

Jeff Civins Authors Article About Repurposing EIS Process for ESG

October 4, 2021 Jeff Civins

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The 1969 National Environmental Policy Act (NEPA) is best known for its requirement that federal agencies prepare an environmental impact statement for major federal actions significantly affecting the quality of the human environment. Although predating the concept of ESG by several decades, NEPA — and, in particular, its environmental impact statement (EIS) process — may be of value to corporations in developing and fine tuning their ESG programs, and to investors, in evaluating them.

Most don't know that NEPA contains not only an EIS requirement, but also a broad commitment to sustainability. Section 101(b) explains: "it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may ... fulfill the responsibilities of each generation as trustee of the environment for succeeding generations." And that commitment includes not only "assur[ing] for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surrounding," but also "achiev[ing] a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities." Not these broad policy statements, but rather NEPA's EIS process, might be most pertinent to ESG.

ESG — environmental, social, and [corporate] governance — is the most recent buzzword to be applied to companies' recent focus on serving all their stakeholders, not merely their shareholders. Prior buzzwords include: People, Planet, Profit! Environment, Economy, and Society! The Triple Bottom Line! Three Pillars! Three-legged Stool! Each of these buzzwords have been applied to the precursor concepts of corporate social responsibility and corporate sustainability, terms which themselves are confused and confusing. Some explain that corporate sustainability refers to meeting the needs of the present generation without compromising the ability of future generations to meet theirs, and that corporate social responsibility is a broader term, referring to practices a corporation has taken to advance social and environmental causes, looking back at what a company has done rather than at its strategy for the future.

Some distinguish ESG from corporate social responsibility and corporate sustainability saying ESG is outward focused, providing investors with metrics, while the other terms are more inward focused, helping corporations evaluate their own practices although providing a foundation for a strong ESG program. And "governance," to some extent, is apples as compared to the oranges of environmental, social, and economic concerns. Regardless, a key issue to utilizing any of these concepts relates to metrics.

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