaires and some example questions from each section, we're going to talk about some common tips and questions that we often get. So in short, please pay special attention to all the questions that I mentioned above and in every question that is in the questionnaire. Even if the answer is just a no or none, you know, please include that in your document so that we know that you addressed it. We're looking for descriptive but brief

answers. Bullets are okay, but try not to add too much extraneous information. Again, please do not copy and paste over and over, and from the project narrative. When some something is copied and pasted over and over again, it says the same thing sometimes seems like it wasn't considered. Mostly many of our tips involve requests for more specificity and missing information that surround the permits. So be as specific as possible about your permits, and then also be as specific as possible about the species and numbers of organisms that you're collecting. When it comes to endangered and threatened species, please consider, you know, the presence of endangered species at your project site. So even for beach cleanups, you know, there may be protected species that are resting. And, you know, please include a description of you know, generally like that you'll be avoiding them if you think that there may be any listed species near your work, your worksite. And similar for EFH for the Magnuson Stevens act for essential fish habitat for NEPA. So for NEPA, all you need to think about with EFH is, you know, will the action result in a reduction in the quality or quantity of EFH. And the overwhelming number of actions will not. For example, if you're collecting water sample, it's an insignificant amount of water EFH that has been removed and is being removed to inform and enhance EFH via the analysis. So having a brief description of why it won't affect EFH is helpful, so that I don't have to go through each one and make it up myself or have to come back and talk to you. Okay, so lastly, provide copies of all the permits referenced in the questionnaire. And again, I know I keep saying it if the permits pending, or there's not needed, please clearly state that in the questionnaire. Okay, next slide.

Stu Goldberg 35:45

Just did it update yet? So mine didn't update? There we go. Okay, so tips for successfully reviewing the questionnaire. So when you're reviewing these for your PIs and sub awardees, there are a few things you can do to make your life a little easier. Scan the questionnaire for red flags specifically related to some of the questions we just reviewed. Pick up a copy of those examples, and in look and see what the expectation is. If things are just copied and pasted and regurgitated, and it's it's clear that it's not enough information, send it back. Please go back and forth with your PI before sending things to the national office for our review. And definitely start getting those permits or permit information underway as soon as possible. And reach out to your PO at the national office with any questions because they can help put out small fires before they become the big NEPA blazes. So remember, please send your omnibus NEPA questionnaires to your PO ASAP. We're happy to discuss any questions you have. And don't don't hesitate to reach out. And that's the next slide is, I think the last one.

Rebecca Briggs 37:33

Okay, so I'm gonna pop back on here. We have one question from Syma. Which form do you fill out if it has both lab field and social science research? And I can take that for us do those forms are all the same forms, right is one form that you fill out? We've given you examples from three different types of projects. So if a project was primarily social science, how did they answer the question about location. So all those are a are examples for various types. But if yours includes all three, you would fill out the same form and you would talk about that. You would say under the action, that there's going to be some field work, they're going to collect this and they're going to bring it back to the lab and they're also going to do a social science survey, right? You just put it all when you talk about the action in one worksheet. There is only one worksheet, those are just three different types of examples. Thank you,

Stu, for this really thorough reminder of how we all work with NEPA. Again, you can reach Stu or I using our personal emails or the SG.NEPA inbox email. Work with your program officers, they can help you as you think about what needs a worksheet, what doesn't need a worksheet. The idea here is to make the least amount of work for everybody, and still do our due diligence as it relates to NEPA. So we're all just trying to work on that same common goal there.

Rebecca Briggs 39:13

Okay, all right. Well with that. All right, yeah, we'll go ahead and end this and we'll go from there. Thanks, everybody.