N E P A

National Environmental Policy Act

LESSONS LEARNED

U.S. Department of Energy Quarterly Report

June 3, 1996 For 2nd Quarter FY 1996

NEPA and Contracting Communities Take Action Following Workshops

Innovative ideas for improving the Department's NEPA contracting process emerged from the first gathering of field office and headquarters NEPA and procurement specialists at a workshop sponsored by the Office of NEPA Policy and Assistance, in partnership with the Office of Human Resources and Administration and the Office of General Counsel. The March 1996 NEPA Contracting Reform Workshop explored the theme of "Do It Right the First Time," the central recommendation of the Phase II NEPA Contracting Reform Guidance that the Assistant Secretary for Environment, Safety and Health issued in December 1995. The March Workshop's purpose was to identify contracting actions that can achieve NEPA process cost savings through better management of existing contracts and better approaches for new contracts. A second Workshop was held in Albuquerque on May 22-23, to plan the acquisition strategy for one or more NEPA task order contracts to be shared among multiple field offices. Based on the many comments received from attendees, the workshops were breakthroughs in bringing together the Department's NEPA and procurement communities to work more effectively to achieve the NEPA cost savings identified in Strategic Alignment Initiative 29.

March Workshop participants offered lessons learned based on their contracting experience:

- There is a need for teamwork and cross-training among NEPA specialists and procurement specialists; Document Managers need training in both NEPA requirements and project management; NEPA Compliance Officers could provide coordination and perspective.
- A sliding scale approach applies to NEPA process management; complex and important environmental impact statements, for example, should be managed more intensively than narrowly-focused environmental assessments.
- Early interdisciplinary planning to define the purpose and need of the NEPA review, as well as early acquisition planning, are necessary to manage contracts effectively.

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Inside *LESSONS LEARNED*

Welcome again to the Quarterly Report of Lessons Learned in the NEPA process. Many of you responded positively to the revised format and content of the previous edition. This Quarterly Report includes:

I encourage all of you to continue to forward suggestions for this report to us by completing the Evaluation Form on page 19.

Carol Borgstrom

Director
Office of NEPA Policy and Assistance

Better Planning and Coordination Needed for Field Office Project Environmental Impact Statement

The approval process for a recently issued draft EIS was encumbered by problems that could have been avoided by better planning and teamwork between Headquarters and the Field Office that prepared the EIS. The principal process deficiency was not involving the decision maker early in the preparation of the EIS.

The Secretarial Officer, who had been well aware of the proposed action, was not alerted to the timing and details of the draft EIS until it was presented for approval. The Secretarial Officer immediately noted that the proposal involves issues of national significance that the EIS did not appear to address adequately, and directed a high-level review of the matter. Several months and substantial resources were needed for EIS improvements. This situation could have been avoided had the following lessons been put into practice:

- It is important to involve the decision maker early in the EIS process. Decision makers will not always agree with staff about what the key issues are and how to address them.

- Establishing and maintaining good communications among Field and Headquarters EIS preparation team members, management, and the decision maker is essential. For high-profile and urgent EISs, an executive committee type of management structure promotes efficient preparation of the EIS and avoids last minute disruptions and wasted effort. Successful strategies have included an Executive Committee (the decision maker and affected/involved Secretarial Officers), and one or more technical and management teams. LL

In the example at issue, further difficulties were encountered in distributing the draft EIS after approval. For example, Members of Congress that should have been briefed before completing the general distribution were unavailable because of a holiday recess. This highlights the need to:

- **Coordinate early with the Office of Public Affairs and the Office of Congressional and Intergovernmental Affairs.**

- **Develop a communications plan early with appropriate milestones identified. Don't underestimate the need for such planning.**

Workshops (continued from page 1)

- Preparing a good performance-based statement of work is key to a successful process; a more detailed model would be helpful. DOE's expectations must be clear to support contractor performance evaluations.

- Performance incentives—financial awards, recognition, prospects for future assignments—should be an integral part of the contracting process.

- Task order contracting established in advance enables a timely start of a contractor's work. Shared task order contracts (multi-office) may provide a "Center of Excellence" for NEPA, quick-response options, and other cost-saving corporate benefits. Multi-awards also have advantages.

The March Workshop identified directions for further efforts during Phase III of NEPA Contracting Reform (to extend through December 1996), which are being carried out as follows: (1) The May Workshop. Twenty NEPA and procurement specialists from eight field offices, assisted by headquarters NEPA and procurement staff, projected contracting needs and strategies, and formed work groups on request for proposals, statement of work, and contract administration. The participants will share work products in July and meet again in early August 1996, with a goal of awarding one or more task order contracts by October 1997.
(2) Guidance for Document Managers. A team of seven NEPA Compliance Officers and Document Managers has begun drafting guidance for managing the NEPA process as a project. The team plans to provide draft guidance to the NEPA and procurement communities for review in late summer, and to complete the work by December 1996.

For information on NEPA Contracting Reform Phase III activities, please contact Carolyn Osborne (202-586-4596 or e-mail to carolyn.osborne@hq.doe.gov). LL

Using Bounding Analyses in DOE NEPA Documents

DOE NEPA documents sometimes estimate impacts by means of a"bounding" analysis; i.e., an analysis that uses simplifying assumptions and analytical methods that are certain to overestimate actual environmental impacts. While bounding analysis can be efficient, and is sometimes necessary, DOE should take care to use that approach only in appropriate circumstances; i.e., where the differences among alternatives would not be obscured. The purpose of this mini-guidance is to describe appropriate and improper uses of bounding analysis.

Neither the Council on Environmental Quality (CEQ) NEPA implementing regulations (40 CFR Parts 1500-1508) nor the DOE NEPA regulations specifically address bounding analyses in NEPA documents, but there are situations where the bounding approach is helpful. These situations include:

- Where information relevant to reasonably foreseeable significant adverse impacts cannot be obtained because the overall costs of obtaining it are exorbitant or the means to obtain it are not known (*See* 40 CFR 1502.22), bounding analysis may provide an efficient, practical solution. In such cases, DOE must make reasonable, conservative assumptions for purposes of analysis, which should produce estimates that bound the impacts to a reasonable degree. For example, cumulative impacts would need to be bounded in a site-wide EIS for a site that is being considered in another EIS as an alternative (i.e., not proposed/ preferred) location for a new activity. Including the best available information regarding the impacts of the potential new activity in the cumulative impacts for the site would account for all reasonably foreseeable actions, but would overstate the probable impacts. The EIS being prepared for operations of the Pantex Plant, for example, includes in its cumulative impacts analysis several functions for Pantex that are being considered (short of being preferred) in several other EISs that are in preparation.

- Where DOE is evaluating the potential environmental impacts of a program or a broad agency action, simplifying assumptions may be necessary to perform the analysis. While the assumptions may be conservative and the impacts estimated may be substantially higher than those that would actually occur, the *relative* differences in the impacts among the alternatives should be discernible for the analysis to be useful in informing the choice among alternatives.

- Where a simple conservative analysis is sufficient to show that an impact is insignificant and doesn't warrant further investigation, bounding analysis may be efficient, though not necessary. This approach is useful for both EAs and EISs.

In sum, using conservative assumptions and analytical methods to bound an impact may be appropriate and even necessary in some cases. Nevertheless, bounding analyses should not be used where more accurate and detailed assessment is possible and would better serve the purposes of NEPA. Therefore, when using bounding analysis:

- DOE must ensure that the analysis is not so broad and all-encompassing as to mask the distinctions among alternatives, or to hinder consideration of mitigations.

- Even where overall impacts are small, detailed analysis for each alternative may be needed where differences in impacts may help to decide among alternatives or to address concerns the public has expressed, as sometimes applies when DOE must select sites or transportation routes and methods for conducting its operations.

- It is never appropriate to "bound" the environmental impacts of potential future actions (not yet proposed) and argue later that additional NEPA analysis is unnecessary because the impacts have been bounded by the original analysis. LL

Questions and Answers

Q. When can draft material (in preparation) be used to support analyses in a NEPA document?

A. The issue here is not so much whether the material is a draft as whether the information it provides is reliable enough to support the use that would be made of it in the NEPA document. The answer to this question relies on technical judgment. If the draft material is sufficiently reliable and is referenced in a NEPA document, then the material--labelled DRAFT--must be made available to the public, such as by placement in appropriate public reading rooms.

Q. When is it appropriate to add material as an appendix to a NEPA document; when is it appropriate to incorporate material by reference?

A. These important issues affect the utility of the document as a decision making tool and the cost and time for its preparation. CEQ has regulatory instructions on EIS appendices (40 CFR 1502.18) and references (1502.21), and has provided guidance on their application (see below). When a complex NEPA analysis is involved, the DOE document preparation team should consider these matters early, taking account of any stakeholder preferences, the CEQ regulations and guidance, and advice from legal counsel. The team may also consult several recently issued comparable NEPA documents as examples.

The CEQ's guidance regarding its requirements is published as a response to Question 25 of the "Forty Most Asked Questions on CEQ's National Environmental Policy Act Regulations" (46 FR 18026, March 23, 1981, as amended), and is reprinted here for the reader's convenience:

> *The body of the EIS should be a succinct statement of all the information on environmental impacts and alternatives that the decision-maker and the public need, in order to make the decision and to ascertain that every significant factor has been examined. The EIS must explain or summarize methodologies of research and modeling, and the results of research that may have been conducted to analyze impacts and alternatives.*
>
> *Lengthy technical discussions of modeling methodology, baseline studies, or other work are best reserved for the appendix. In other words, if only technically trained individuals are likely to understand a particular discussion then it should go in the appendix, and a plain language summary of the analysis and conclusions of that technical discussion should go in the text of the EIS.*
>
> *Material that is not directly related to preparation of the EIS should be incorporated by reference. This would include other EISs, research papers in the general literature, technical background papers or other material that someone with technical training could use to evaluate the analysis of the proposal. These must be made available, either by citing the literature, furnishing copies to central locations, or sending copies directly to commenters upon request.*

Finally, DOE's NEPA regulations (10 CFR 1021.340(b)) provide that DOE shall, to the fullest extent possible, segregate information that is exempt from disclosure requirements, such as classified information, into an appendix to allow public review of the remainder of a NEPA document. LL

Reminder: Make Reference Materials Publicly Available

Recently, a Program Office conducting a public participation process on an environmental assessment of a controversial proposal did not make key references publicly available, after having stated that such references were available at public reading rooms in notices announcing the 45-day public comment period and at two public meetings. At the meetings, opponents of the proposal called attention to the missing references and the Department eventually decided it needed to reopen the public comment period. Please make sure that appropriate reference material is made publicly available, such as by placing copies in public reading rooms and libraries.

Suggestions from the Document Manager of the Hanford K-Basins Spent Fuel EIS

The Richland Operations Office's Final EIS on the Management of Spent Nuclear Fuel from the K Basins at the Hanford Site, completed in 11 months, can be considered an important success for the Department. Completion of the EIS enabled the Department to begin construction of a new storage facility for 2,300 tons of highly radioactive and corroding fuel that are in water-filled basins that sit precariously close to the Columbia River.

Dr. Phillip G. Loscoe, the NEPA Document Manager, has provided practical advice for other NEPA Document Managers, based on his experience:

- Verify all published telephone numbers. Some of the phone numbers listed for libraries or reading rooms were incorrect (for example, the number listed for Gonzaga University's library turned out to be that of Little Caesar's Pizza in Spokane.)
- Use a dedicated 800 line for recording telephone requests for copies of the EIS or for registering to speak at public hearings.
- Unless they wish to speak at a public hearing or want to receive a copy of the final EIS, individuals should not have to identify themselves on the sign-up list. Some people find this threatening.
- Ensure that local ads include a point of contact for requesting a copy of the EIS. The ads used only indicated where comments could be sent and where reference copies were available.
- An integrated plan for the preparation of the EIS should be prepared early, covering the activities of all parties providing either material or reviews.
- Having more than six reviewers (not including the Chairperson) greatly slows the review process without adding to the quality of the review. Reviewers should read the document before the review session.
- Communication among all participants in the preparation of the EIS must be open and frequent.
- Techniques such as redlining, strikeout or change bars should be used to keep reviewers (and preparers) focused on changes.
- Reviews should be focused on technical adequacy, and not on editorial improvement.

Contractor Performance Evaluation is a Requirement

To create incentives for good performance and to help in awarding future assignments, the DOE NEPA Order (DOE 451.1) requires a NEPA Document Manager to evaluate contractor performance at the conclusion of each EIS and EA. With proper planning and coordination, this evaluation can also meet the Contracting Officer's new responsibilities under the 1995 amendments to the Federal Acquisition Regulation. Detailed procedures and the evaluation form may be found in section 7 of NEPA Contracting Reform Guidance: Phase II, of December 1995. Questions may be addressed to Yardena Mansoor, Office of NEPA Policy and Assistance, fax (202) 586-7031 or e-mail to nepa.contracting@spok.eh.doe.gov.

A Toll-Free Way to Involve the Public

Provide a mechanism that would maximize public involvement:

This was the goal of the Office of Fissile Materials Disposition for the Programmatic Environmental Impact Statement for Storage and Disposition of Weapons-Usable Fissile Materials (DOE/EIS-0229). A toll-free number was established that was automatically capable of receiving faxes and oral comments. The oral comments were transcribed for analysis and resolution.

Recording oral comments turned out to be the mechanism most frequently used by the public to transmit their comments to the Department. Of 188 responses received on the document, 108 were recorded on the toll-free number. More importantly, a significant fraction of the people who left comments on the toll-free number did not list themselves as members of organizations and were not on the list of over 2000 stakeholders in the program's database. This suggests that the ease of leaving a phone message prompted people to comment who might not have otherwise, and who had not been involved in the project before the toll-free number was available. Lesson Learned: Provide the public with a well-publicized toll-free number for recording oral comments in order to glean comments from a wider segment of the public.

For more information contact: Bert Stevenson, Document Manager, Office of Fissile Materials Disposition at (202) 586-5368. LL

Lessons Learned: Using Video Conferencing for Public Hearings

The Office of Environmental Management recently made extensive and successful use of video conferencing for the public hearings held for the Draft Waste Management Programmatic Environmental Impact Statement. The program has prepared a document summarizing the format options considered for the hearings, the hearings plan, the process used for setting up the videoconferences, public and DOE evaluations, and the lessons learned as measured against the plan. The document also provides contact points for further information.

Environmental Management's analysis indicates that video conferencing is useful in keeping meeting costs down, while allowing members of the document preparation team, who would not otherwise have attended the meetings, to hear firsthand the public's views and answer questions. The video conferencing format also allowed members of the public at different locations to hear the comments of others.

Copies of "Lessons Learned: Use of Video Conferences for Public Hearings on the Draft Waste Management Programmatic Environmental Impact Statement" are available from David F. Hoel, Document Manager, Waste Management PEIS, Office of Waste Management, Environmental Management at (202) 586-3977 (See page 9 for an example of the successful use of *telephone* conferencing). LL

Editor's Note: Video conferencing may not always be a good format for public meetings. In a different case, stakeholders told DOE that they viewed use of video conferencing as an attempt to limit rather than enhance public participation. We suggest consulting with stakeholders when planning public meetings.

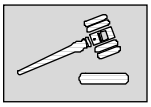
Alternative Dispute Resolution and the NEPA Process

The Council on Environmental Quality has observed that the NEPA and alternative dispute resolution (ADR) processes "have mutually consistent goals, including decisionmaking that is well informed, credible, broadly supported, and durable." CEQ conducted a seminar in early May 1996 to encourage Federal agencies to study successful ADR methods and to consider using neutral facilitators or mediators, where appropriate, to improve the usefulness of the NEPA process in achieving their goals.

Following CEQ's lead, DOE's Office of Alternative Dispute Resolution and the Office of NEPA Policy and Assistance co-sponsored an informal seminar at DOE Headquarters on the potential benefits of integrating ADR techniques into the NEPA process. (ADR techniques include dialogue, negotiation, facilitation, mediation, and arbitration.) The May 21 seminar featured a presentation by RESOLVE, Inc., a not-for-profit center for environmental dispute resolution based in Washington, DC. The presentation focussed on potential ways in which ADR techniques can supplement the NEPA process, both to build consensus before decisions are made and later, in the event of litigation. RESOLVE presented several lessons learned from their case experience, including:

- ADR techniques can help focus the NEPA review on the most significant issues, make sure that correct parties are at the table, and open communication among parties.
- Reluctance to use ADR can stem from unwarranted fear of relinquishing the government's authority; all parties need to begin with the attitude that they will find a win/win solution or there will be no deal.
- People who come to the table (including the Federal agency personnel) have to represent their constituency, and be able to obtain agreement from their decision makers.
- The earlier ADR techniques are applied in the NEPA process, the better; if applied too late, the agency may have to retrace its steps.

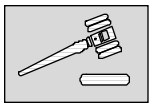
For further information on the seminar or the use of ADR techniques, please contact Phyllis Hanfling, Director, Office of Alternative Dispute Resolution at (202) 586-6972 or Stephen Simpson of the Office of NEPA Policy and Assistance by phone (202-586-0125) or by electronic mail (ccMail: Stephen Simpson at EH-09; Internet: stephen.simpson@hq.doe.gov). LL



Legal Updates

NEPA Litigation at Sandia National Laboratory

The Department of Energy was recently sued in the U.S. District Court for the District of New Mexico on the alleged lack of NEPA review for the operations of a DOE national laboratory. On April 15, 1996, Isleta Pueblo and the Southwest Information and Research Center asked the court to require the Department to prepare a Sitewide EIS for Sandia National Laboratory/New Mexico. In 1977, the Department issued a Sitewide EA for Sandia. The plaintiffs allege that the NEPA reviews for proposed actions at Sandia since 1977 have not adequately analyzed the cumulative impacts of other past, present, and reasonably foreseeable future actions at Sandia and that, based on substantial changes in environmental law and significant new information regarding environmental conditions at Sandia, the court should require the Department to prepare a Sitewide EIS. The Department has until mid-June to answer the complaint. LL



Legal Updates (cont'd.)

Construction of the Dual Axis Radiographic Hydrodynamic Test Facility (DARHT) to Resume

The Department has successfully resolved a lawsuit under NEPA that teaches important lessons in NEPA compliance. On April 16, 1996, Judge Edwin Mechem, of the U.S. District Court for the District of New Mexico, ruled that the Final EIS for the Dual Axis Radiographic Hydrodynamic Test Facility adequately serves the purposes of NEPA and that DARHT may proceed as an interim action while the Programmatic EIS for Stockpile Stewardship and Management and the Sitewide EIS for Los Alamos National Laboratory are being prepared. The court had enjoined construction of DARHT pending preparation of an EIS. In his written opinion, Judge Mechem pointed out some faults with the DARHT EIS (use of three-year old data in the Affected Environment section, assuming for the baseline of analysis that the Laboratory is currently in compliance with environmental laws, and depending on the opening of the proposed Waste Isolation Pilot Plant), but concluded that the EIS is "essentially adequate" as an action-forcing document. Judge Mechem further noted that the EIS "represented a good faith analysis of DARHT in the spirit of NEPA," praising the Department's consideration of public comments and modifications to the proposed project based on those comments. He also cited the DARHT EIS as appropriately using a classified supplement to fully evaluate the impacts of a proposal. In considering the criteria for valid interim actions, Judge Mechem found that the Department adequately demonstrated that DARHT would be useful notwithstanding the range of alternatives considered in the two programmatic EISs. Essentially, the injunction was lifted because the Department prepared an EIS that adequately analyzed impacts of the proposed action and alternatives and demonstrated open and honest consideration of public comments. [Editor's Note: See article on DARHT as a NEPA case study in Lessons Learned Quarterly Report issued December 1, 1995, page 12.]

Brief Notes

- The Natural Resources Defense Council and the Energy Research Foundation have given the Secretary notice of their intent to sue if DOE introduces new materials for processing in the F- or H-Canyon facilities at the Savannah River Site before completing an earthquake safety analysis and determining, based on the analysis, whether a supplemental EIS is required. DOE issued Records of Decision regarding use of these facilities in December 1995 and February 1996. Subsequently, the operating contractor announced that the buildings may be more susceptible to damage from a major earthquake than had been previously determined.

- Organizations concerned about proliferation of materials for nuclear weapons have asked a Federal District Court to temporarily restrain DOE from conducting an electrometallurgical process demonstration on spent fuel from the Experimental Breeder Reactor-II at Argonne National Laboratory-West in Idaho. The Office of Nuclear Energy completed an EA for the proposed demonstration and issued a Finding of No Significant Impact on May 15, 1996, whereas the complainants had commented that an EIS was required.

DOE Considers Comments on Proposed Amendments to its NEPA Regulations

A team from the Office of NEPA Policy and Assistance and Office of General Counsel is preparing responses to comments on the proposed NEPA rule amendments from approximately 40 sources, including Federal and state agencies, public interest groups, other organizations, and individuals. In many cases, responses to comments will include changes to the earlier proposals. The team has obtained helpful suggestions and information from program and field office personnel, who have been sent copies of the comment letters and a chart collating the comments by issue to facilitate their participation in the final concurrence process.

DOE intends this rulemaking to clarify and streamline certain requirements, thereby reducing its NEPA implementation cost and time. Several commenters supported the proposals, but most commenters expressed concerns, primarily that the changes would reduce public involvement and information opportunities and that various proposed categorical exclusions are not valid.

DOE proposed the amendments to its NEPA regulations (10 CFR Part 1021) on February 20, 1996 (61 CFR 6414), and established a public comment period ending April 5, 1996. In response to several requests for a hearing, DOE reopened the comment period until May 10, and held a public hearing in Washington, DC on May 6, 1996. A panel including staff of the Office of NEPA Policy and Assistance and the Office of General Counsel was on hand to ask and answer clarifying questions. Commenters elsewhere were able to arrange in advance to give statements by telephone conference call from a nearby DOE facility. Distant participants included representatives of the Nevada Nuclear Waste Task Force, the Oak Ridge Reservation Local Oversight Committee, and several individuals. The seven participants provided comments and voiced their appreciation for DOE reopening the comment period and holding the public hearing.

Further, in response to a request from Congressman John T. Doolittle, Chairman, Subcommittee on Water and Power Resources, DOE will reopen the public comment period for only those categorical exclusions that apply specifically to power marketing activities and will solicit comments from state and Federal agencies that have responsibility for environmental review of comparable non-Federal utility operations in the Pacific Northwest.

DOE is undertaking this rulemaking as part of its NEPA cost savings program under Strategic Alignment Initiative 29, with a scheduled completion date (except for the proposed amendments addressing power marketing) of June 1996. Accordingly, the Office of Environment, Safety and Health plans to circulate the proposed final rule to Secretarial Officers and Field Office Managers in early June for an expedited concurrence process.

For further information, please contact John Pulliam, Office of NEPA Policy and Assistance, by phone (202) 586-4597 or fax (202) 586-3915, or by electronic mail to the following internet address: neparule@spok.eh.doe.gov.

Second Quarter FY 1996 Questionnaire Results

What Respondents Found Successful and Unsuccessful in the NEPA Document Process

To foster continuing improvement of the Department's NEPA Compliance Program, DOE Order 451.1 requires the Office of Environment, Safety and Health to solicit comments on lessons learned in the process of completing NEPA documents and to distribute quarterly reports. This Quarterly Report covers documents completed between January 1 and March 31, 1996. Comments and lessons learned on the following topics were submitted by questionnaire respondents.

Editor's Note: Some of the material presented here reflects the personal views of individual questionnaire respondents, which (appropriately) may be inconsistent. Therefore, unless indicated otherwise, views reported herein should not be interpreted as recommendations from the Office of Environment, Safety and Health.

NEPA Document Content

Impact Analysis/Methodology

- In order to save costs, accident probabilities used in EIS analyses of potential accidents in ports were based on national accident statistics rather than on local accident initiators. Although DOE believed this approach was justified, commenters criticized the DEIS for not adequately or consistently considering local accident initiators, such as earthquakes or hurricanes. This experience demonstrates the importance of explaining in a NEPA document why an analysis that does not incorporate certain alternative-specific factors nevertheless provides a valid basis for comparing alternatives.

NEPA Document Preparation Process

Schedule

Timely Completion of Documents Was Facilitated by:

- Preparing the EA "in-house;" allowing the team to work closely.
- Early internal scoping, including definition of purpose and need, with participation of entire team.

Timely Completion of Documents Was Inhibited by:

- An unusually large and diverse group of Federal "players," including the State Department as a cooperating agency, the Navy, and several different DOE field sites.
- Conflicts with holidays and other work-loads.
- Personnel changes and additional review cycles.

Procedures for Keeping the Document on Schedule:

- Strong support from the policy group and state and tribal managers to keep their staffs to the schedule.
- Aggressive review process, including use of concurrent reviews with "marker board" comment resolution meetings.
- Knowing the leave schedule of managers on the concurrence chain, so they could be briefed and possibly concur on documents.

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NEPA Document Preparation Process (cont'd.)

Factors that Inhibited DOE Teamwork

- A NEPA Document Manager asked DOE reviewers not to request significant changes in order to maintain the schedule. Instead of having the desired effect of encouraging reviewers to cooperate, reviewers were less likely to consider themselves members of the project team.
- The project sponsor never attended team meetings.
- The NEPA process required DOE to consider siting alternatives that knowledgeable staff believed would never be chosen. It was difficult to get cooperation from staff at those sites who viewed such options as hypothetical.

Public Participation Process

Successful Aspects of the Public Participation Process:

- One-on-one meetings with stakeholder groups; "open-house" type meetings on the revised draft EIS; newsletters; work group to plan interpretive facility at a proposed fish hatchery.
- Only a single public hearing was held on the draft EIS, resulting in cost savings. Other hearings would have been scheduled upon request.
- Posting announcements as newspaper advertisements as opposed to press releases; posting the documents on the operations office home page on the World Wide Web.
- Meeting with State oversight personnel to explain the purpose and scope of the document.
- Monthly reports on the EA status in the operations office Environmental Bulletin, which is widely distributed to stakeholders.

Public Reactions to the NEPA Process

- Participants at several of the draft EIS public hearings complained about the way public participation was conducted, including: (1) insufficient publicity for a hearing; (2) inappropriate scheduling/location of the hearing (e.g., holding the hearing in the nearest large city instead of in the potential host community, holding the hearing on a Friday evening); (3) failure to enclose instructions when copies of the DEIS were sent to public and university libraries that do not routinely serve as public reading rooms (librarians apparently did not know why they were receiving the DEIS); and (4) objections to an informal "workshop" format for the EIS hearings without provision for transcribing participants' comments.
- Despite extensive analyses and public involvement, vocal members of the public still argue for more, and a Governor has announced his intention to sue.

Further Guidance Needs Identified

- Assessment of cumulative impacts; locating, scheduling, publicizing and conducting public meetings [Editor's Note: See "Effective Public Participation under the National Environmental Policy Act," issued December 1994, available from NEPA Compliance Officers and the Office of NEPA Policy and Assistance]; and sample letters of instruction to non-DOE librarians.
- Response to public comments on a DEIS, especially when there are a large number of comments.
- Guidance on the need to thoroughly cover or not cover impacts associated with the operation of an off-site vendor facility contracted to perform a service. [Editor's Note: See Lessons Learned Quarterly Report issued March 1, 1996, page 6.]

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NEPA Document Preparation Process (cont'd.)

Usefulness

Agency Planning and Decision Making

- The NEPA process guided the decision makers to a more environmentally conservative approach that resulted in fewer objections to the project.

- The EIS was the agency decision making process for the project. The preferred alternative was selected with minor modifications following analysis of impacts of all alternatives and consideration of comments.

- Excellent internal scoping by the NEPA team helped to better define the issues "up-front," so that data/ information could be made available to all parties early in the process.

- The NEPA process aroused public opposition to using commercial ports, which drove DOE to use more costly military ports. On the other hand, comments from a state caused DOE to speed up a useful analysis of treatment alternatives, which identified several promising new approaches that may save money and time.

Protection/Enhancement of the Environment

- The environment was better protected and construction costs were reduced by the selection of the alternative to complete an existing incomplete facility rather than build a new facility in an area containing State priority habitat.

- The environment was protected because several sensitive environments were identified and potential impacts were mitigated. Also, the environment will benefit further from this NEPA process because the information obtained will help with more informed decision making in the future. LL

REMINDER: Lessons Learned Questionnaires for all NEPA documents completed during the second quarter of FY 96 (April 1, 1996 to June 30, 1996) should be submitted as soon as possible after document completion, but no later than August 1, 1996. (Fax: 202-586-7031 or Internet: joanne.geroe@hq.doe.gov) The Lessons Learned Questionnaire is now available interactively on the DOE NEPA Web [http://www.eh.doe.gov/nepa] on the Internet. Look for it under NEPA Process Information.

Effectiveness of the NEPA Process

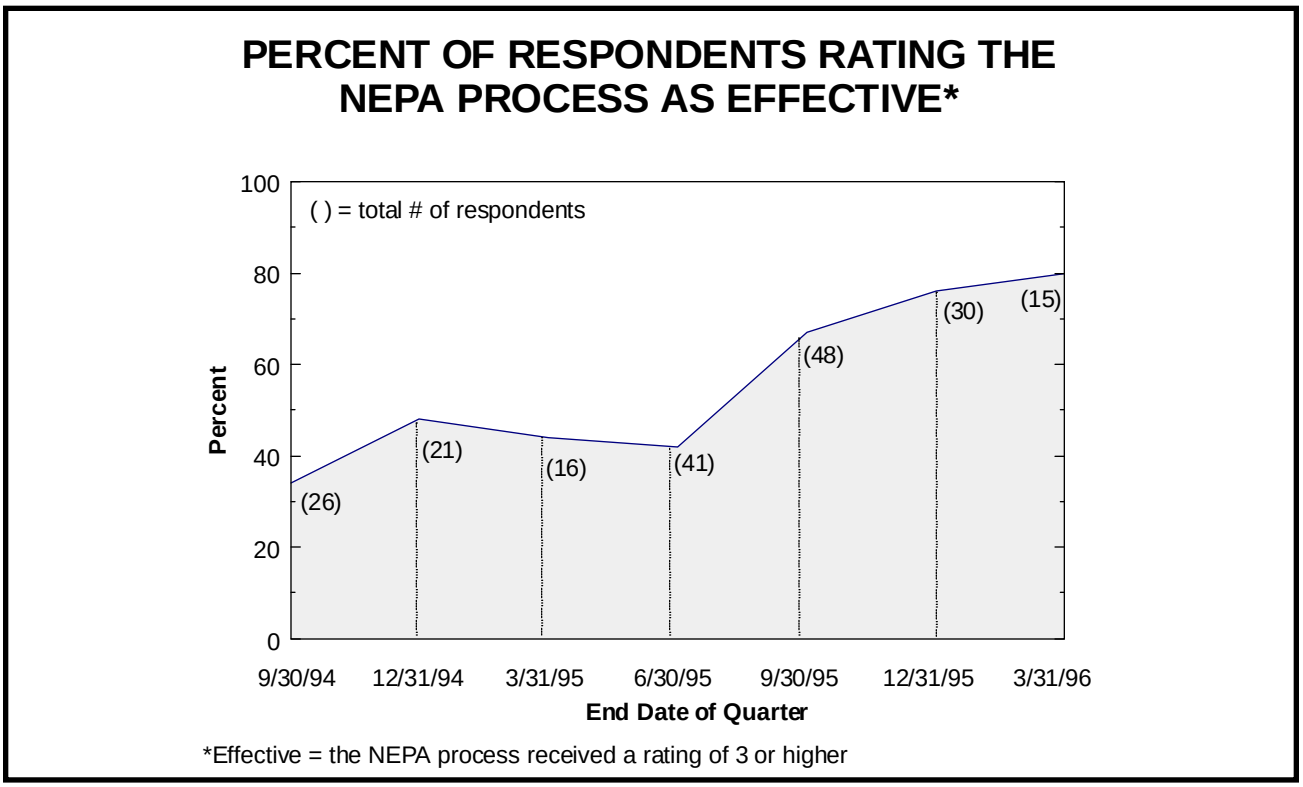


Figure 1

RATINGS

0 = Not effective at all
1 = Not very effective
2 = Somewhat effective
3 = Effective
4 = Very effective
5 = Highly effective

The chart above illustrates an upward trend in the number of respondents who have rated the NEPA process as effective. For purposes of this chart, "effective" means the NEPA process was rated with a 3, 4 or 5 (see adjacent box). The percentage of respondents who consider the NEPA process to be effective is shown from 4th Quarter 1994 to the present and has risen to 80%.

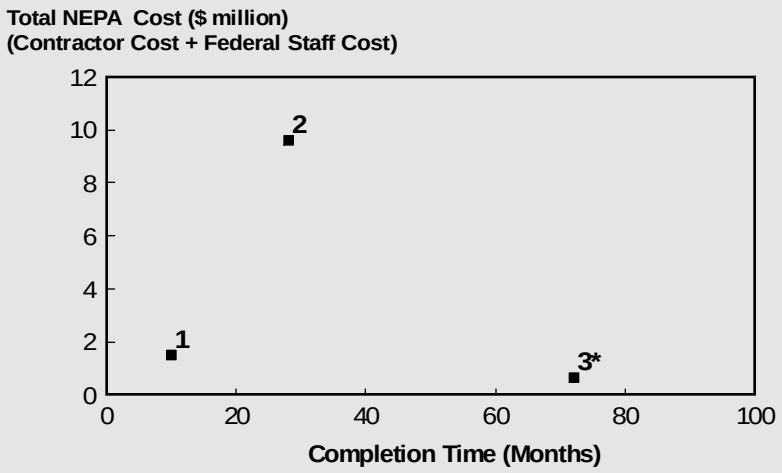
For this quarter, more than half of the respondents gave the NEPA process high ratings of 4 and 5. One commented that NEPA helped in identifying a problem and that the public participation requirements changed many of the Department's views. The respondent noted that while the NEPA process played a key role in decision making, the environmental factors were not important discriminators.

In another case, a respondent indicated that phone calls made to applicants/grantees to request information helped in planning as well as doing the NEPA analysis. This type of exchange developed a good working relationship between the parties. Another respondent stated that the concerns raised during public involvement were critically important to arriving at agreement on a more environmentally conservative approach.

Respondents gave several reasons for low NEPA effectiveness ratings, including that very little public comment was received, and that the proposal was very straightforward and required little thought.

EIS Cost and Completion Times Data

EIS Costs and Completion Times



** Federal staff cost only, contractor costs not reported*

Completion Time Facts

- The completion times for the 3 EISs completed during the 2nd quarter of FY1996 were 10, 28, and 72 months.
- None of the 3 EISs was completed on schedule.
- The NEPA process was initiated early enough for 1 EIS to avoid being on a critical path; for 2 EISs it was not.
- Cumulatively over the last year, the median completion time for 21 EISs was 28 months.

Cost Facts

- NEPA process costs for the 3 EISs completed in this quarter were $650,000, $1.5 million, and $9.6 million.
- Budget data were reported for 2 EISs; neither was completed within budget.
- Contractor cost data were reported for 2 EISs; these costs were $9 million for EIS #2 and $1.3 million for EIS #1.
- Total project costs were reported for 2 EISs for which NEPA process cost represented 1.2% and 1.7% of the total project cost.
- Cumulatively over the last year, the median contractor cost for the preparation of 15 EISs was $1.3 million.

Erratum:

The total cost to prepare the Safe Retrieval, Transfer and Interim Storage of Hanford Tank Waste EIS was incorrectly reported on page 11 of the Lessons Learned Quarterly Report issued 3/1/96; the correct cost is $3.5 million.

EISs

Richland Operations Office/ Environmental Management
1= Management of Spent Nuclear Fuel from the K Basins, Hanford Site, Richland, Washington, DOE/EIS-0245, EPA rating: EC-2 ($1.5 million; 10 months)

Environmental Management
2 = Proposed Nuclear Weapons Nonproliferation Policy Concerning Foreign Research Reactor Spent Nuclear Fuel, DOE/EIS-0218, EPA rating: EC-2 ($9.6 million; 28 months)

Bonneville Power Administration
3 = Yakima River Basin Fisheries Project, Oregon, DOE/EIS-0169, EPA rating: EC-2 ($650,000 (contractor costs not reported); 72 months)

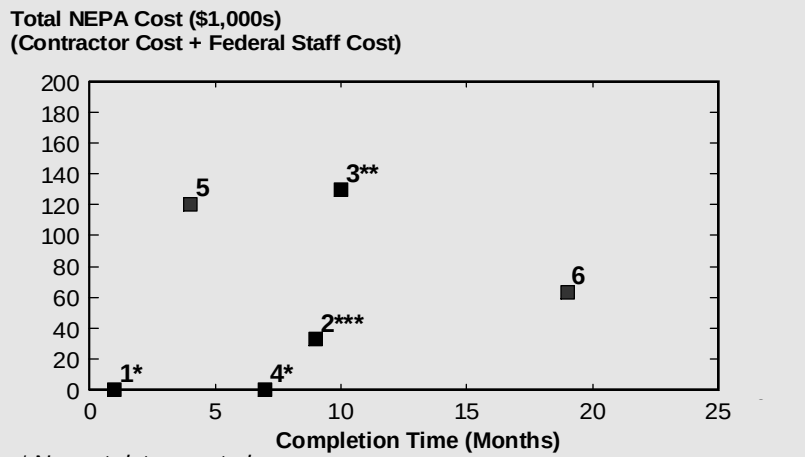
ENVIRONMENTAL PROTECTION AGENCY (EPA) RATING DEFINITIONS

Adequacy of the EIS
Category 1 — Adequate
Category 2 — Insufficient Information
Category 3 — Inadequate

Environmental Impact of the Action
LO — Lack of Objections
EC — Environmental Concerns
EO — Environmental Objections
EU — Environmentally Unsatisfactory

EA Cost and Completion Times Data

EA Costs and Completion Times



** No cost data reported*

*** Federal staff cost only, contractor costs not reported*

**** No contractor used*

Figure 3

Completion Time Facts

- The median completion time for 6 EAs completed during 2nd quarter FY1996 was 8 months (range: 1 to 19 months).
- 2 out of 5 EAs for which scheduling information was reported were completed on schedule.
- The NEPA process was initiated early enough for all 6 EAs to avoid being on a critical path.
- Cumulatively for the last year, the median completion time for 77 EAs was 16 months.

Cost Facts

- NEPA process cost data were reported for 4 EAs.
- Of the 6 EAs, budget data was reported for 3 EAs, none of which was completed within budget.
- Contractor cost data were reported for 2 EAs; these costs were $6,670 for EA #5 and $33,000 for EA #6.
- Total project cost was reported only for EA# 2, of which the NEPA process represented .1% .
- Cumulatively for the last year, the median contractor cost for the preparation of 49 EAs was $65,000.

EAs

Albuquerque Operations Office/ Environmental Management
1 = TRU Drum Staging Building, LANL, Los Alamos, New Mexico, DOE/EA-0823
(Costs unreported; 1 month)

Chicago Operations Office/ Energy Research
2 = Proposed Construction of Lied Transplant Center, University of Nebraska Medical Center, Omaha, Nebraska, DOE/EA-1143
($32,500 Federal cost, no contractor used; 9 months)

Energy Efficiency and Renewable Energy
3 = Bison School District Heating Plant Project, Colorado, DOE/EA-1084
($130,000 Federal cost, contractor costs unreported; 10 months)

Oak Ridge Operations Office/ Environmental Management
4 = Management of Spent Nuclear Fuel at the Oak Ridge Reservation, Oak Ridge, Tennessee, DOE/EA-1108
(Costs unreported; 7 months)

Savannah River Operations Office
5 = Off-Site Commercial Cleaning of Lead and Asbestos Contaminated Laundry Generated at the Savannah River Site, DOE/EA-1130
($120,000; 4 months)

Southwestern Power Administration
6 = Vegetation Control at VHF Stations, Microwave Stations, Electrical Substations and Pole Yards, Missouri, Oklahoma, Arkansas, DOE/EA-1110
($63,000; 19 months)

Introduction

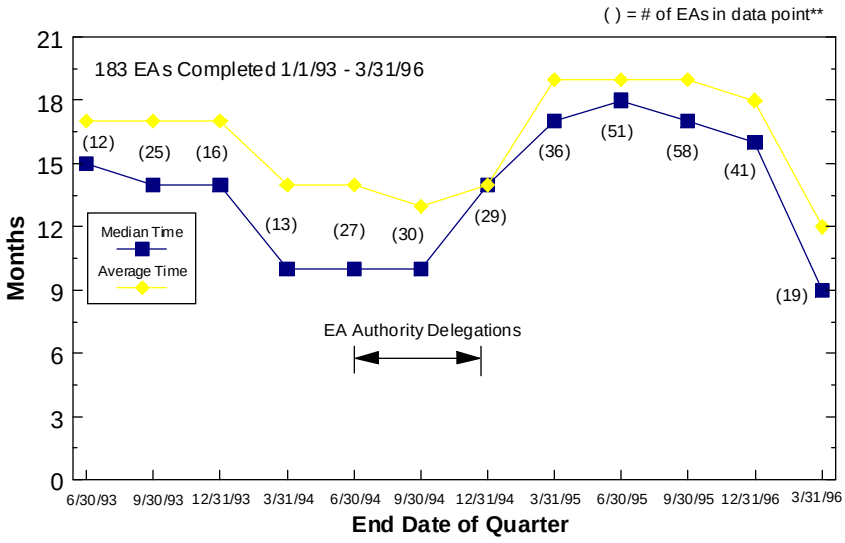
In this section we analyze trends for NEPA process cost and time, two key metrics that reflect the Department's progress in improving its NEPA compliance program. The Office of NEPA Policy and Assistance has been tracking and reporting data on these metrics during the past seven quarters, in accordance with the Secretary's NEPA Policy, and intends from time to time to analyze the data and report on the Department's progress. (For example, please refer to Figure 1 on page 13, which suggests significant improvements regarding a different key metric, the effectiveness of the Department's NEPA process.)

In conducting this trends analysis, we have examined various timeframes, including the period since the Secretary's NEPA Policy Statement (i.e., 7/1/94 to present), the last 12 months, and, in a trendline presentation, the last 6 months. Each period is characterized by different average/ median results, which the reader should take care to distinguish.

EA Completion Times

Conclusions regarding trends based on these data (Figure 4) should be made cautiously in light of the wide range in completion times, as suggested by the differences between the median and average (Also see Figure 6).

The data suggest that after EA approval authority was delegated to field office managers, median EA completion times increased from about 10 months to about 17 months. After approximately one year, median EA completion times appear to have decreased to about 9 months.



* Each data point represents EAs completed within the 6 months period ending on the indicated date. This technique tends to smooth out quarterly changes.
** EAs may be counted in two data points.

Figure 4

- Analysis of the sample of EAs approved in the year after delegation suggests that Field Offices completed the NEPA process for many "old" EAs. Other factors that may have contributed to the completion time increase include: the number of EAs completed increased from about 50 per year for 1993 and 1994 to about 95 for the year following delegation which may have stretched available NEPA expertise and resources available; a "learning curve" period during which several Field Offices reported the need to augment their NEPA staff and refine their EA review and approval procedures; providing enhanced public participation opportunities in accordance with the Secretary's NEPA policy may have lengthened the process in some cases; and, in a few instances, Field Office decision makers found that they needed time to deliberate on controversial decisions that previously would have been made at headquarters.

- Data for EAs initiated after delegation, although incomplete and therefore not presented in Figure 4, strongly suggest an overall decrease in EA completion times to levels at or below predelegation levels. These data better represent recent DOE performance because they do not include the effects of any backlog of "old" EAs. For example, of the 68 EAs started after 1/1/95, the EA process for about 50% of them has been completed; the median completion time for the 68 EAs will be less than about 9 to 10 months (the median for EAs already completed was 4 months). We will continue to study these "new" EAs and report on the results when appropriate.

- Figure 4 also suggests an apparent decrease in EA preparation times from a median of about 14 months in 1993 to about 10 months in 1994. This decrease may reflect several significant cost and time savings recommendations that the Department began to practice almost immediately after issuance in January 1994 of the Report of the Environmental Assessment Process Improvement Team.

EA Costs

- This figure represents only those completed EAs for which costs have been reported, which constitutes 62% of the EAs completed during the period.
- Large differences between the median and average indicate wide cost variations.
- No reliable EA cost data are available for EAs completed before June 1994.
- The data suggest that delegation did not affect the typical EA cost, which has been nearly constant through this period.

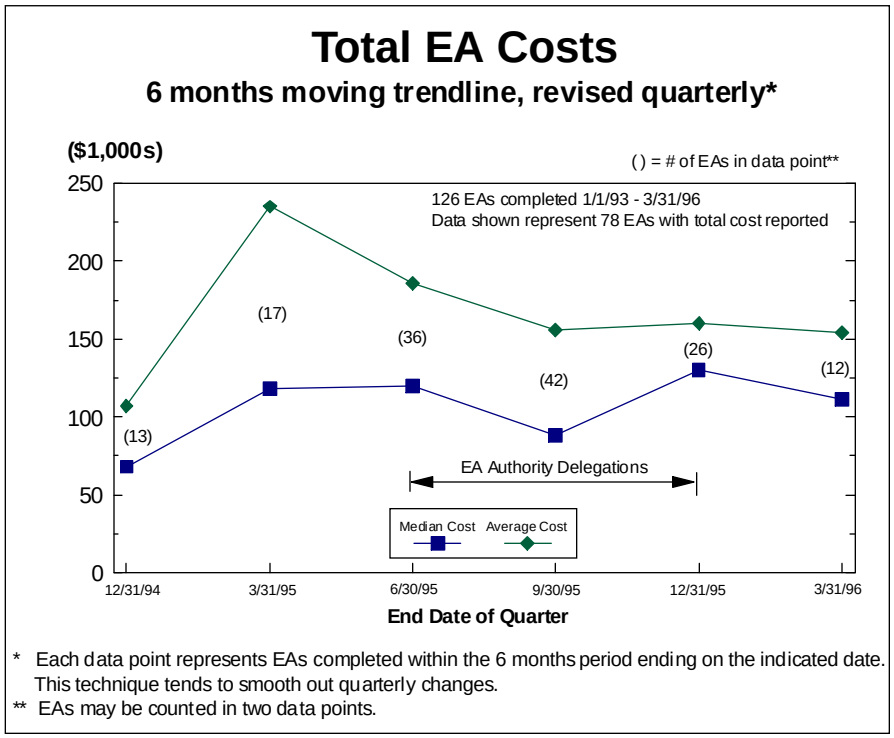


Figure 5

- EA cost variations among different program offices were discussed in the March 1, 1996 edition of the Lessons Learned Quarterly Report.

We intend to further study and report on cost and time data for programs and field offices.

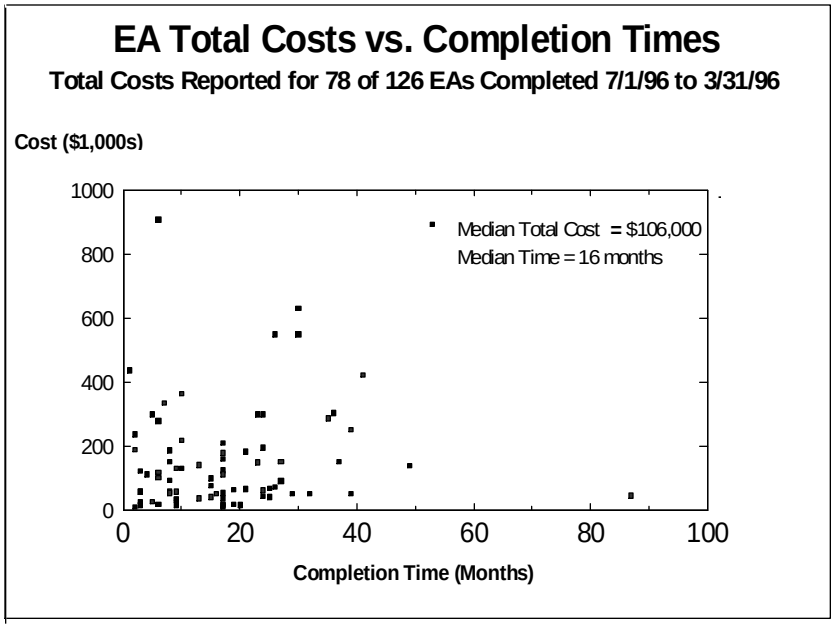


Figure 6

EA Total Costs vs. Completion Times

- Figure 6 illustrates the wide variation in both costs and completion times for EAs.
- These data show that a high proportion of the EAs with relatively long completion times (i.e., greater than 20 months) have relatively high costs (i.e., greater than $200,000), while the overall correlation between EA cost and time is very weak. For example, nearly one-half of the EAs with long completion times cost less that $100,000.

EIS Cost vs. Completion Times

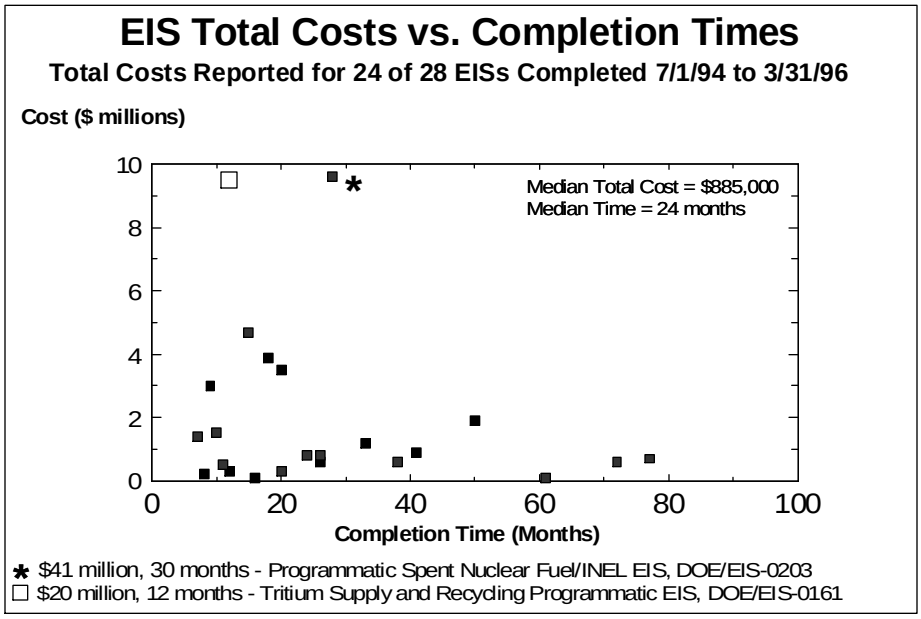


Figure 7

- This figure illustrates that the distribution of EIS costs strongly clusters in the low end of the range; 70% of EISs cost less than $2 million. EISs rarely cost more than $5 million.

- EIS completion times vary widely. These data do not suggest a correlation between completion times and costs. EISs with the longest completion times (greater than 30 months) were among the least costly EISs and none cost more than $5 million.

- We believe analysis of recent DOE performance regarding EIS costs and completion times requires study of EISs initiated after the issuance of the Secretary's NEPA policy in June 1994. Of 15 such EISs, five have been completed to date (completion times of 9, 10, 11, 12 and 19 months), which is too small and biased a sample to enable meaningful trend analysis. We intend to continue to study EIS trends and will report the results as sufficient data become available.

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Evaluation Form

How are we doing?

Does the new format of the Lessons Learned Report make the information easier to understand? _____

_____

Which sections do you consider to be the most helpful? The least helpful? _____

_____

What should be added to the report to make it more useful? _____

_____

Please offer any other suggestions on how we may improve the Lessons Learned Quarterly Report. _____

_____

_____

Your name (optional) _____

FROM:

Stamp

Office of NEPA Policy and Assistance, EH-42
Attn: Joanne Arenwald Geroe
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585-0119