

memorandum

DATE: MAY 26 1992

REPLY TO
ATTN OF: EH-25

SUBJECT: Recommendations on Alternative Actions for Analysis in
Site-wide NEPA Reviews

TO: Secretarial Officers
Field Office Managers

Background

The purpose of this memorandum is to recommend the treatment of the proposed action and the no action alternatives in site-wide National Environmental Policy Act (NEPA) reviews that are prepared for continuing and reasonably foreseeable future actions at Department of Energy (DOE) sites. DOE prepares site-wide NEPA reviews in accordance with section 1021.331 of the DOE NEPA Regulations (10 CFR Part 1021, published on April 24, 1992 at 57 FR 15122) to improve and coordinate agency plans, functions, programs, and resource utilization, among other reasons.¹

Many DOE sites contain facilities that support diverse and unrelated missions and activities. Site-wide NEPA documents provide an opportunity for cumulative, "programmatic" review of the collective potential environmental effects of such facilities at a specific geographic location. A site-wide NEPA review is a means of considering changes in the overall operating (*i.e.*, "production") mode of a site, including mission changes where appropriate, and provides current environmental impact information to support and simplify subsequent "tiered" NEPA reviews. Site-wide NEPA documents also provide an opportunity to address the cumulative impacts of all reasonably foreseeable activities, including environmental restoration activities and related activities of sizing, siting, constructing, and operating treatment, storage, and disposal facilities to support both cleanup actions and continuing operations. This analysis of environmental restoration activities constitutes the second "tier" of the pyramid described in my November 15, 1991, memorandum "Guidance on Implementation of the DOE NEPA/CERCLA Integration Policy."

The Council on Environmental Quality (CEQ) regulations governing NEPA review require examination of all reasonable alternatives; that is, alternatives that "are practical or feasible from the technical and economic standpoint and using common sense" (CEQ: Forty Most Asked Questions Concerning CEQ's NEPA Regulations, 46 FR 18026, March 23, 1981). (Note that alternatives that are outside DOE's legal jurisdiction or

¹ Draft guidance was distributed to NEPA Compliance Officers (NCOs) for discussion in July 1991. We thank the NCOs for their suggestions and note that an NCO Task Group is working to recommend further guidance on site-wide NEPA reviews.

outside the scope of actions that Congress has approved or funded for DOE may sometimes be reasonable alternatives for NEPA purposes.)

Site-wide NEPA reviews, involving both continuing actions and new proposals, present conceptual interpretation problems for the "no action" alternative and "proposed action" that do not arise in NEPA reviews for conventional projects. This memorandum, prepared in consultation with the Office of General Counsel, addresses the problems by applying the experience gained in planning and preparation of the site-wide NEPA review (environmental impact statement (EIS) in this case) for the Lawrence Livermore National Laboratory (LLNL). This guidance is not intended to apply retroactively -- that is, to decisions that have already been made -- but rather to provide a framework for planning future site-wide NEPA reviews, benefiting from the LLNL experience.

Guidance

(A) No Action Alternatives

Discussion of the no action alternative is required by the Council on Environmental Quality regulations (40 CFR 1502.14) and serves as a benchmark for comparison with the environmental effects of the action alternatives. In the context of a review of ongoing operations, such as a site-wide NEPA review, "no action" can assume either of the following two meanings:

- (1) Continuing the present course of action without substantial new proposals (*i.e.*, no action = no change in *status quo*).
- (2) Discontinuing the present course of action by phasing-out operations in the near term and embarking upon decommissioning the site (*i.e.*, no action = no "production" activities at the site).

Each of these two different meanings of the "no action" alternative, which are referred to below as No Action Alternatives 1 and 2, should be analyzed in site-wide NEPA reviews.

No Action Alternative 1 -- Continue Present Course of Action: This alternative should include current operations and ongoing environmental restoration activities. The present course of action would include actions necessary for safe and environmentally sound operations, such as routine maintenance and site characterization. The No Action Alternative 1 should exclude major cleanup activities and facility upgrades in general, unless the NEPA review for these activities has been completed and the decision has been made to proceed. These proposed activities generally should be excluded from the No Action Alternative 1 even if DOE is under a court order or has entered into an Interagency Agreement, Federal Facility Compliance Agreement, or Consent Order for such actions. Exclusion of these proposed activities is necessary to show the effects of present site operations without benefit of proposed improvements. This treatment of No Action Alternative 1 parallels the treatment of alternatives in documents

such as remedial investigations/feasibility studies prepared under the Comprehensive Environmental Response, Compensation, and Liability Act.²

No Action Alternative 2 -- Discontinue Operations in the Near Term and Decommission: CEQ regulations require that a range of alternatives be considered in decisionmaking (40 CFR 1505.1), and consideration of discontinuing operations in the near term and decommissioning represents one end of the range for site-wide NEPA reviews.³ Alternatives are not necessarily constrained by legally-mandated or authorized activities, and they cannot be automatically dismissed because they are inconsistent with an established mission. A discontinue and decommission alternative performs much the same function when assessing a continuing activity as the conventional no action alternative performs for a new activity; *i.e.*, as noted above, by reflecting a cessation of production activities it establishes one end of the range of alternatives. For this reason, we recommend that this alternative be analyzed to present the full range of alternatives and their environmental impacts to the decisionmaker and the public.

The extent to which No Action Alternative 2 is analyzed will vary with the site, but the analysis should show the general environmental conditions (*e.g.*, number of workers unemployed, volume of site debris and waste) that would result from closing operations and decommissioning the site. The analysis should not aim to support specific decommissioning activities or alternatives (*e.g.*, whether the site could be released for unrestricted use); these would be the subject of a subsequent NEPA review if No Action Alternative 2 were selected. The analysis also should not consider remote

² Note: We have carefully considered whether No Action Alternative 1 should include actions that would be taken to fulfill a court order or commitments under an Interagency Agreement, Federal Facility Compliance Agreement, or Consent Order. Some people believe that excluding future actions that would stem from these commitments from consideration under this alternative would mistakenly imply that DOE does not intend to fulfill obligations under the subject Agreements or Orders. There should be no such confusion, however. While these commitments are part of DOE's planning process, the actions to be taken to fulfill these commitments will often not yet have been decided; that is, the actions are not "continuing operations." Until the decisionmaking process is complete, including necessary environmental reviews, the specific actions that would be taken to satisfy the more general commitments are "proposed actions." We believe that any potential misunderstanding regarding DOE's intention to comply with its commitments can readily be avoided in this context by clear and careful descriptions of the alternatives being considered in the site-wide NEPA documents.

³ As a matter of course, the impacts of discontinuing operations and decommissioning the site, as an eventual consequence of site operations, should be addressed in a site-wide NEPA review under any alternatives that contemplate continued operations. The impacts might be analyzed (usually in a fairly general manner) under No Action Alternative 1, for example, and referenced (and further annotated, if appropriate) under other continued operations alternatives.

issues, such as what future facility, if any, would be located on the site. The analysis should note whether the site's functions could be performed at other existing facilities, but such possibilities need not be analyzed in detail unless such a relocation has already been identified elsewhere as a reasonable alternative. The analysis of environmental restoration projects for No Action Alternative 2 and the proposed action alternative (see below) should be similar, because the time horizon for these two alternatives is similar and environmental restoration projects would be part of the decommissioning process.

(B) Proposed Action Alternative

The proposed action alternative, in the context of a site-wide NEPA review, encompasses No Action Alternative 1 plus near-term proposed projects. "Near-term" proposed projects are proposed projects that would typically be initiated within 5 to 10 years and that can be described with sufficient specificity for their potential environmental impacts to be evaluated.

Near-term proposed projects should include actions in three major areas, if applicable: (1) facility upgrades, modifications, and renovations; (2) new construction projects (e.g., waste treatment, storage, or disposal facilities; production or research facilities); and (3) environmental restoration. The cumulative impact of these projects should be addressed under the proposed action alternative, although project-specific NEPA reviews (tiered from the site-wide reviews) may also be required.

If appropriate for the site, the proposed action alternative should include sub-alternatives that consider scaling down operations that have the greatest environmental impact or using alternative technologies or management strategies having reduced environmental impacts, such as pollution prevention and waste minimization programs, consistent with carrying out the site's authorized mission(s).

In summary, the impacts of the proposed action alternative may be contrasted with impacts of No Action Alternative 1 to determine only the contribution of all proposed new projects and with those of No Action Alternative 2 to determine the contribution of both continuing and proposed site operations.

If there are any questions regarding this guidance or the alternatives to be considered in specific site-wide NEPA documents, please direct them to Carol M. Borgstrom, Director, Office of NEPA Oversight, at (202) 586-4600.



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