

LESSONS LEARNED

December 1, 1999; Issue No. 21

For Fourth Quarter FY 1999

Good Information, Good Government

Using Technology to Improve NEPA Decisionmaking



“By easing citizens’ access to good information, we help to fulfill the vision of NEPA, strengthen our democracy, and ensure a clean, healthy environment for future generations,” President Clinton stated in his recent message to Congress transmitting the latest (1997) Annual Report on Environmental Quality.

The Annual Report, prepared by the Council on Environmental Quality (CEQ), emphasizes the “explosive growth of information” pertaining to environmental issues available on the World Wide Web. CEQ’s Annual Report

provides a comprehensive guide to Federal environmental information resources available electronically and to useful Web sites provided by nongovernmental groups and professional organizations.

“One of the foundations of good government is good information,” President Clinton observed. NEPA is “at its core, a mandate for informed, democratic decisionmaking. And its contribution to environmental protection is incalculable.”

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Managing a National Public Participation Program for the Yucca Mountain EIS

When a proposed action involves 77 sites and 45 states, conducting a meaningful, yet manageable, public participation program requires considerable planning and extra effort. Such is the challenge facing the Office of Civilian Radioactive Waste Management’s Yucca Mountain Site Characterization Office (the Site Office) in providing adequate opportunities for public involvement for the Yucca Mountain Repository EIS.

To date, public comments on the recently issued draft EIS confirm Nevadans’ keen interest in the proposed geologic repository for the disposal of spent nuclear fuel and high-level radioactive waste. Interest is high nationally as well, especially along potential transportation routes. At a recent international conference in Denver on geologic repositories, Secretary of Energy Bill Richardson said, “The management of spent nuclear fuel and high-level waste is an issue that affects us all, and one that we have to address together.”

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Stakeholders at a public hearing in Caliente, Nevada, were interested in local issues such as potential transportation routes in Lincoln County.

Inside *LESSONS LEARNED*

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Carol Borgstrom

Director
Office of NEPA Policy and Assistance

Be Part of Lessons Learned

We Welcome Your Contributions

We welcome suggestions and contributed drafts for the *Lessons Learned Quarterly Report*. Draft articles for the next issue are requested by February 1, 2000. To propose an article for a future issue, contact Yardena Mansoor at yardena.mansoor@eh.doe.gov, or phone 202-586-9326.

First Quarter Questionnaires Due February 1, 2000

Lessons Learned Questionnaires for NEPA documents completed during the first quarter of fiscal year 2000 (October 1 to December 31, 1999) should be submitted as soon as possible after document completion, but no later than February 1, 2000. The Questionnaire is available interactively on the DOE NEPA Web at <http://tis.eh.doe.gov/nepa/> under DOE NEPA Process Information.

For Questionnaire issues, contact Hitesh Nigam at hitesh.nigam@eh.doe.gov, or phone 202-586-0750.

Feedback on LLQR

Do you have a comment or a suggestion? Please submit feedback to either of the contacts listed above.

LLQR Online

Current and past issues of the *Lessons Learned Quarterly Report* are available on the DOE NEPA Web at <http://tis.eh.doe.gov/nepa/> under DOE NEPA Process Information.

LLQR Index

A cumulative index of the LLQR is provided in the September issue each year.

Printed on recycled paper




New Executive Order Addresses Environmental Impacts of Trade Agreements

Executive Order 13141, "Environmental Review of Trade Agreements" (64 FR 63167; November 18, 1999), directs responsible agencies to carefully assess and consider environmental impacts of trade agreements "through a process of ongoing assessment and evaluation, and, in certain instances, written environmental review."

The purpose of the Executive Order is to "further the environmental and trade policy goals of the United States."

Environmental reviews are recognized as an important method to identify potential positive and negative environmental effects of trade agreements. The Executive Order requires environmental reviews to be: (1) written, (2) published in the *Federal Register* to solicit public comment on both the proposed agreement and scope of

the review, (3) developed early in the negotiating process, (4) available for public comment in draft form, where practicable, (5) released to the public in final form, and (6) focused on impacts in the United States and, as appropriate, global and transboundary impacts.

Among other provisions, the Executive Order designates the United States Trade Representative and the Chair of the Council on Environmental Quality to manage its implementation and develop procedures in consultation with appropriate foreign policy, environmental, and economic agencies. The Trade Representative is also responsible for conducting the environmental reviews through the Interagency Trade Policy Staff Committee. 

CEQ Annual Report (continued from page 1)

Part I of the CEQ Annual Report is devoted to NEPA: Using Information Technology to Improve NEPA Decisionmaking and Management, and Selected NEPA [Litigation] Cases in 1997. CEQ's Web site and its component sites are described: NEPANet, the DOE NEPA Web, the U.S. Geological Survey's Environmental Impact Analysis Data Links, and the Virtual Law Libraries.

The Annual Report envisions continued Federal agency progress in "reengineering information technology" to provide environmental information quickly and efficiently to the interested public and within the community of environmental professionals.


Nevertheless, the Annual Report notes that not all Americans have access to computer technology. Therefore, CEQ "continues to recommend and follow a dual course of providing information in traditional paper format as well as on the Internet."

Part II of the CEQ Report describes Environmental Quality Trends and Access to Information Resources. Each chapter (e.g., Ecosystems and Biodiversity, Air Quality, Aquatic Resources, Energy, Pollution Prevention, Recycling, Toxics and Waste) includes a description of current environmental trends and a listing of useful online sources of information. Part III includes statistical tables covering Environmental Data and Trends. The Report is available on the White House Web site at <http://www.whitehouse.gov/ceq>.

DOE a Leader in NEPA Web Resources

DOE has been a leader in developing the CEQ Web resources. In 1994, at CEQ's request, DOE designed the CEQ Web site and NEPANet. DOE continues to host and maintain NEPANet, and serves

as a consultant to other agencies in the development of their NEPA resources. Acting CEQ Chair George T. Frampton, Jr., in an October 18, 1999, letter to David Michaels, DOE's Assistant Secretary for Environment, Safety and Health, acknowledged the "essential role" EH staff played in making NEPANet a success. The DOE NEPA Web (<http://tis.eh.doe.gov/nepa/>) and NEPANet (<http://ceq.eh.doe.gov/nepa/nepanet.htm>) have been featured in *Lessons Learned Quarterly Reports*: September 1999, September 1998, and June 1997.

For further information on the DOE NEPA Web or NEPANet resources, contact Lee Jessee, DOE NEPA Webmaster, at lee.jessee@eh.doe.gov, or phone 202-586-7600. 



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

October 18, 1999

The Honorable David Michaels, Ph.D.
Assistant Secretary for Environment,
Safety and Health
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Dr. Michaels:

Enclosed is a copy for you of our most recent CEQ Annual Report. This Report, covering the calendar year 1997, focuses on the World Wide Web and its essential role in increasing both the public awareness and efficiency of the National Environmental Policy Act. Neither the Report nor the underlying Web presence for NEPA could exist today without the hard work and careful engineering of your NEPA Web team.

Throughout the first twenty-five years of NEPA's existence, numerous environmental analyses on federal, tribal, state and local government projects were performed. However, valuable data contained in these analyses were not stored in a retrievable manner. In 1993, CEQ became aware of the efforts of your organization to use World Wide Web technology as part of the NEPA education process and worked with your dedicated staff to promote a NEPA Web presence that would encourage synergy among environmental disciplines needed to integrate the contents of environmental analyses over time and geography.

Lee Jessee, Steve Madaras, Steve Scott and Betty Beavers have each contributed to this effort, through which agency-specific NEPA and related data sets were consolidated into one national Web resource, called NEPANet. This work represents a benchmark for advancing the NEPA process and public access. It is now a primary reference source cited at all NEPA seminars, in NEPA treatises and throughout the environmental community we serve.

Thank you for the essential role your staff played – and continues to play – in making NEPANet a success. Your continued support of our Administration's NEPA goals is greatly appreciated.

Best regards,

George T. Frampton, Jr.
Acting Chair

GTF/dss

Repository Public Participation Program (continued from page 1)

The Site Office faced a logistical challenge in planning for public participation because it could not possibly have a hearing in every city that might want one. This required an appropriate balancing of limited resources with the desire to meet and listen to all interested parties. "We have tried to encourage as much public participation as possible by soliciting comments through the public hearing process, the project Web site, a toll-free telephone number, and other methods. In addition, because the draft EIS is a complex document, we have provided background information at the hearings and through our information products to help explain the key issues," said Wendy Dixon, EIS Program Manager.

Six-month Comment Period

The 180-day comment period for the Yucca Mountain Draft EIS extends through February 9, 2000. (For comparison, the average public

comment period for DOE programmatic and site-wide EISs issued since 1994 was about 80 days, and the longest was 120 days.) During this time, 17 hearings have been scheduled: ten in Nevada and seven elsewhere across the country. As of the end of November, approximately 300 people have given formal statements and

more than 1,000 persons have attended ten hearings. Lake Barrett, Acting Director, Office of Civilian Radioactive Waste Management, said, "The essential purpose of the public comment period and hearing process is to provide an opportunity for the Department to receive comments from our stakeholders. That's what we want, and that's what we are getting."

Nation-wide EIS Distribution

Several months before issuing the draft EIS, the Site Office sent post cards asking about EIS format preferences (paper copy, CD-ROM, or both) to individuals and groups who had indicated an interest in the Yucca Mountain Project, including scoping process participants. (See related article on CD-ROM publishing, page 8.) Based on the responses, the Site

Office produced 3,000 CD-ROM copies of the draft EIS and sent more than 2,200 of them to people in all 50 states – Federal, state, tribal and local government officials and agencies, and other persons known to be interested. Further, the Site Office placed the 1,670-page draft EIS in 38 reading rooms across the country, and posted it on both the Department's NEPA Web (<http://tis.eh.doe.gov/nepa/>) and the Yucca Mountain Project Web site (<http://www.ymp.gov>).

Because of the large number and volume of EIS reference materials (423 documents, 65,000 pages) – enough to fill a small library – making them widely available posed a special challenge. The Site Office has placed a complete set of all paper copy references in four public reading rooms

(three in Nevada and one in Washington, DC), and is using electronic means to make the references more widely available. The Site Office electronically scanned the non-copyrighted references, posted them on the Yucca Mountain Project Web site, and made CD-ROMs that were placed in 38 reading rooms.

Public Hearings

While a public hearing provides an opportunity to make oral comments on the draft EIS, it also encourages

discussion and mutual understanding of the proposed action and the NEPA process, and provides an opportunity for interested people to meet one another and listen to each other's concerns.

To promote participation, the Site Office advertises each hearing in local newspapers, including Spanish-language newspapers where available. The Site Office also faxes announcements to 160 media outlets, including radio, television, print media and scientific journals, stakeholder organizations, and Affected Units of Local Government (as defined by the Nuclear Waste Policy Act). Elected officials in each hearing location, including Members of Congress, governors, county commissioners, and mayors, receive special notices via fax. Further, the Site Office posts hearing notices in community centers, libraries, and other public bulletin boards for Nevada hearings when possible.

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The Caliente Youth Center provided a comfortable setting for stakeholders to express their views and concerns.

Repository Public Participation Program (continued from page 4)

The hearings include DOE's brief introduction and an informal (not recorded) question and answer session. This is followed by a formal session at which comments are recorded. Several stakeholders requested this format to obtain more information about the project and to help people prepare their formal comments.

Other successful measures include use of an independent facilitator and providing fact sheets and other informational materials. Tailoring the fact sheets and the DOE introductory remarks to address local concerns, such as local transportation, has been especially effective.

In general, the Site Office has chosen meeting places that would maximize local public participation. For example, the Caliente Youth Center in Lincoln County, Nevada, provided a comfortable, familiar, and central gathering place.

Locating the hearing in Washington, DC, at an easily accessible facility near the Capitol fostered public participation and was convenient for Members of Congress and their staffs. About 30 people commented formally, including supporters and opponents of the proposed action. The 140 attendees included representatives of stakeholder organizations, Indian tribes, government agencies, states, public utilities and commercial interests, news media, and concerned citizens. A nearby park provided the setting for a peaceful rally for stakeholders opposed to the proposed action, which attracted additional news media interest.

Major Public Concern: Transportation

A major concern, expressed at all of the hearings, is the safety of transporting radioactive wastes to a repository. Many commentators want to know specifically what roads or railway lines DOE would use. The draft EIS analyzes national transportation routes that meet Department of Transportation regulations for highway shipments and follow standard industry practices for rail. Separately, the

draft EIS analyzes alternative transportation corridors within the State of Nevada for the potential construction of a rail line. Although this EIS may be used to select a rail corridor, additional NEPA documentation will be necessary to select an alignment within that corridor.

Tours – Bringing People to the Mountain

The Site Office routinely conducts tours of the Yucca Mountain Site for interested individuals and groups, and also provides a monthly public open house tour for the general public. In 1999, seven open house tours brought over 1,500 visitors to the Site. These are excellent opportunities for people to learn about the project and the EIS from DOE's technical experts.

Other Information Meetings

The Site Office meets regularly with interested parties in Nevada, including Tribal Nations and Affected Units of Local Government, to provide updates on the project and the EIS and exchange information. Shortly before DOE issued the draft EIS, the Site Office held three public update meetings, in Las Vegas, Amargosa Valley, and Reno, Nevada. Meetings with involved tribes resulted in the tribes producing a reference document to the draft EIS dealing with tribal issues and concerns.

Next Steps

The Nuclear Waste Policy Act directs the Secretary of Energy to determine whether to recommend to the President that the Yucca Mountain Site be developed as a geologic repository. The final EIS, which will address public comments, must accompany any such recommendation. The Office of Civilian Radioactive Waste Management plans to issue a final EIS in November 2000, and then, also using additional information required by the Nuclear Waste Policy Act, determine whether to recommend the Site.



When Planning Public Events, Consider Location and Access

Recently, DOE was criticized for conducting a public scoping meeting in Portland, Oregon, at a downtown hotel where parking is expensive. On the other hand, the public hearing for the Yucca Mountain EIS in downtown Washington, DC, was convenient to public transportation and within walking distance of Capitol Hill.

When selecting locations for scoping meetings and similar public events, balance considerations of public accessibility and cost. Central city locations are likely to be accessible by public transportation but impose high parking fees on those who drive. Suburban locations are likely to require that attendees have private transportation but may offer free parking.

Deregulated Energy Market Poses NEPA Process Challenges for Western Area Power Administration

Deregulation of the electric industry is bringing NEPA challenges to DOE's Power Marketing Administrations, as well as to regulatory and reviewing agencies. Within the industry, deregulation has led to the rise of "merchant power plants" – power-generating facilities that are not owned by a utility and have no long-term obligation to sell the energy they generate to a utility. Merchant plants usually sell power to retail and wholesale customers on a mid- or short-term basis.

The Western Area Power Administration (Western) operates and maintains a high-voltage electric transmission system in 15 western states. Under Federal Energy Regulatory Commission (FERC) Order 888 (1996), public utilities that own or control interstate transmission lines must offer open access transmission services. While Western is not a public utility by law, it nevertheless is operating under the intent of the FERC Order through Western's 1998 Open Access Transmission Service Tariff. This Tariff specifies that if capacity is available on the requested transmission line, Western must provide nondiscriminatory access. Under DOE NEPA regulations, Western is required to prepare an EIS for proposals to incorporate new power sources (i.e., "interconnect" proposals) greater than 50 megawatts into its system.

In this article, Western's EIS Document Managers describe lessons learned in NEPA compliance on two merchant plant interconnection projects – the Sutter Power Plant in California, and the Griffith Power Plant in Arizona. Western learned the following lessons from these projects that may apply to the broader DOE NEPA community: (1) Integrating the NEPA process with another agency's assessment processes requires planning to address potential complications; and (2) Before committing resources to the NEPA review, be sure that project components are adequately defined.

Sutter Power Plant and Transmission Line EIS: *Look Ahead for Potential Complications in Integrated Review Processes*

By: Loreen McMahon, *Environmental Project Manager and NEPA Document Manager, Sierra Nevada Region, Western Area Power Administration*

In 1997, Calpine Corporation asked Western to agree to transmit power to be produced by Calpine's proposed merchant plant. Calpine proposed to construct a 500-megawatt, natural gas-fueled, combined-cycle, electric generation facility on 77 acres in Sutter County, California, and interconnect its facilities to a Western transmission line. The project would be funded by the applicant.

A Combined Federal-State Process

Because the Sutter Power Plant was the first merchant plant to be built in California under deregulation, the project review process was a new one for Western – and for the California Energy Commission (CEC), the state agency responsible for permitting new plants. In California, the CEC's siting process, which includes issuing Preliminary and Final Staff Assessments of the potential environmental impacts, is functionally equivalent to the California Environmental Quality Act (CEQA) process.

Western and CEC conferred on combining the two environmental review processes and agreed to act as joint lead agencies for the purposes of NEPA and CEQA, respectively. Combining documents – specifically, by integrating the NEPA elements into the CEC Final Staff

Assessment so it could serve as the Draft EIS – could eliminate duplication of analyses and streamline processes, a potential benefit to the agencies and the public.

Extensive Public Involvement

In general, this integrated approach worked well, particularly for public involvement. Western and CEC held more than 20 public meetings, data request workshops, evidentiary hearings, and committee conferences, mostly in the local area, to inform and involve the public. This resulted in a more extensive public involvement process than usual under NEPA. Although the public meetings were costly for the agencies and the applicant, time-consuming for the public, and became somewhat redundant as issues were repeated, the public provided valuable information and the project proponent adopted many suggestions.

Challenges of an Integrated Process and Deregulation

The CEC process in many ways is similar to a judicial proceeding. The CEC Preliminary and Final Staff

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Assessments consist of a series of individually authored statements on environmental impact areas, such as air quality or cultural resources. The authors swear under oath to their analyses and conclusions. The Commission does not analyze or endorse the statements as official positions, but considers them as testimony of individual expert staff. This posed a problem when Western disagreed with an analysis because CEC does not require its staff to modify their testimony to respond to comments, even from an agency with joint authorship and responsibility. This conflict became most apparent where the state and Federal processes differed, such as in dealing with alternatives, characterizing “significance,” and incorporating mitigation.

Merging the documents posed perhaps the biggest challenge. Western adopted the CEC format because the NEPA regulations provide greater format flexibility than CEC’s process. The Environmental Protection Agency staff, however, had difficulty reviewing the report as a NEPA document. They were invited into the process early, and to the meetings. Nevertheless, EPA chose to rely primarily on formally commenting to Western on the Final Staff Assessment/Draft EIS. Earlier substantive discussions would have facilitated their understanding of the underlying issues of this unique project.

Western Decided to Issue a Separate Final EIS

After CEC and Western issued the Final Staff Assessment/Draft EIS, Western reexamined the remaining CEC process and determined that combining the CEC’s Presiding Members Proposed Decision (PMPD) with the Final EIS would not be appropriate. This is because the PMPD provides a judicial recommendation for a project decision, which is more definitive than a “preferred alternative” designation. Western determined that it would have been inappropriate to label its Final EIS as a “proposed decision.” Therefore, Western issued its own Final EIS and Record of Decision. This approach also provided Western the opportunity to structure the Final EIS in standard NEPA format and clarify other aspects of the Draft EIS. Because Western did not anticipate this separation, it posed last-minute resource problems.

As a result of the NEPA process, the applicant made adjustments to conserve natural resources and protect the environment, including a major and costly design change from a water-cooling system to dry-cooling to avoid the potential for groundwater drawdown and warm water discharge into irrigation systems. In the end, the NEPA review achieved its goal of helping the participants to make environmentally informed decisions.

For more information, contact Loreen McMahan at mcmahan@wapa.gov, or phone 916-353-4460.

Griffith Power Plant and Transmission Line EIS:

Be Sure Projects Are Adequately Defined before Undertaking an EIS


By: Dave Swanson, NEPA Document Manager, Corporate Services Office, Western Area Power Administration

Griffith Energy, LLC, applied to Western for transmission access in 1997. The company planned to construct a 520-megawatt natural-gas-fired, combined-cycle merchant power plant on 40 acres in Mohave County, Arizona, and asked to connect this facility with Western’s transmission system near Kingman, Arizona. Western, funded by the applicant, would construct the connecting transmission lines and substation. The Bureau of Land Management was a cooperating agency in the NEPA review.

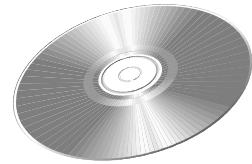
Western agreed to conduct a transmission system impact study, and, with Griffith Energy, set the environmental review schedule to accommodate a year-2000 power plant operation date. Western used the EIS scoping results to define the study area in which environmental resource data would be collected. Western conducted the scoping process for the EIS before finishing the system impact study, but determined from the finished study that

additional system improvements were needed to accommodate expected power flows from Griffith’s power plant. The environmental analyses were stopped and Western reopened scoping to address these improvements, which extended the schedule for the environmental review process. Western then determined that the applicant would need to obtain additional environmental resource data and analysis to address the potential effects of the additional system improvements.

For future projects with system impact study requirements, Western will ensure that all project components have been adequately defined before closing the EIS scoping process and starting the environmental analyses.

For more information, contact Dave Swanson at swanson@wapa.gov, or phone 720-962-7261 (new phone number effective December 9, 1999). 

CD-ROM – A Useful Complement to Printed NEPA Documents?



On occasion, DOE and other Federal agencies distribute EISs and supporting documents on CD-ROM (Compact Disc-Read Only Memory) to some recipients as a partial alternative to distributing only paper copies. For a DOE EIS, however, CD-ROM publishing is at most an adjunct to preparing a required electronic file that EH publishes on the DOE NEPA Web. Most of the convenience and functional features of CD-ROMs as an alternative to paper NEPA documents, as discussed below, are greater with Web publication.

Decide Early Whether to Use CD-ROM Publishing

Stakeholder demand for a DOE NEPA document on CD-ROM should be determined early during document development, primarily to allow time to plan an overall publication strategy and make any necessary technical arrangements. (For example, DOE NEPA Document Managers have mailed inquiries to a preliminary distribution list and have inquired at public meetings and through announcements and Web pages.) The CD-ROM format may appeal most to people who are facile with computers but do not have access to the Internet.

NEPA practitioners experienced in CD-ROM publishing report diverse advantages and disadvantages of this distribution method. For this article, *Lessons Learned* staff consulted several DOE offices, other Federal agencies, and contractors who have used CD-ROMs to distribute NEPA documents. (See related article on the Yucca Mountain EIS, page 1, which was distributed, in part, on CD-ROM.)

Advantages of CD-ROM versus Paper

Cost savings. CD-ROMs are generally less expensive to produce, package, and distribute than paper copies, especially in large batches. Replication costs of CD-ROMs are lower, and color is not a cost factor as it is for paper copies. The smaller size of a CD makes packaging easier and shipping less expensive. For example, mailing a five-pound EIS coast-to-coast would cost about \$6.45, while mailing a CD-ROM with an accompanying letter would cost \$1.21 – a sizable difference if many copies are involved. (As reported in *Lessons Learned Quarterly Report*, June 1999, page 7, publishing the 30 reports that comprise the Los Alamos National Laboratory Habitat Management Plan on CD-ROM saved \$40,000.)

Ease of use. Instead of having to thumb through many printed pages, a CD-ROM user can search large volumes of data electronically if the CD-ROM contains a search engine. CD-ROM users may search by key words and create bookmarks. When formulating comments, CD-ROM users can quickly locate the sections they need, then copy and paste text into their comments.

Portability. CD-ROMs are much easier to transport than paper copies.

Less Time to Produce. Once the planning and formatting for a CD-ROM is done, it takes less time to produce the CD-ROM copies than to print similar quantities of paper copies.


Reduced Storage Space. CD-ROMs consolidate a lot of information into a small space. CD-ROMs also allow compact storage of one “original” from which multiple paper copies can be printed later as needed.

Disadvantages of CD-ROM versus Paper

More Early Planning Required. Using a CD-ROM to publish and distribute documents requires more planning and access to CD-writing hardware, software, and a specialist’s services.

Ensuring Compatibility. CD-ROMs should be formatted for both Windows and Macintosh readability.

In summary, so long as DOE continues to distribute NEPA documents in paper and Web-accessible electronic formats, it is not clear that CD-ROM versions should routinely be made available. Rather, it seems better to first check whether there is sufficient stakeholder interest in CD-ROM before deciding to produce that additional format.

Note: CD-ROM may not meet EH electronic file requirements for Web publishing. See “NEPA Document Electronic Publishing Standards and Guidelines,” Office of Environment, Safety and Health, October 1998, available on the DOE NEPA Web. 

Pollution Prevention and NEPA

This article reminds readers of DOE, Council on Environmental Quality (CEQ), and Environmental Protection Agency (EPA) guidance on considering pollution prevention in the NEPA process.

Major environmental laws enacted in the 1970s and 1980s (e.g., Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act) focused on controlling pollution and cleaning up immediate environmental problems, largely by limiting releases to environmental media. These laws have brought about substantial improvements in environmental quality, but they do not encourage consideration of the multimedia “big picture.” They create no direct incentives to reduce pollution at the source.

Recognizing this, Congress passed the Pollution Prevention Act in 1990 (42 U.S.C. 13101 et seq.), which established a national policy to prevent or reduce pollution at the source, recycle waste, treat pollution in an environmentally safe manner, and dispose of waste only as a last resort.

DOE Guidance on Pollution Prevention and NEPA

A 1992 memorandum from the Office of NEPA Policy and Assistance to NEPA Compliance Officers encouraged the use of the NEPA process to incorporate pollution prevention principles into DOE’s planning and decision

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Recent Conference Spotlights NEPA and Pollution Prevention

At the DOE Pollution Prevention Conference held in Albuquerque, New Mexico, November 15-19, 1999, Mary Greene, from the Office of NEPA Policy and Assistance, chaired a session entitled “NEPA, Pollution Prevention and Clean Air Act Conformity: Working Together for a Common Goal.” Ms. Greene reviewed the existing guidance on pollution prevention and NEPA (next page) and discussed the recently issued DOE draft guidance on “Coordinating Clean Air Act Conformity Requirements and the NEPA Process” (page 11).

The Council on Environmental Quality guidance on pollution prevention (58 FR 6478; January 29, 1993) encourages all Federal agencies to incorporate pollution prevention principles, techniques, and mechanisms into their NEPA planning, decision making, and document preparation. In Albuquerque, three NEPA practitioners related recent experiences coordinating pollution prevention efforts with the NEPA process.

- Mike Hickman, an engineer with the Savannah River Operations Office, discussed concurrent preparation of the *Process Waste Assessment*, *Pollution Prevention Design Assessment* and the *EIS for the Construction and Operation of a Tritium Extraction Facility at the Savannah River Site*. Mr. Hickman indicated that the Design Assessment helped to identify more than 50 pollution prevention opportunities that were incorporated into the proposed action analyzed in the NEPA review.

- Douglas Chapin, a physical scientist with the Richland Operations Office, and Rajendra Sharma, NEPA Compliance Officer for the Office of Nuclear Energy, discussed how a waste minimization and management plan is being developed for the Fast Flux Test Facility. The Facility is evaluated in the EIS being prepared for *Accomplishing Expanded Civilian Nuclear Energy Research and Development and Isotope Production Missions in the United States*. Mr. Chapin indicated that the plan would focus on using less hazardous substances and reducing waste generation, and would provide information for the Fast Flux Test Facility analysis in the EIS.

Some conference participants indicated that the Department should, but often does not, take credit for pollution prevention efforts that become integral to the proposed action or alternatives. Others recommended increased emphasis on pollution prevention in NEPA reviews of proposed actions.

Incorporating pollution prevention efforts within NEPA reviews will help meet Secretary Richardson’s pollution prevention and energy efficiency goals announced at the Pollution Prevention Conference. The goals set targets for reducing the generation of solid, hazardous, and radioactive waste; improving energy efficiency; reducing the use of ozone-depleting substances and emission of greenhouse gases; buying items with recycled content; and increasing vehicle fleet efficiency and use of alternative fuels.

Existing Pollution Prevention and NEPA Guidance

Documents marked with “*” may be found in the DOE NEPA Compliance Guide and also on the DOE NEPA Web at <http://tis.eh.doe.gov/nepa/> under DOE NEPA Tools.

- 1992** DOE’s Office of NEPA Policy and Assistance guidance on Integrating Pollution Prevention with NEPA Planning Activities *

DOE’s Policy on Waste Minimization and Pollution Prevention

- 1993** CEQ’s Memorandum to Federal Agencies on Pollution Prevention and the National Environmental Policy Act *

EPA’s Guidance on Incorporating EPA’s Pollution Prevention Strategy into the Environmental Review Process *

- 1994** DOE’s Office of Energy Research Guidance on Incorporating Pollution Prevention into the National Environmental Policy Act (NEPA) Process, <http://epic.er.doe.gov/epic/scripts/epic.exe?ShowProfile/388>

- 1995** EPA’s Pollution Prevention/Environmental Impact Reduction Checklists for NEPA/309 Reviewers, <http://es.epa.gov/oeca/ofa/pollprev.html>

- 1996** DOE’s Pollution Prevention Program Plan
DOE’s Office of Environmental Management Guidance on Incorporating Pollution Prevention into the National Environmental Policy Act Process

Other references

- The DOE Pollution Prevention Information Clearinghouse Home Page is found at <http://epic.er.doe.gov/epic/>.
- ESAVE (formerly Pollution Prevention Advisor), the DOE Defense Programs Quarterly Newsletter, is available at www.dp.doe.gov/dp45/p2/.
- The DOE Office of Environmental Management Pollution Prevention Home Page is at www.em.doe.gov/wastemin/.

Pollution Prevention (continued from page 9)

making, in anticipation of CEQ and EPA guidance. The Office of Science (formerly Energy Research) issued its own guidance entitled “Incorporating Pollution Prevention into the National Environmental Policy Act Process” in September 1994 (ER NCO Communication 94-05). Other Offices, including Environmental Management and Defense Programs, also have provided pollution prevention guidance, but not with a NEPA focus.

CEQ and EPA Guidance

CEQ has issued guidance to Federal agencies emphasizing that NEPA provides “a longstanding umbrella for a renewed emphasis on pollution prevention in all federal activities” (58 FR 6478; January 29, 1993). The CEQ guidance provides techniques for incorporating pollution prevention into Federal planning and decision making processes and for reporting on those efforts in NEPA documents. CEQ indicated that Federal policies, projects, procurements, and approvals are all areas in which pollution prevention efforts might be warranted. In addition, CEQ noted that pollution prevention could be incorporated into the NEPA process through scoping, the description of the proposed action and alternatives, and mitigation.


EPA’s Office of Federal Activities issued guidance in February 1993 to promote a clearer understanding of how pollution prevention can be incorporated into the NEPA environmental review process. In addition, in January 1995, EPA issued pollution prevention checklists for 30 types of projects (including energy management, power plants, hazardous waste incinerators, hazardous materials storage and treatment facilities, and cleanup activities).

Recommendations for Incorporating Pollution Prevention in the DOE NEPA Process

Implementing pollution prevention principles is good management and the right thing to do, consistent with the letter and spirit of NEPA, compliant with laws and guidance, and likely to produce efficiencies and savings. Pollution prevention approaches must be incorporated into project plans, however, not just discussed as elements in a NEPA review. The following recommendations, based on CEQ and EPA guidance, may assist in identifying and incorporating pollution prevention into the NEPA process and project decision making.

continued on next page

Pollution Prevention (continued from page 10)

- Evaluate early in project planning the potential for including pollution prevention in a proposed project. Potential approaches include reducing the amount or toxicity of waste generated; substituting materials; increasing efficiency in use of raw materials, energy, and water; purchasing energy-efficient equipment or materials with recycled content; modifying procedures to reduce waste; and reusing or recycling materials on the same or another project.
- In an EIS Notice of Intent, explicitly include pollution prevention as a scoping topic. Define pollution prevention and include examples to stimulate stakeholders' consideration of the subject.
- Design the proposed action and alternatives with pollution prevention approaches incorporated as project features. For example, when proposing the size and location of a facility, consider how its impacts depend on its size and on its distance to sensitive resources or transportation routes. In an EA or EIS, identify particular pollution prevention measures that were incorporated into the proposed action and alternatives and describe how they would reduce or prevent pollution.
- Identify recycling and energy recovery options in an EA or EIS that would be employed if the proposed action or alternatives were implemented.
- In an EA or EIS, identify pollution prevention approaches that could be mitigation measures and describe how they could reduce or prevent pollution.
- Consider including a distinct section entitled "Pollution Prevention" in an EA or EIS. This section could recap the pollution prevention measures incorporated into the proposal, alternatives, and potential mitigation measures. 

Guidance Update: Clean Air Act Conformity and NEPA

Draft Guidance Issued – Comments Requested

The Office of Environment recently distributed draft guidance to help the DOE environmental community integrate Clean Air Act (CAA) conformity requirements for criteria pollutants and the NEPA process. (Conformity refers to emissions of criteria pollutants being consistent with an implementation plan, usually a state plan.) In a November 12, 1999, memorandum, Ray Berube, Deputy Assistant Secretary for Environment, asked environmental managers and NEPA Compliance Officers to follow the draft guidance on an interim basis, pending revision in response to comments, which he requested by January 7, 2000.


The draft – "Guidance on Clean Air Act (CAA) General Conformity Requirements and the National Environmental Policy Act (NEPA) Process" – describes how to apply the conformity requirements to proposed actions, address conformity requirements in NEPA documents, and coordinate the CAA conformity and NEPA public participation processes.

Under the guidance, DOE is to conduct a conformity "review" process for all proposed actions (and alternatives). The steps in the conformity review process lead to a conclusion on whether the conformity

requirements apply to an action, and therefore, whether a conformity "determination" is needed for the action.

Also, under the guidance, DOE is to prepare a conformity determination, when needed, only for the preferred alternative in an EA or EIS, unless circumstances warrant determinations for other alternatives. The determination process leads to conclusions on how an action would conform to an implementation plan, including what mitigations would be necessary. It may be beneficial to conduct determinations for alternatives other than the preferred alternative if time is at a premium (in case the preferred alternative would not succeed for any reason) or if DOE wanted to know the full cost requirements (including costs for mitigations) before choosing among alternatives.

Ted Koss, an air specialist in the Office of Environmental Policy and Assistance, provided assistance in developing the guidance.

The draft guidance is posted on the DOE NEPA Web at <http://tis.eh.doe.gov/nepa/> under DOE NEPA Tools. Please provide comments through your NEPA Compliance Officer. Direct any questions to Mary Greene at mary.greene@eh.doe.gov or phone 202-586-9924. 

Considering National Natural Landmarks in NEPA Reviews

Park Service Issues Revised Regulations

National natural landmarks – areas designated by the Secretary of the Interior as outstanding examples of the nation’s major biological and geological features – are among the environmentally sensitive resources to be considered in all NEPA reviews. These areas include terrestrial and aquatic natural ecosystems, landforms, geological features and processes, habitats of native plant and animal species, and fossil evidence of the development of life. The National Park Service has issued revised regulations (64 FR 25708; May 12, 1999, effective June 11, 1999) for the National Natural Landmark Program (36 CFR Part 62), which state (62.6(f)): “Federal agencies should consider the existence and location of designated national natural landmarks, **and of areas found to meet the criteria for national significance**, in assessing the effects of their activities under [NEPA].” (The revision is in boldface type above.)

“National significance,” as defined in the Department of the Interior’s regulations (36 CFR 62.2), refers to an area that is one of the best examples of a biological community or geological feature within a natural region of the United States. The primary criteria for determining national significance are illustrative character and present condition of the feature. Secondary criteria include rarity, diversity, and value for science and education.

Landmark Program in Effect Since 1962

The National Natural Landmark Program was established by the Secretary of the Interior in 1962 under the authority of the Historic Sites Act. Currently, the National Registry of Natural Landmarks lists 587 sites in 48 states (all except Delaware and Louisiana), the U.S. Virgin Islands, Puerto Rico, and the Pacific Trust Territories. Approximately half are administered solely by Federal, state, county, or municipal governments; nearly one-third are privately owned; and the rest are owned or administered by a mix of public and private owners.

Designation as a landmark could have state or local planning and land use implications, but is not a land withdrawal, does not change the ownership, and does not dictate activity. The program seeks to identify and preserve nationally significant examples of the nation’s natural heritage while respecting ownership interests.

In issuing the revised regulations, the National Park Service lifted a 10-year moratorium on designation of new national natural landmarks. Several thousand candidates, or “potential national natural landmarks,” were identified

in inventories funded by the Park Service between 1971 and 1986. Federal agencies and other organizations also may recommend sites for consideration.



Park Service Provides Requested Information for NEPA Reviews

When the National Park Service participates in scoping or reviewing a draft EIS, the Service will notify a Federal agency of a national natural landmark near a proposed action. But the National Park Service does not participate in all DOE EISs, and a NEPA Document Manager may appropriately ask the Service for information on national natural landmarks that may be affected by a proposed action or on potentially affected areas that meet the national significance criteria. For an EA, which often would not come to the Park Service’s attention, it is also necessary to determine whether there could be significant impacts to any such resources.

Recommendations for DOE NEPA Practitioners; Consult with the Park Service

- When it is not clear whether a proposal might affect a national natural landmark or an “area that meets the significance criteria,” contact the appropriate

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Park Service Coordination on NNL Part of Scoping for Recent EIS

During scoping for the Arizona-Sonora Interconnect Project (DOE EIS-0307), Margaret Brooks, the National Natural Landmarks Coordinator for the Park Service’s Intermountain Region informed DOE’s Office of Fossil Energy that one of the proposed transmission line corridors might affect the Patagonia-Sonoita Creek national natural landmark in Santa Cruz County, Arizona, and recommended that the EIS address any associated potential impacts. This landmark is a permanent stream-bottom habitat supporting rare aquatic biota, including the Gila topminnow, and the only known U.S. nesting spot for a rare bird, the rose-throated becard. (See *Lessons Learned Quarterly Report*, September 1999, page 1.)

National Natural Landmarks (continued from page 12)

National Natural Landmarks Field Coordinator (box, right) to request information needed to determine potential impacts.

- For a categorical exclusion, ensure that the proposed action meets the DOE NEPA regulations, which identify national natural landmarks as one of the environmentally sensitive resources that must not be adversely affected for a proposed action to qualify for categorical exclusion (Appendix B.(4)(iv)).
- For an EA or EIS, assess potential impacts to national natural landmarks or areas found to meet the criteria for national significance. If the action would not affect any national natural landmarks, state this in the EA or EIS.

For more information about the National Natural Landmark Program, visit the Park Service's Web site at <http://www.nature.nps.gov/partner/nnlp.htm>. For additional information, contact the National Natural Landmark Program National Coordinator at 202-219-8934 or a Field Coordinator. 

National Natural Landmarks Field Coordinators

Northeast Region

CT, MA, ME, NH,
NJ, NY, RI, VT
Carol Daye
617-223-5064

PA, VA, WV
Stephen Smith
215-597-5199

National Capital Region

KY, MD, NC, VA, WV
Ann Brazinski
703-285-2558

Southeast Region

AL, FL, GA, LA, MS, PR,
SC, TN, VI
Chuck Schuler
404-562-3113

Midwest Region

AR, IA, IL, IN, KS,
KY, MI, MN, MO, ND,
NE, OH, SD, WI
Michael Gallagher
402-221-3418

Intermountain Region

CO, MT, UT, WY
Karen Scruby
303-969-2929

AZ, NM, OK, TX
Margi Brooks
520-670-6501 ext. 232

Pacific West Region

ID, OR, WA
Steve Gibbons
M-W 360-856-5700
ext. 306

Thurs. 206-220-4105

American Samoa, CA,
Guam, HI, NV
Jonathan Bayless
415-427-1427

Alaska Region

AK
Judy Alderson
907-257-2635

An EIS Must Include Its Distribution List

The Council on Environmental Quality (CEQ) NEPA regulations at 40 CFR 1502.10 require that an EIS include a list of agencies, organizations, and individuals to whom copies of the EIS are sent. This requirement does not distinguish between a draft and final EIS.


Having a reliable record of EIS distribution is also a useful management tool, particularly for follow-up public involvement such as distributing a Record of Decision (*Lessons Learned Quarterly Report*, June 1999, page 10) or preparing a Supplemental EIS. A distribution list also can prove helpful in litigation. When a litigant raises issues regarding the adequacy of public notice, the distribution record can help demonstrate DOE's compliance with requirements. Recently, when DOE was questioned regarding distribution of an EIS to an adjoining state, it was helpful to refer to the distribution list printed in the EIS.

Recommendations for DOE NEPA Practitioners

The NEPA Document Manager should plan, develop, and maintain a distribution list throughout the entire EIS document preparation and publication process.

- Plan the distribution list from the beginning based on early knowledge of parties interested in the proposed action, such as is obtained during EIS scoping.
- Identify people who are interested in DOE actions generally, and are likely to be interested in the proposed action.

- Use resources such as Program or Field Office mailing lists and the "Directory of Potential Stakeholders for DOE Actions under the National Environmental Policy Act," which the Office of NEPA Policy and Assistance publishes in January and July of each year.
- As appropriate, coordinate with field and headquarters public affairs staffs, and headquarters Congressional Affairs staff.
- Assemble the distribution list before the draft or final EIS is at the approval stage to avoid delaying document printing.
- Develop the final EIS distribution list by modifying the draft EIS distribution list; include people who request the draft EIS after its initial distribution and those who comment on the draft EIS.
- Indicate which parties on the distribution list received the entire EIS and which received only the summary, if distribution is made under 40 CFR 1502.19.
- Do not publish personal contact information, such as full addresses, for private individuals.

For further assistance in planning EIS distribution, contact your NEPA Compliance Officer. For matters regarding the DOE NEPA Stakeholders Directory, contact Katherine Nakata at katherine.nakata@eh.doe.gov or phone 202-586-0801. 

Significant Reforms Achieved Under DOE-Wide NEPA Contracts

By: Dawn Knepper, Contracting Officer, Albuquerque Operations Office

The success of the DOE-wide NEPA contracts continues to expand. So far, 13 different DOE offices and contractors have issued 50 task orders for a value of more than \$32 million. More than 90 percent of awards (by value) were made using competitive proposals. More than 50 percent of awards (by value) were made on a fixed-price or incentive-fee basis. The administrative lead time to make a task order award averages 23 calendar days. Clearly, the DOE-wide NEPA contracts have helped to fulfill the vision of NEPA contract reform.

How have the DOE-wide NEPA contractors been performing? Excellent! Remember that document managers are required to evaluate contractor performance annually and at the completion of each task order.

Performance Quality

Twenty of the task orders issued are physically complete. The average performance rating for NEPA task orders is "excellent," a numerical score of 4.3 points on a scale of 1 to 5. Average performance ratings for specific performance areas are listed below. The highest ratings overall occurred in the areas of communications and teamwork.

Quality	4.2
Cost control	4.0
Timeliness	4.2
Responsiveness	4.5
Application of requirements	4.4
Innovation	3.6
Planning	4.2
Staffing	4.0
Communications	4.8
Deliverables	4.4
Teamwork	4.7

Cost Performance

Cost performance is measured by comparing the original and the final value of the task order. Increased cost can be attributed to DOE program changes or contractor overrun. It is best to contact the DOE document manager for specific information when evaluating cost performance.

Given that understanding, here is a summary of information on total cost performance for all contractors.


Completed task orders	20
Tasks completed at or below original cost	12
	60%
Cost growth on completed tasks	26%

Schedule Performance

Data also are available on the completion schedules for NEPA task orders. Again, schedule growth measures the actual task duration against the original schedule. This may change due to DOE program changes or contractor delay. Talk to the document manager for details on task orders relevant to your prospective task. Schedule performance has been very good, with few tasks delayed and total task duration extended by only 17 percent.

Completed task orders	20
Tasks completed within original schedule	15
	75%
Schedule growth on completed tasks	17%

Transition

Together, we have made NEPA contract reform a reality in DOE. In my view, this is helping us to prepare NEPA documents better, faster, and cheaper than ever before. David Gallegos is taking over my contracting role for the DOE-wide NEPA contracts. You can reach him at 505-845-5849 or dgallegos@doeal.gov. I know he will serve you well in the continued effort to improve. I have appreciated being welcomed into the NEPA community. You have taught me so much. Thank you, and congratulations on the great progress we have made. 

Thanks to Dawn Knepper

The Office of NEPA Policy and Assistance thanks Dawn Knepper for her enthusiastic and spirited efforts in initiating and serving as the point of contact for the DOE-wide NEPA contracts. Much of the credit for the success is due to Dawn's vision and expertise.


New Book for the NEPA Practitioner's Bookshelf

From time to time the Office of NEPA Policy and Assistance announces (without endorsement) new books and other reference material that may be useful or interesting to the DOE NEPA community. "Suggestions for the NEPA Practitioner's Bookshelf" (August 1996) is available in the DOE NEPA Compliance Guide (on the DOE NEPA Web at <http://tis.eh.doe.gov/nepa/> under NEPA Tools) and upon request from the Office of NEPA Policy and Assistance. (See *Lessons Learned Quarterly Reports*, June 1999, page 10, and September 1998, page 5.)

The NEPA Reference Guide

Lucinda Low Swartz, Esq. and Danny C. Reinke, Ph.D.
Battelle Press
505 King Avenue
Columbus, Ohio 43201-2693
Phone: 614-424-6393; 800-451-3543
Fax: 614-424-3819
Internet: www.battelle.org/bookstore
E-mail: press@battelle.org

ISBN 1-57477-068-3
267 pages, \$45.00 (Softcover)

The NEPA Reference Guide compiles information associated with NEPA, including other laws (Environmental Quality Improvement Act of 1970 and Clean Air Act Section 309), Council on Environmental Quality (CEQ) regulations and guidance, precedent-setting and representative case law, Environmental Protection Agency guidance, and Executive Orders. The volume also contains a glossary of NEPA and environmental terms. The index is uniquely useful because page numbers are coded to indicate the type of information on the pages. The index listing for "cumulative," for example, makes clear whether each referenced page contains a regulation, guidance, litigation abstract, glossary definition, or one of the CEQ "Forty Most Asked Questions." This guide illuminates NEPA concepts; it is not a "how-to" manual. 

Training Opportunities

DOE Order 435.1, Radioactive Waste Management

Idaho Falls, ID: December 7, 1999
Ashford, NY: December 14, 1999
Oak Ridge, TN: January 11, 2000
Oakland, CA: January 18, 2000
Albuquerque, NM: January 25, 2000
Fee: \$750.00

U.S. Department of Energy National
Environmental Training Office (NETO)
Phone: 803-725-7153
E-mail: neto@srs.gov
Internet: www.em.doe.gov/neto

How to Manage the NEPA Process and Write Effective NEPA Documents

Albuquerque, NM: December 7-10, 1999
Honolulu, HI: February 22-25, 2000
Denver, CO: April 11-14, 2000
Fee: \$995

How to Manage the Environmental Impact Analysis Process

Ft. Walton Beach, FL: December 14-17, 1999
Dayton, OH: March 21-24, 2000
San Antonio, TX: May 23-26, 2000
Fee: \$995

Clear Writing for NEPA Specialists

Portland OR: February 15-17, 2000
San Antonio, TX: March 15-17, 2000
Honolulu, HI: April 4-6, 2000
Fee: \$795

Overview of the NEPA Process

San Antonio, TX: March 14, 2000
Fee: \$195
(This course can be taken with Clear Writing for NEPA Specialists; see above)

Reviewing NEPA Documents

Washington, DC: January 11-13, 2000
Portland, OR: January 18-20, 2000
Honolulu, HI: February 28-March 1, 2000
Fee: \$795

The Shipley Group, Inc.
Phone: 888-270-2157 or 801-298-7800
E-Mail: shipley@shipleygroup.com
Internet: www.shipleygroup.com

Advanced Topics in Environmental Impact Analysis

Irving, Texas: March 15-17, 2000
Fee: \$695

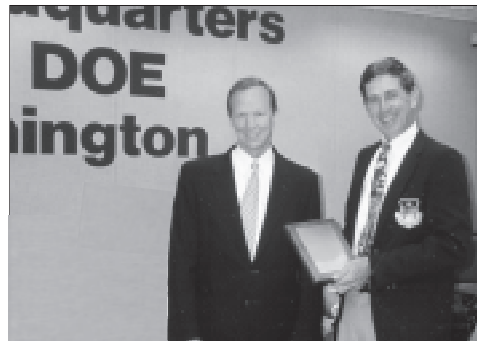
Environmental Impact Training
Phone: 405-321-2730
E-mail: Info@ieatraining.com
Internet: www.eiatraining.com

Gary Palmer Receives NEPA Appreciation Award, Takes DOE Position at the Pentagon

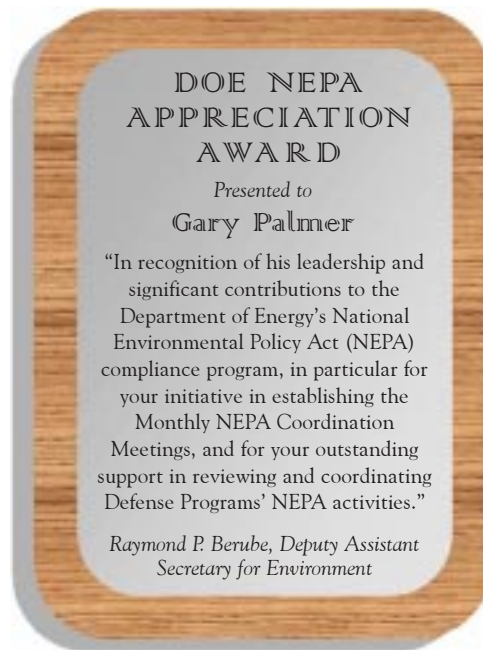
At the September 1999 Defense Programs (DP) monthly NEPA coordination meeting, Ray Berube, Deputy Assistant Secretary for Environment, presented Gary Palmer with a NEPA Appreciation Award for his contributions to the DOE NEPA program. During his six years as the DP Deputy NEPA Compliance Officer, Gary emphasized teambuilding and effective communication, as exemplified by the well-organized monthly videoconferences on NEPA matters with DP Field Offices and the Offices of Environmental Management, Materials Disposition, General Counsel, and Environment, Safety and Health.

“This office greatly appreciated Gary’s responsiveness, his coordination of cross-cutting issues, and his efforts to facilitate consensus,” said Carol Borgstrom, Director, Office of NEPA Policy and Assistance. He established a DP NEPA Web Page (www.dp.doe.gov/nepa/default.htm) and issued guidance to the DP NEPA community on a variety of NEPA topics, including checklists for a finding of no significant impact, record of decision, and mitigation action plan. Gary now serves as DOE Liaison to the Nuclear Weapons Council and as Executive Secretary of the Council’s Standing and Safety Committee. This position is in DOE’s Office of Military Application and Stockpile Operations, located at the Pentagon with the Office of Nuclear, Chemical, and Biological Defense Programs. He is responsible for ensuring effective communications between the Department of Defense and DOE on nuclear weapons issues and operations.

Gary Palmer can be reached at palmergt@acq.osd.mil or phone 703-693-9409. James (Jay) Rose, DP Office of Environmental Support, will now serve as the Deputy NEPA Compliance Officer.



Gary Palmer (right) receives NEPA Appreciation Award from Ray Berube.




In transitioning from his NEPA role, Gary offered the following observations.

I have several thoughts on NEPA as applied by DOE. First, the people I worked with were great folks who get a view of the Department and its activities that few others obtain, because of the breadth of resources and information that is needed to prepare an excellent NEPA document. While there may be day-to-day frustrations, the education we get supports career growth and development.

Next, it is critical that the NEPA professional realize the importance of forming a team of program, project, resource (especially budget), legal and technical people at the Headquarters, Operations Office, Managing and Operating Contractor, and NEPA document preparer levels. Form the team early in the process to ensure that everything, from the “Purpose and Need” to the final cover page, is successfully coordinated, and that the program and/or project person gets the NEPA document that is needed to support the decision at the end of the process. This is not easy and is certainly time-consuming, but it is vital.

Third, the NEPA professional must have a long-term view; a focus on the end of the process will ensure that the NEPA professional can maintain his or her own morale as well as that of the team. My own long-term view was that I would ensure that Defense Programs was able to continue its mission of supporting the nuclear deterrence of the United States; with that view in mind, day-to-day setbacks seemed small in comparison.

Finally, I had the opportunity to make acquaintances and friends across the Department that I know I will meet again and have a chance to work with; the common bond of having worked on a NEPA document will assuredly help in all our future activities. I look forward to that opportunity with great anticipation. 



DOE Litigation Updates

Court Finds DOE EA Sufficient for Idaho Reactor Shut Down

In a case involving the Experimental Breeder Reactor-II (EBR-II) at Argonne National Laboratory-West, the U.S. District Court for the District of Idaho has found that the Department's EA for the deactivation of EBR-II met NEPA requirements. The proposed action included draining the liquid sodium reactor coolant, which would permanently disable the reactor. (That is, for this technology, "shutting-down" is irreversible.) Coalition 21, an Idaho not-for-profit organization, brought suit last July to stop the action, arguing that deactivation was a commitment to decommissioning and that DOE should prepare an EIS that would analyze the complete decontamination and decommissioning (D&D) of the reactor. The organization also argued that the EA was technically inadequate and that DOE illegally segmented the NEPA process by failing to analyze decommissioning in detail. (See related article in *Lessons Learned Quarterly Report*, September 1998, page 12.)

Background

After Congress terminated the EBR-II mission in 1994, DOE prepared an EA, held two public hearings during a 45-day comment period, and in September 1997, issued a finding of no significant impact on a proposal to shut down and deactivate EBR-II. Although DOE analyzed certain D&D-related activities in the EA, the Department did not propose D&D as an agency action for evaluation under NEPA. The reactor containment building could be used for other purposes, such as dry storage of spent nuclear fuel and other wastes. Also, methods for carrying out D&D activities are evolving and the enabling technology is likely to change between deactivation and such time as DOE proposes to decommission this reactor and associated facilities.

Plaintiff's Interest in Nuclear Energy Was Sufficient for Standing to Sue

First addressing whether Coalition 21 had standing to sue, the court noted that the group's purpose was to promote nuclear technology and that one of the organization's central tenets was that nuclear energy is environmentally superior to other forms of energy generation. For this reason, the court found that Coalition 21's interest in avoiding a "botched shutdown" was arguably within the

zone of interests protected by NEPA and that the group had standing to bring the lawsuit.

DOE Prevails on the Substantive Issues

Turning to the substantive issues, however, the court found for DOE on all counts. In response to the plaintiff's argument that the deactivation of EBR-II was part of decommissioning, which "normally requires the preparation of an EIS" under DOE's NEPA regulations (10 CFR 1021, Subpart D, Appendix D), the court accepted DOE's argument that deactivation and decommissioning could be viewed as two separate actions. The judge found that DOE's proposed action –

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"Deactivation" versus "Decommissioning"

Deactivation: Placing a facility in a safe and stable condition to minimize the long-term cost of a surveillance and maintenance program that is protective of workers, the public, and the environment until decommissioning is complete. Actions include the removal of fuel, draining and/or de-energizing of nonessential systems, removal of stored radioactive and hazardous materials, and related actions. As the bridge between operations and decommissioning, deactivation can accomplish operations-like activities such as final process runs, and also decontamination activities aimed at placing the facility in a safe and stable condition.

Decommissioning: Activities which take place after deactivation including surveillance and maintenance, decontamination, and/or dismantlement. These actions are taken at the end of life of the facility to retire it from service with adequate regard for the health and safety of workers and the public and protection of the environment. The ultimate goal of decommissioning is unrestricted release or restricted use of the site.

Adapted from the *DOE Decommissioning Resource Manual* (DOE/EM-0246, 1995).

Litigation Updates (continued from page 17)

removal of radioactive sodium and other hazardous materials from the reactor – falls under DOE’s definition of deactivation, not decommissioning. (See text box, previous page.) Thus, an EIS is not required by DOE’s regulation. Further, the EA did not violate CEQ’s requirement to consider connected actions together in the same NEPA document because deactivation does not “automatically trigger” decommissioning.

Coalition 21 also argued that DOE had failed to address particular environmental concerns. The court found either that DOE had, in fact, addressed those issues in the EA or, citing *Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council*, 435 U.S. 519 (1978), that the plaintiff was barred from raising those issues in litigation because it failed to bring the issues to DOE’s attention during the public comment period.

Court Denies Motion to Stop Idaho Incinerator

The U.S. District Court for the District of Wyoming on October 22 denied a motion for temporary restraining order and preliminary injunction by Keep Yellowstone Nuclear Free and the Environmental Defense Institute (later joined by the Sierra Club, the Snake River Alliance, and the Jackson Hole Conservation Alliance) to stop DOE from proceeding with the Advanced Mixed Waste Treatment Project (AMWTP) at the Idaho National Engineering and Environmental Laboratory (INEEL). The court found that the plaintiffs had failed to prove that they would suffer irreparable injury if project planning and site preparation for the project would continue while the lawsuit proceeds. Although the plaintiffs contend that DOE, in approving the project, violated NEPA, the court has not yet heard and did not rule on the substantive NEPA issues. The court, however, did indicate that the issues in the case could be decided on motions and the Department of Justice has proposed a briefing schedule through the end of March 2000 to allow start of construction this spring.

Objection to Project Focused on Incinerator

As part of the AMWTP, DOE contracted with a private company to treat and prepare for shipment and disposal 65,000 cubic meters of DOE transuranic waste, alpha-contaminated low-level mixed waste, and low-level mixed waste currently stored at INEEL, and up to 120,000 cubic meters of additional waste from INEEL or other DOE sites. Several processes will be used to treat this waste, including incineration for approximately 25 percent of it. The AMWTP Final EIS was issued in January 1999, and a

What the EBR-II Decision Means to DOE

This outcome is important to the Department because EBR-II is one of several major nuclear facilities that DOE wants to deactivate quickly to reduce environmental risks and management costs (tens of millions of dollars per year). This reactor and the associated facilities are low in priority on DOE’s list of facilities and sites requiring immediate environmental remediation, however, and decommissioning might not occur for several decades. An adverse ruling could have resulted in significant costs associated with delays to deactivation of EBR-II and other planned facility deactivations. *Coalition 21, Inc. v. U.S. Department of Energy*, Civil Case No. 98-0299-E-BLW, September 30, 1999.

Record of Decision was issued on March 22, 1999 (64 FR 16948; April 7, 1999). The plaintiffs filed their complaint on September 17, 1999, and amended it on November 5, 1999.

The original plaintiffs include an environmental group with members from the Jackson, Wyoming, area, approximately 90 miles east of INEEL, who are seeking to halt DOE’s implementation of its decision to construct and operate the AMWTP incinerator. In their motion for a preliminary injunction, the plaintiffs alleged that downwind exposure to contaminants would then cause injury and that airborne radioactive emissions from the AMWTP would adversely affect areas around Jackson, including Yellowstone and Grand Teton National Parks.

Court Agreed with DOE that Injury Is Not Imminent

To win an injunction to stop construction, the plaintiffs needed to show, among other things, that injury would occur before startup and operation. The court disagreed, noting that construction could not begin until three permits were issued (two from the State of Idaho, one from the Environmental Protection Agency), and that operation is not anticipated to begin until 2003.

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Litigation Updates (continued from page 18)

NEPA Issues Not Yet Addressed by Court

The plaintiffs claim that DOE violated NEPA by selecting one of four privatization proposals without any environmental review under NEPA – that is, without the public notice, comment, and environmental review required under NEPA. (DOE entered into a phased contract, with construction contingent on completion of the NEPA process, in accordance with the DOE NEPA regulations, at

10 CFR 1021.216.) The plaintiffs also allege that the EIS is inadequate and that the affected public was not provided adequate notice regarding the proposed action or the AMWTP EIS process.

Keep Yellowstone Nuclear Free v. Richardson, Docket No. 99-CV-1042-3, October 22, 1999. 

Other Agency NEPA Cases

Court Defers to Agency's Interpretation of Its Categorical Exclusion

The United States Court of Appeals for the Ninth Circuit found that the Forest Service was not arbitrary and capricious in its applications of a categorical exclusion (CX) for issuing and then renewing a one-year permit for helicopter-guided skiing and hiking in the Chugach National Forest in Alaska. The court held that the judicial principle of given controlling weight to an agency's interpretation of its own regulations applies to its application of a categorical exclusion unless its application was plainly erroneous or inconsistent with the terms used in the regulations. (By this decision, the Ninth Circuit joins the Fourth and Fifth Circuits in specifically applying to CX determinations this well-established general principle of deference.)

The Forest Service Handbook lists a CX for “approval, modification, and continuation of minor, short-term (one year or less) special uses of National Forest System lands.” The Handbook then gives examples of approvals: for intermittent use by a State-licensed outfitter or guide, for apiaries, and for gathering forest products for personal use. The plaintiff had several claims: that the Forest Service renewal made the permit in fact a two-year permit, the CX makes no mention of – and therefore does not cover – actions with motorized vehicles, the permitted land use is not intermittent because it allows access all day for most of the year, and the permitted activities are not “minor.”

The court disagreed on all claims and upheld the Forest Service interpretation and applications of its categorical exclusion. The Forest Service's CX could reasonably be interpreted as including a one-year “continuation” of a one-year permit, the court said. The court also found that the helicopter permit falls within the general scope of the first

example, which specifically refers to guiding, and the absence of mention of motorized uses does not make the CX's application to motorized uses unreasonable. The court also found that the word “intermittent” in the CX could reasonably be interpreted to include activities limited to daytime use. The court held that the agency's interpretation of its own categorical exclusion should be given controlling weight unless its application was plainly erroneous or inconsistent with the terms used in the agency's NEPA procedures or regulation.

To support its claim that the permit activities were not “minor,” the plaintiff argued that the presence of conditions and mitigation measures on the permit, concerning such factors as flight path, operation time, and noise reduction, indicated that the impacts of the permit would not be minor and therefore should be examined in an EA. The appellate panel disagreed, stating that to hold otherwise would create undesirable incentives for agencies to leave out important conditions of permits for fear that their presence would preclude the use of the CX and would require an EA or EIS.

The appellate panel also addressed a procedural issue regarding an agency's vulnerability to suit when applying a CX: whether the appeal was moot because the challenged helicopter skiing permit had already expired by the time the appeal came to trial. Generally, a suit is moot (and will be summarily dismissed) when its issues are no longer live and the court cannot grant a remedy. The Supreme Court has established an exception to this principle, however, when the challenged conduct is capable of repetition. This exception requires the plaintiff to show that: (1) the duration of the challenged action is too short to allow full litigation before it ceases, and (2) there is reasonable expectation that the plaintiff will be subject to it again. The court held that the appeal met both of these criteria

continued on page 20

Other Agency NEPA Cases (continued)

Categorical Exclusion (continued from page 19)


and was therefore not to be dismissed as moot. On the second criterion, the court noted that the issue was not whether another permit would be issued to the same applicant, but whether similar permits would likely be issued to other applicants. *[The lesson, then, is that a categorically excluded action is not invulnerable to legal challenge merely because the action would be*

completed before a lawsuit could be pursued to completion.] (In separate litigation, the same plaintiff is also challenging a Forest Service EA and FONSI for a five-year permit for the same applicant.) *Alaska Center for the Environment v. U.S. Forest Service*, No. 97-36128 (9th Cir. September 7, 1999).

Changed Impacts, Not Changed Conditions, Trigger Need for a Supplemental EIS

In 1995, the Route 29 Riverfront Spur was the only link yet to be constructed in a roadway system called the Trenton Complex, connecting several major routes near South Trenton, New Jersey. The Federal Highway Administration (FHWA) issued a Final EIS on the Complex in 1981, which identified a six-lane highway as the preferred alternative for the Riverfront Spur. In subsequent years, as the rest of the Complex was constructed, land use in the riverfront area changed from largely industrial to mixed commercial uses, including major recreational attractions.

Recognizing the lapse of time since the Final EIS, the state transportation agency and the FHWA prepared an “environmental reevaluation” pursuant to FHWA’s NEPA implementation regulations (23 CFR Part 771). The purpose of the reevaluation was to determine whether the Final EIS remained valid, or whether a Supplemental EIS was required. The reevaluation, which consisted of several studies and surveys, concluded that the environmental impacts of the four-lane alternative were substantially less than those identified in the 1981 EIS for the six-lane alternative. Residents of South Trenton and various environmental groups filed suit, contending that Federal and state agencies violated NEPA because town meetings and community outreach programs are not an adequate substitute for a Supplemental EIS.

In light of the “extensive” environmental reevaluation, which failed to identify any new significant adverse effects, the court found that the agencies were justified in not preparing a Supplemental EIS. Citing a U.S. Supreme Court opinion that “a Supplemental EIS is not necessary every time new information comes to light after the EIS is finalized” (*Marsh v. Oregon Natural Resources Council*), the court stated that “the key to whether a Supplemental Environmental Impact Statement is necessary is not whether the area has undergone significant change, but whether the proposed roadwork will have a significant impact on the environment in a manner not previously evaluated and considered.” *South Trenton Residents Against 29 v. Federal Highway Administration*, 176 F.3d 658 (3rd Cir. May 5, 1999). 

Lessons Learned Thanks Steve Ferguson

The Litigation Updates section of the Lessons Learned Quarterly Report is always reviewed by the Office of the Assistant General Counsel for Environment. Most often, the attorney who does this review is Steve Ferguson, Deputy Assistant General Counsel for Environment. We would like to thank him for his prompt and always judicious comments.

EAs and EISs Completed July 1 – September 30, 1999

EAs

Albuquerque Operations Office/Defense Programs

DOE/EA-1238 (7/21/99)

Environmental Assessment for the Proposed Construction and Operation of the Nonproliferation International Security Center, Los Alamos National Laboratory, Los Alamos, New Mexico

Cost: \$95,000

Time: 21 months

Bonneville Power Administration

DOE/EA-1283 (6/11/99)¹

Reedspport-Fairview Transmission Project

Cost: \$60,000

Time: 7 months

Fissile Materials Disposition

DOE/EA-1216 (9/08/99)

Environmental Assessment for the Parallax Project Fuel Manufacture and Shipment

Cost: \$194,000

Time: 29 months

Fossil Energy

DOE/EA-1297

Fontera Generation's Rio Bravo Electrical Interconnection near Mission, Texas (7/9/99)

Time: 4 months

[**Note:** The costs of this EA were paid by the applicant; therefore, cost information does not apply to DOE.]

Golden Field Office

DOE/EA-1265 (8/27/99)

Biomass to Ethanol Demonstration Project, BC International Corporation's Ethanol Facility in Jefferson Davis Parish, Louisiana

Cost: \$67,000

Time: 28 months

Naval Petroleum Reserves in California/Fossil Energy

DOE/EA-1304 (9/15/99)

West Elk Hills 3-D Seismic Survey of Off-Unit Property at Occidental of Elk Hills, Inc., Kern County, California

Time: 3 months

[**Note:** The Bureau of Land Management was the lead agency for this EA, and DOE was a cooperating agency. The costs of this EA were paid by the applicant; therefore, cost information does not apply to DOE.]

Rocky Flats Environmental Technology Site/

Environmental Management

DOE/EA-1303 (8/27/99)

Temporary Storage of Transuranic and Transuranic Mixed Waste

Cost: \$120,000

Time: 8 months

Savannah River Operations Office/

Environmental Management

DOE/EA-1285 (9/27/99)

Environmental Assessment for the Pond B Dam Repair Project at the Savannah River Site

Cost: \$16,000

Time: 9 months

ENVIRONMENTAL PROTECTION AGENCY (EPA) RATING DEFINITIONS

Environmental Impact of the Action

LO– Lack of Objections

EC– Environmental Concerns

EO– Environmental Objections

EU– Environmentally Unsatisfactory

Adequacy of the EIS

Category 1 – Adequate

Category 2 – Insufficient Information

Category 3 – Inadequate

(See the March 1997 *Lessons Learned Quarterly Report* for a full explanation of these definitions.)

EIS

Environmental Management/Richland Operations Office

DOE/EIS-0222 (EPA Rating: EC-2)

Final Hanford Comprehensive Land-Use Plan Environmental Impact Statement

September 1999 (64 FR 53379; 10/01/99)

Cost: Data not yet provided.

Time: 85 months²

¹ Not previously reported in *Lessons Learned*.

² DOE issued a revised draft EIS in April 1999 that reflected a substantial redirection in the scope of the document since the original draft EIS was issued in August 1996.

Fourth Quarter FY 1999 Questionnaire Results

What Worked and Didn't Work in the NEPA Process

To foster continuing improvement in the Department's NEPA Compliance Program, DOE Order 451.1A requires the Office of NEPA Policy and Assistance to solicit comments on lessons learned in the process of completing NEPA documents and distribute quarterly reports. This Quarterly Report covers documents completed between July 1 and September 30, 1999. Comments and lessons learned on the following topics were submitted by questionnaire respondents.

The material presented here reflects the personal views of individual questionnaire respondents, which (appropriately) may be inconsistent. Unless indicated otherwise, views reported herein should not be interpreted as recommendations from the Office of Environment, Safety and Health.

Scoping

What Worked

- *Internal scoping.* Internal scoping by the NEPA team contributed to a better understanding of the proposed project and a better document.

What Didn't Work

- *Unclear distinctions between alternatives.* Some of the alternatives had only subtle differences. DOE had difficulty explaining these subtleties to the public, and consequently the public found it difficult to understand the differences between some of the alternatives.
- *Numbering alternatives.* Numbering some, but not all, of the alternatives made the document harder to read. We should have given each one an appropriate, descriptive name.

Data Collection/Analysis

What Worked

- *Geographical Information Systems (GIS).* GIS data collection was used effectively in the analysis of alternatives.

What Didn't Work

- *Data analyses provided by cooperating agencies after scoping.* Some of the cooperating agencies provided draft analyses of the impacts of alternatives; however, the methodologies and/or terminology were not consistent with those used by the EIS document preparers.

Schedule

Factors that Facilitated Timely Completion of Documents

- *NEPA support service contractor oversight.* Strict oversight of the NEPA support service contractor by the NEPA Compliance Officer (NCO) helped ensure that draft materials were prepared in a timely manner.
- *Availability of specialists.* The availability of specialists required for this project helped the EIS to stay on schedule.

Factors that Inhibited Timely Completion of Documents

- *Disinterested middle-level management.* Although timely completion of an adequate EIS was important to the highest level of DOE management, middle-level management was disinterested in its preparation, making its timely completion extremely difficult.
- *Design engineering changes.* Changes in the design engineering for the project resulted in unexpected redrafting of the EA materials.
- *Additional alternative after the draft EA.* A decision to add an alternative required time-consuming additional analyses.
- *Project sponsor delays.* Delays by the project sponsor in supplying information delayed completion of the document.
- *Data analyses provided by cooperating agencies after scoping.* Reconciling data analyses prepared by cooperating agencies with those prepared by DOE contributed to delay in preparing the EIS.
- *Change in scope.* A significant change in EIS scope after publication of the first draft EIS made it necessary to issue a revised draft EIS, making it impossible to meet the original schedule.

continued on next page

Fourth Quarter FY 1999 Questionnaire Results

What Worked and Didn't Work in the NEPA Process

(continued from previous page)

- *Late comments.* Comments received after the 60-day comment period for the EA were significant and took several months to address.
- *Outreach to local newspaper.* Press releases announcing the draft and final EA and Finding of No Significant Input (FONSI) were sent to the local newspaper, and an interview was held with the Acting NCO. These efforts helped notify the public about the proposed action.

Factors that Facilitated Effective Teamwork

- *Effective lines of communication.* Establishing good lines of communication between DOE and its contractors fostered teamwork and helped avoid delays.
- *Involvement of senior management.* Biweekly meetings between reviewers and document preparers included senior managers when a high-level decision was required.
- *Related environmental reviews.* A floodplain and wetland involvement notice in the *Federal Register* was beneficial to the NEPA public participation process.
- *Involvement of cooperating agencies.* Active participation by cooperating agencies improved DOE's and other parties' understanding of one another's perspectives and of the conflicting values involved in land use planning at the site.

Factors that Inhibited Effective Teamwork

- *Change in DOE NCO.* A change in the DOE NCO during the preparation of this EA disrupted its progress.
- *Change in DOE Project Manager.* A change in the DOE project manager during the preparation of this EA disrupted its progress.
- *Doubts about the effectiveness of NEPA.* The DOE project manager maintained a negative attitude about NEPA.
- *Subcontractor changes.* A change of subcontractors on the site's contract disrupted the team preparing this EA.
- *Many cooperating agencies.* The large number of cooperating agencies for this EIS impeded efficient interactions between the various DOE team members.

Process

Successful Aspects of the Public Participation Process

- *Local library services.* Placing the draft EA in the local library helped foster public participation because the library also served as a community center.
- *Use of site's Environmental Bulletin.* Placing notices about the EA in the site's Environmental Bulletin was an effective means of notifying the public.

Agency Planning and Decision Making—What Worked

- *NEPA compliance helped timeliness.* NEPA is continually shown to help construct projects in a timely manner.

Effectiveness of the NEPA Process

For the purposes of this section, "effective" means that the NEPA process was rated 3, 4, or 5 on a scale from 0 to 5, with 0 meaning "not effective at all" and 5 meaning "highly effective" with respect to its influence on decision making.

- For this quarter, in which questionnaire responses were received for 5 EAs and 1 EIS, 6 of the 9 respondents rated the NEPA process as "effective."
- One respondent who rated the process as "5" stated that "NEPA was critical to the decisions for the project."
- Another respondent who rated the process as "5" noted that the highest levels of DOE management were interested in the EIS to support decisions.
- One respondent who rated the process as "not effective at all" explained that the decision was made well before the start of the NEPA process.

Other EIS-related Milestones (September 2 to November 30, 1999)

Withdrawals of Notice of Intent

Bonneville Power Administration

DOE/EIS-0296
*South Oregon Coast Reinforcement Project, Coos Bay/
North Bend, Oregon*
Canceled (9/99)

Energy Efficiency and Renewable Energy

DOE/EIS-0300
*Minnesota Agri-Power Project: Biomass for Rural
Development, Granite Falls, Minnesota*
9/20/99 (64 FR 50806)

Nuclear Energy

DOE/EIS-0299
*Proposed Production of Plutonium-238 for Use in
Advanced Radioisotope Power Systems for Space
Missions (Programmatic)*
9/15/99 (64 FR 50064)
[Note: This EIS is being consolidated with a broader-
scope EIS; see DOE/EIS-0310, below.]

Office of Science

DOE/EIS-0291
*High Flux Beam Reactor Transition Project at
Brookhaven National Laboratory, Upton, New York*
11/30/99 (64 FR 66904)

Notices of Intent

Bonneville Power Administration

DOE/EIS-0312
*Bonneville Power Administration, Fish and Wildlife
Implementation Plan Environmental Impact Statement*
10/08/99 (64 FR 56489)

Nuclear Energy

DOE/EIS-0310
*Programmatic Environmental Impact Statement for
Accomplishing Expanded Civilian Nuclear Energy
Research and Development and Isotope Production
Missions in the United States, Including the Role of the
Fast Flux Test Facility*
9/15/99 (64 FR 50064)

Draft EIS

Defense Programs

DOE/EIS-0236-S
*Draft Supplemental Environmental Impact Statement for
the National Ignition Facility Portion of the Programmatic
Environmental Impact Statement for Stockpile
Stewardship and Management*
October 1999 (64 FR 61635; 11/12/99)

Final EISs

Defense Programs/Sandia National Laboratories

DOE/EIS-0281
*Sandia National Laboratories, Albuquerque, New Mexico,
Site-Wide Environmental Impact Statement*
October 1999 (64 FR 58404; 10/29/99)

Fissile Materials Disposition

DOE/EIS-0283
Surplus Plutonium Disposition
October 1999 (64 FR 63313; 11/19/99)

Records of Decision

Defense Programs/Los Alamos National Laboratory

DOE/EIS-0238
*Site-Wide Environmental Impact Statement for the
Continued Operation of the Los Alamos National
Laboratory*
9/20/99 (64 FR 50797)

Environmental Management/Richland

DOE/EIS-0222
*Final Hanford Comprehensive Land-Use Plan
Environmental Impact Statement*
11/02/99 (64 FR 61615)
[Note: The U.S. Fish and Wildlife Service adopted this
EIS and issued a ROD.]

Supplement Analyses

Defense Programs

DOE/EIS-0236, SA-06
*Final Programmatic Environmental Impact Statement for
Stockpile Stewardship and Management; Pit Manufacturing
Facilities at Los Alamos National Laboratory*
(Decision: No further NEPA review required) September 1999

Environmental Management/Richland

DOE/EIS-0244-SA-02
*Plutonium Finishing Plant, 200 West Area, Hanford Site,
Richland, Washington; Environmental Effects of Changes
in DOE's Preferred Alternative for Batch Thermal
Stabilization Metals, Oxides and Process Residues*
(Decision: No further NEPA review required) August 1999¹

¹ Not previously reported in Lessons Learned


Cost and Time Information

EIS Cohort Update

With the June 1, 1999 *Lessons Learned Quarterly Report*, we began tracking a new cohort (“Cohort 97”) consisting of EISs started between April 1, 1997 and March 31, 1999. DOE initiated 26 EISs in this time frame, but five EISs have been cancelled or withdrawn, bringing the total number of EISs remaining in Cohort 97 to 21. Two EISs were completed in this reporting period, bringing the total number of completed Cohort 97 EISs to seven – too few to support general conclusions about completion times. Table 1 provides an update to the EIS information for Cohort 97.

Table 1. EIS Cohort by Program Office (EISs started between 4/1/97 and 3/31/99)

EIS Type	Number in Cohort	Programmatic/ Site-wide	Project-specific	Number Completed through 12/1/99 (Completion Times)
Total	21	4	17	7
Bonneville Power Administration	1	1	0	0
Defense Programs	5	2	3	3 (13, 18, and 29 months)
Environmental Management	6	0	6	1 (14 months)
Fossil Energy	4	0	4	0
Fissile Materials Disposition	1	1	0	0
Nuclear Energy	1	0	1	0
Office of Science	1	0	1	1 (21 months)
Western Area Power Administration	2	0	2	2 (12 and 14 months)

We will continue to track and report on this cohort from time to time. 

EA and EIS Times and Costs for Fiscal Year 1999 and Last 5 Fiscal Years

	FY 99*	5 years ending FY99*
EAs		
Time (months)		
Median	10 (26)	11 (246)
Average	15 (26)	16 (246)
Cost		
Median	\$60,000 (23)	\$60,000 (176)
Average	\$63,000 (23)	\$114,000 (176)
EISs		
Time (months)		
Median	21 (11)	24 (57)
Average	29 (11)	29 (57)
Cost		
Median	\$3,203,000 (7)	\$2,998,000 (49)
Average	\$5,939,000 (7)	\$6,422,000 (49)

* Parentheses indicate number of data points



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