NEPA
National Environmental Policy Act
LESSONS LEARNED
U.S. DEPARTMENT OF ENERGY QUARTERLY REPORT

December 1, 2011; Issue No. 69 Fourth Quarter FY 2011

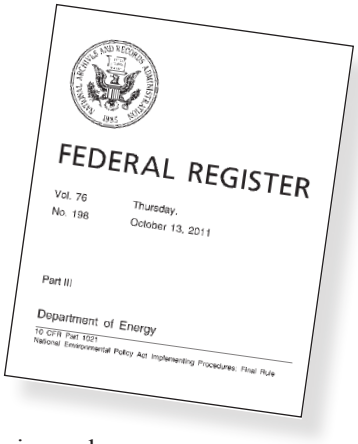
DOE Updates NEPA Regulations To Improve Efficiency and Transparency

The Department of Energy (DOE) has revised its National Environmental Policy Act (NEPA) Implementing Procedures (10 CFR Part 1021) to better align them with current DOE missions and improve the efficiency and transparency of its environmental reviews. The revisions focus on the categorical exclusion provisions. Since DOE last revised its categorical exclusions 15 years ago, its missions and activities have evolved, and the Department has gained experience with additional actions and technologies. The primary goal of the revisions, accordingly, was to align DOE's categorical exclusions with current activities and recent experience, and update the provisions with respect to current technologies and regulatory requirements.

Updating our NEPA rule allows us to accomplish our environmental reviews more efficiently, reduces costs to taxpayers as well as applicants for DOE permits and financial support, and focuses resources on evaluating proposals that have the potential for significant environmental impacts.

– Sean A. Lev, DOE Acting General Counsel

DOE's final rule, which became effective November 14, 2011, is a result of extensive internal DOE evaluation, public participation, and Council on Environmental Quality (CEQ) review. It established 20 new categorical exclusions – "classes of actions" that normally may be categorically excluded from further NEPA review (neither an environmental assessment (EA) nor an environmental impact statement (EIS) is required) – most of them for small-scale renewable energy projects and research and development activities.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10 CFR Part 1021
National Environmental Policy Act Implementing Procedures; Final Rule

The revised NEPA rule also modified several existing categorical exclusions, most often by adding examples of applicable technologies and activities, but also by adding limitations and clarifications. In addition, the revised rule established a new integral element specifying that a categorical exclusion (under Subpart D, Appendix B) may not be applied to a proposed action involving genetically engineered organisms, synthetic biology, noxious weeds, or invasive species, unless contained or confined to prevent release and in accordance with applicable requirements. These changes are expected to increase transparency by providing the public more specific information as to the circumstances in which DOE is likely to invoke a categorical exclusion. They also will increase uniformity throughout the Department by establishing more consistent interpretation of the intended scope of categorical exclusions. To further transparency, the revised rule also codified DOE's 2009 policy to document and post online Appendix B categorical exclusion determinations (*LLQR*, December 2009, page 1).

Public Comments Informed Changes

DOE revised its NEPA regulations through a public rulemaking over the course of 2 years. DOE solicited public comments first in December 2009 with a Request for Information seeking input on activities that should be considered for new or revised categorical exclusions.

(continued on page 4)

Inside *LESSONS LEARNED*

Welcome to the 69th quarterly report on lessons learned in the NEPA process. This issue celebrates the revision of DOE's NEPA regulations, which became effective on November 14, 2011. The culmination of a 2-year rulemaking process, the regulations establish 20 new categorical exclusions and revise other provisions to promote efficiency and transparency. Thank you for your continued support of the Lessons Learned program. As always, we welcome your suggestions for improvement.

Carol Borgstrom
Director
Office of NEPA Policy and Compliance

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Be Part of Lessons Learned

We Welcome Your Contributions

We welcome suggestions, comments, and contributed drafts for the *Lessons Learned Quarterly Report* (*LLQR*). We especially seek case studies illustrating successful NEPA practices. Draft articles for the next issue are requested by February 1, 2012. Contact Yardena Mansoor at yardena.mansoor@hq.doe.gov.

Quarterly Questionnaires Due February 1, 2012

Lessons Learned Questionnaires for NEPA documents completed during the fourth quarter of fiscal year 2011 (October 1 through December 31, 2011) should be submitted by February 1, 2012, but preferably as soon as possible after document completion. The Questionnaire is available on the DOE NEPA Website at *http://energy.gov/nepa* under Guidance & Requirements, then Lessons Learned. For Questionnaire issues, contact Vivian Bowie at vivian.bowie@hq.doe.gov.

LLQR Online

The Office of NEPA Policy and Compliance notifies the DOE NEPA Community and other interested parties by email when each new quarterly issue is posted on the DOE NEPA Website (above) under Guidance & Requirements, then Lessons Learned. We provide paper copies only on request. Send distribution requests to yardena.mansoor@hq.doe.gov or call 1-800-472-2756.

This icon indicates that *LLQR* online (*http://energy.gov/nepa* under Guidance & Requirements, then Lessons Learned) provides a link to a referenced web page.

New EPA Web Resource on EJ and NEPA

The Environmental Protection Agency (EPA) recently launched a web page dedicated to Environmental Justice (EJ) Considerations in the NEPA Process. This web resource provides links to EJ guidance tools and documents that can be used by NEPA practitioners, including:

- Executive Order 12898, *Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*, and associated documents
- CEQ and Federal agency guidance on EJ and NEPA, for example:
  - CEQ's recently updated Agency Resources on NEPA and Environmental Justice web page[1]
  - Best practices found in the U.S. Air Force's Guide to EJ Analysis
- Methodologies that support EJ considerations, including information on use of health impact assessments (related article, page 13)
- Online tools useful for EJ analyses, including EPA's NEPAssist and EJView, and other databases and geographic information mapping tools.

[1] *For DOE's NEPA and EJ guidance, see* Recommendations for the Preparation of Environmental Assessments and Environmental Impact Statements *("Green Book"), Second Edition (December 2004), Section 6.7.*

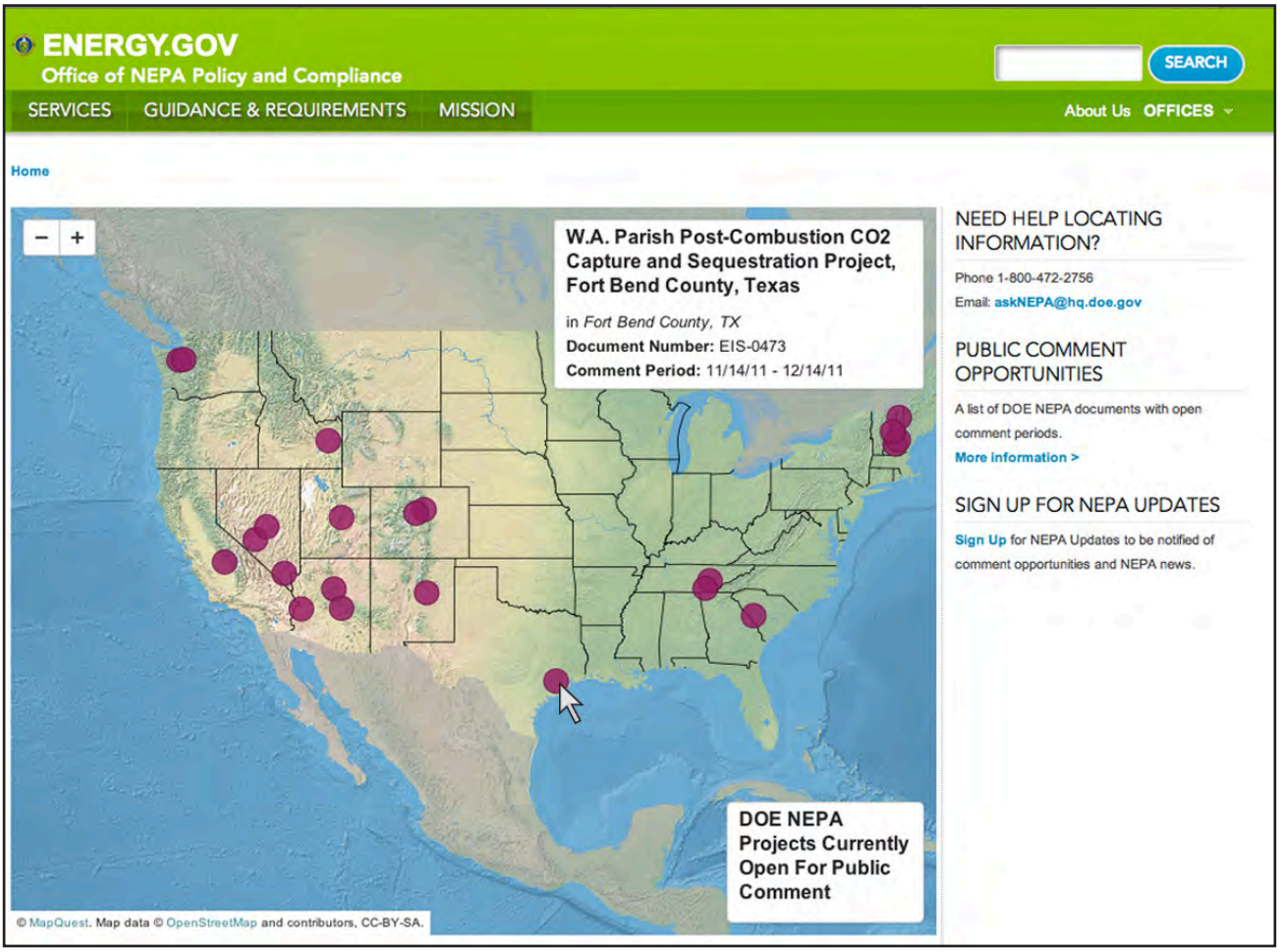
DOE NEPA Website Tools Foster Public Participation

The redesign of the DOE NEPA Website (*http://energy.gov/nepa*), consistent with the overall new design for *Energy.gov*, was introduced in the September 2011 issue of *LLQR*. Considerable effort has been expended since then to improve the NEPA Website's content, organization, and functionality. The site now includes new features that support DOE's transparency and public participation goals, including an interactive map and a Public Comment Opportunities page.

Front and center on the new home page of the NEPA Website is an interactive map, marked with red dots designating the locations of all DOE NEPA projects for which there are open public comment periods. Pointing to any of the dots brings up a window displaying the project name and location and the beginning and ending dates for the comment period. (For example, pointing to the dot in Texas reveals a proposed carbon capture and sequestration project in Fort Bend County. See illustration.) Clicking on the dot takes the visitor to a page that describes the project, provides a link to download the document under review, and explains how to submit comments.

Also linked from the home page of the DOE NEPA Website, the Public Comment Opportunities page lists all DOE NEPA projects, in reverse chronological order, for which there are open comment periods. This list provides instructions for submitting comments and also links to the project description page discussed above. The website also provides a list of the Latest NEPA Documents & Notices to help users locate recent documents.

Using the new website to increase accessibility to ongoing NEPA projects and facilitating comment submission demonstrates DOE's commitment to robust public participation in the NEPA process. The DOE NEPA Website Team − Jeff Dorman, Denise Freeman, and Mike Wach − welcomes suggestions for site improvements. Comments, questions, and requests for further information may be addressed to the Team at eNEPA@hq.doe.gov.



DOE NEPA Rulemaking *(continued from page 1)*

DOE considered public comment together with input from the Department's NEPA Compliance Officers (NCOs) in drafting proposed changes that it published in January 2011 in a Notice of Proposed Rulemaking. DOE received comments on the proposed changes from individuals, trade associations, nongovernmental organizations, Federal agencies, and a tribal agency.

Those comments primarily expressed either support for or opposition to particular proposed categorical exclusions. For example, several comments expressed support for the establishment of new categorical exclusions for renewable energy technologies. Some comments stated that DOE should not use categorical exclusions at all or expressed general objections or concerns regarding DOE's proposed revisions. Other comments requested that DOE further clarify phrases such as "small-scale" and "previously disturbed and developed" (included in several categorical exclusions). Several comments expressed concerns regarding the potential use of algae, genetically engineered microorganisms, or invasive species under specific categorical exclusions.

There was great benefit from involving the NCOs. The new and revised classes of action represent a lot of NCO experience with actual use of the process and the categorical exclusions, and the end result will be more confidence in the determinations.

– Drew Grainger
Savannah River Site NCO

In developing the revised rule, DOE considered all comments received on the proposed rulemaking, including late comments and comments on categorical exclusions for which DOE did not propose any changes. DOE incorporated suggestions from these comments into its final NEPA rule.

Major Changes to the Rule

DOE's new categorical exclusions include many small-scale research and development projects, and small-scale, commercially available, renewable energy projects. DOE also established new categorical exclusions for stormwater runoff control measures, lead-based paint removal, recycling stations, and determinations of excess property. In addition, DOE removed two categorical exclusion categories, one EA category, and three EIS categories. The new categorical exclusions are based on DOE's experience preparing EAs, categorical exclusions established by other Federal agencies, and analysis by DOE experts.

New DOE Categorical Exclusions

Renewable Energy and Conservation

B5.13	Experimental wells for injection of small quantities of carbon dioxide
B5.14	Combined heat and power or cogeneration systems
B5.15	Small-scale renewable energy research and development and pilot projects
B5.16	Solar photovoltaic systems
B5.17	Solar thermal systems
B5.18	Wind turbines
B5.19	Ground source heat pumps
B5.20	Biomass power plants
B5.21	Methane gas recovery and utilization systems
B5.22	Alternative fuel vehicle fueling stations
B5.23	Electric vehicle charging stations
B5.24	Drop-in hydroelectric systems

Research and Development

B3.14	Small-scale educational facilities
B3.15	Small-scale indoor research and development projects using nanoscale materials
B3.16	Research activities in aquatic environments
B5.25	Small-scale renewable energy research and development and pilot projects in aquatic environments

Other

B1.33	Stormwater runoff control
B1.34	Lead-based paint containment, removal, and disposal
B1.35	Drop-off, collection, and transfer facilities for recyclable materials
B1.36	Determinations of excess real property

They generally include criteria (e.g., acreage, location, and height limitations) that limit the covered actions to those that normally would not have the potential to cause significant environmental impacts.

To address public concerns regarding genetically engineered organisms, synthetic biology, noxious weeds, and invasive species, DOE considered the addition of further restrictions to individual categorical exclusions, but instead established a new integral element (applicable to all Appendix B categorical exclusions). In order to apply a categorical exclusion, a proposal must not involve genetically engineered organisms, synthetic biology, noxious weeds, or invasive species, unless the proposed

(continued on next page)

DOE NEPA Rulemaking *(continued from previous page)*

activity would be contained or confined in a manner designed and operated to prevent unauthorized release into the environment and conducted in accordance with applicable requirements.

The revised regulations incorporate lessons learned from environmental reviews conducted by DOE and others over the past two decades. By expanding and clarifying the scope of categorical exclusions, the regulations will reduce undue delays in the commencement of research and development projects. The revised regulations will also allow NCOs to focus their attention and resources on projects that require greater due diligence.

– Matthew Dunne
ARPA-E NCO

DOE modified several existing categorical exclusions to include, either explicitly or by adding examples, new technologies and activities. For example, categorical exclusion B1.7, for the installation and operation of electronic equipment, now identifies as an example equipment that enables the adoption of smart grid technologies. In response to public comments, DOE also clarified the phrases "previously disturbed and developed" and "small or small-scale" (at 10 CFR 1021.410(g)). Further, DOE made several minor technical and organizational changes, including updates to outdated references and corrections to cross-references within the rule.

Resources and Implementation

As of November 14, 2011, NCOs must use the recently promulgated categorical exclusions established through the rulemaking. To assist NCOs, the Office of NEPA Policy and Compliance (NEPA Office) posted explanatory materials, such as a file of the rule with changes tracked from the previous rule, on the DOE NEPA Website's

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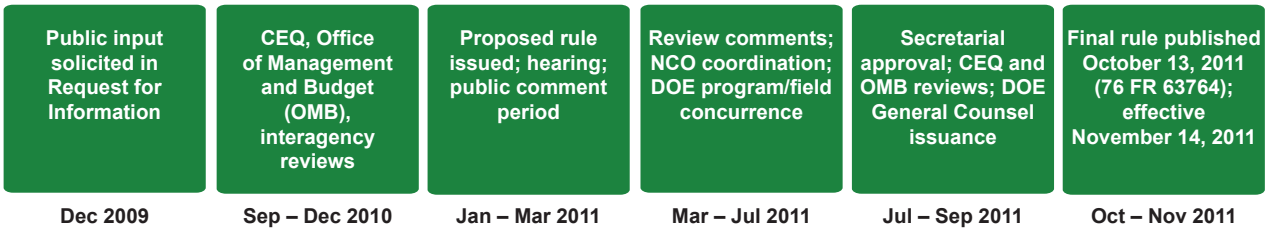
Limitations Define Categorical Exclusions

DOE crafted limitations – based on DOE and other agency experience and regulatory requirements – to ensure that categorical exclusions would not cover proposals with potential to cause significant impacts. Categorical exclusion B5.18, for example, is titled "wind turbines" but is limited to:

> The installation, modification, operation, and removal of a small number (generally not more than 2) of commercially available wind turbines, with a total height generally less than 200 feet (measured from the ground to the maximum height of blade rotation) that
>
> (1) Are located within a previously disturbed or developed area;
>
> (2) are located more than 10 nautical miles (about 11.5 miles) from an airport or aviation navigation aid*;
>
> (3) are located more than 1.5 nautical miles (about 1.7 miles) from National Weather Service or Federal Aviation Administration Doppler weather radar;
>
> (4) would not have the potential to cause significant impacts on bird or bat populations; and
>
> (5) are sited or designed such that the project would not have the potential to cause significant impacts to persons (such as from shadow flicker and other visual effects, and noise).
>
> Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices. Covered actions include only those related to wind turbines to be installed on land.

** See page 15 for an article on a tool that could help identify the proximity of a proposed project to military activities and training (e.g., special use airspace).*

Brief Rulemaking Chronology



Categorical Exclusions 101

What Is (and Isn't) a Categorical Exclusion?

As defined in the CEQ NEPA regulations (40 CFR 1508.4), a categorical exclusion is "a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a federal agency in implementation of these regulations (§1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. . . . Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect." In addition, CEQ's recent guidance on Establishing, Applying, and Revising Categorical Exclusions (75 FR 75631; December 6, 2010) explained that: "Categorical exclusions are not exemptions or waivers of NEPA review; they are simply one type of NEPA review. . . . Once established, categorical exclusions provide an efficient tool to complete the NEPA environmental review process for proposals that normally do not require more resource-intensive EAs or EISs." (See also *LLQR*, September 2010, page 9.)

Establishing a Categorical Exclusion

DOE establishes categorical exclusions pursuant to a rulemaking, such as the recent one, for defined classes of actions that the Department determines are supported by a record showing that actions of this type normally will not have significant environmental impacts, individually or cumulatively. This record is based on DOE's experience, the experience of other agencies, completed environmental reviews, professional and expert opinion, and scientific analyses. (For this most recent rulemaking, DOE's record of support for its revisions, including the categorical exclusions, was provided in the preamble to the *Federal Register* notice for the final rulemaking and in the Technical Support Document. In preparing the final rule, DOE updated and expanded its Technical Support Document, which provides analysis and identifies reference documents supporting the revisions.) DOE also considers public comment received during the rulemaking.

Categorical exclusions listed in Appendix A of the DOE NEPA regulations are classes of actions that apply to general agency actions, such as routine DOE business actions and procedural rulemakings. A determination that a proposal fits within an Appendix A categorical exclusion need not be documented. Appendix B categorical exclusions are classes of specific agency actions, and are divided into seven groups relating to: facility operation; safety and health; site characterization, monitoring, and general research; electric power and transmission; conservation, fossil, and renewable energy; environmental restoration and waste management; and international activities. Categorical exclusion determinations for actions listed in Appendix B must be documented and made available to the public by posting online, subject to exclusions for classified information, "confidential business information," or other information that DOE would not disclose pursuant to the Freedom of Information Act (5 U.S.C. 552).

Making a Categorical Exclusion Determination

DOE's approach for making a categorical exclusion determination relies heavily on the responsibility and expertise of its NCOs to assess whether a proposal may be appropriately categorically excluded, or whether an EA or EIS should be prepared. Specifically, only a designated DOE Program or Field Office NCO may apply a categorical exclusion to a particular proposed action. The determination is a finding, in accordance with 10 CFR 1021.410(b), that: the proposed action fits within an established categorical exclusion listed in Appendix A or B to Subpart D, including any conditions specified in the categorical exclusion; there are no extraordinary circumstances related to the proposed action that may affect the significance of the environmental impacts of the proposed action; and the proposed action has not been segmented to meet the definition of a categorical exclusion, is not "connected" to other actions with potentially significant impacts, is not related to other actions with cumulatively significant impacts, and is not an impermissible interim action pursuant to 40 CFR 1506.1 and 10 CFR 1021.211.

To fit within a class of action listed in Appendix B, the proposal must meet the conditions stated at the beginning of that Appendix as "integral elements," for example, a proposal may not: threaten a violation of applicable environmental, safety, and health requirements; or require siting and construction, or major expansion, of a waste storage, disposal, recovery, or treatment facility. (For the complete list of integral elements, see Appendix B to Subpart D, paragraph B.)

DOE NEPA Rulemaking *(continued from page 5)*

rulemaking page, *http://energy.gov/nepa/doe-nepa-rulemaking*. The NEPA Office has also provided training on the revised rule to DOE environmental and legal staff.

Recordkeeping Updates for Categorical Exclusion Determinations

Conforming changes in processes for documenting categorical exclusion determinations and posting them on the Internet have been made to implement the revised NEPA regulations. For example, forms used to document categorical exclusion determinations after November 14, 2011, should now reflect (1) the new or revised text and current numbers for classes of action invoked and (2) revised regulatory requirements language. (Categorical exclusion determinations involving classes of actions listed in Appendix B of the DOE NEPA regulations should continue to be documented and posted online in accordance with DOE's 2009 posting policy, and now, the revised rule.)

The rulemaking process is painstaking, but through a lot of hard work and collaboration, we have created a better set of regulations to use in meeting our NEPA responsibilities.

– Shane Collins
Western Area Power Administration NCO

The NEPA Office revised a model categorical exclusion determination form for optional use by NCOs. The fillable pdf form uses pull-down menus to list the categorical exclusions invoked and contains model regulatory requirements text. It also features an electronic means to submit categorical exclusion determinations for web posting. The DOE NEPA Website will continue to provide links to program and field office websites containing categorical exclusion determinations. The NEPA Office is also working on new ways to view categorical exclusion determinations on the DOE NEPA Website (text box) to reflect the revised NEPA regulations.

The opportunity to weigh in during the development of the revised rule, especially based on the recent Recovery Act work experience, should result in better supported decisionmaking with greater consistency in application of categorical exclusions.

– Jane Summerson
Energy Efficiency and Renewable Energy NCO

Path Forward

CEQ's 2010 categorical exclusion guidance (Section VI) instructs agencies periodically to review their categorical exclusions to ensure that they remain current and appropriate. To aid in future NEPA rulemakings, the CEQ guidance also recommends that agencies monitor impacts of implemented actions to validate that categorically excluded actions, as well as actions reviewed under an EA and finding of no significant impact, in fact do not have significant environmental impacts. The NEPA Office welcomes suggestions regarding workable approaches to monitoring implemented actions and future improvements to the rule. Questions about DOE's NEPA regulations, as well as suggestions for future improvements, may be directed to askNEPA@hq.doe.gov.

Many share credit for completion of the revised rule. The Office of NEPA Policy and Compliance offers its appreciation to all of those DOE Offices and individuals that contributed to the rulemaking effort, including the Office of the Assistant General Counsel for Environment, members of the DOE NEPA Community, and especially the NCOs. The NEPA Office particularly thanks those who recommended needed changes to the rule, reviewed drafts, and helped resolve issues.

DOE Categorical Exclusion Database Changes

The NEPA Office plans to update the comprehensive database of categorical exclusion determinations to reflect all determinations documented before November 14, 2011, and posted online. The database will be archived (available on the categorical exclusion web page) and new methods will be used to enable users to search and view categorical exclusion determinations.

Going forward, the NEPA Office will post the determinations in the categorical exclusion database and those issued after November 14 on the DOE NEPA Website. Website users will be able to download a spreadsheet containing the information on the determinations, or view them directly online. Online users may also view all determinations in reverse chronological order, or grouped by class of action, location of the proposed action (state/territory), or program or field office. Web pages listing categorical exclusion determinations invoking new or revised classes of actions will advise users that determinations made before November 14 were under the previous DOE NEPA regulations.

Informal Public Involvement at Livermore Promotes Information Exchange, Builds Good Will

By: Mike Wahlig, Ph.D., NEPA Document Manager,
and Dan Culver, NEPA Compliance Officer, Livermore Site Office

The Council on Environmental Quality NEPA regulations require agencies to encourage and facilitate public involvement in decisions affecting the quality of the environment (40 CFR 1500.2(d)), but leave most details about how to accomplish this to the agencies' discretion. For a supplement analysis, DOE regulations require us only to supply copies of the finished document on request and make it available to the public. For a recent supplement analysis concerning Lawrence Livermore National Laboratory (LLNL), we wanted to do more.

The public involvement question was not "What must we do?" but rather, "What should we do?"

– Mike Wahlig, NEPA Document Manager

Under the DOE NEPA regulations, a site-wide EIS must be evaluated at least every 5 years by means of a supplement analysis to determine whether the existing EIS remains adequate or whether to prepare a new site-wide EIS or supplement the existing EIS (10 CFR 1021.330(d)). Accordingly, the National Nuclear Security Administration's Livermore Site Office (LSO) reviewed its *Site-wide Environmental Impact Statement for Continued Operation of Lawrence Livermore National Laboratory* (DOE/EIS-0348; March 2005) by preparing a supplement analysis (DOE/EIS-0348-SA-03; August 2011).

This supplement analysis, which was prepared with the help of LLNL environmental staff (but without outside contractors), examined new and modified plans, projects, and operations for the 2010 through 2015 period, as well as new information that was not available for consideration when the 2005 site-wide EIS was prepared. These include modified operation of the National Ignition Facility, access control modifications, a new Commons/Visitor Center, and a new Applied Energy Simulation Center (a computational facility).

We decided to widely distribute the Draft Supplement Analysis for comment and conduct public informational meetings. We announced the availability of the Draft Supplement Analysis using paid advertisements, press releases, and letters to over 3,000 stakeholders; posted it on the LSO and LLNL websites; and provided copies to LLNL reading rooms, local libraries, and parties who had previously shown interest in LLNL activities. We invited comments and scheduled two public meetings in the City of Livermore on April 14, 2011, midway through the 45-day comment period.

The LSO and LLNL supplement analysis team: (row 1, left to right) Mike Wahlig, Karin King; (row 2) Robert Kong, Igor Tregub, Tony Sy; (row 3) Vijay Mishra, Claire Holtzapple, Doug Eddy; (row 4) Sam Brinker, Mike Brown, and LSO Public Affairs Director John Belluardo. (Not shown: Dan Culver, Janis Parenti, James Davis III, Sarah Hartson, and Kirk Keilholtz.)

In planning the public meetings, we decided to try a more informal approach than we had used before, and to focus on describing the supplement analysis process, document scope, the environmental resources and impacts at issue (for example, energy consumption, radiological impacts, and accident consequences), and especially the new information not available in 2005. We structured the meetings as opportunities for interested parties to ask questions that would enhance their ability to provide informed comments, and not as formal hearings to provide oral comments through a court reporter.

The meetings attracted about two dozen participants. The first half of each meeting was an informational open house built around posters, each staffed by knowledgeable LSO and LLNL staff members, on major elements of the supplement analysis. The second block of time consisted

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Time Is of the Essence! Can We Issue a ROD on Monday?

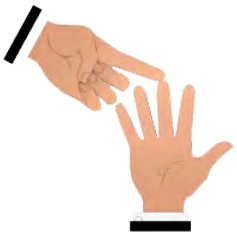
An agency may be eager to issue a record of decision (ROD) at the earliest permissible date after completing an EIS, perhaps in conjunction with other public events. How is that date determined?

Under the Council on Environmental Quality (CEQ) NEPA regulations (40 CFR 1506.10), an agency may issue a ROD no sooner than the later of 90 days after the Environmental Protection Agency's (EPA's) notice of availability of the draft EIS, or 30 days after EPA's notice of availability of the final EIS.

CEQ and EPA call the 30-day waiting period a "review period." Interested parties may comment during the review period, and DOE's practice is to acknowledge any such comments in the ROD.

Any time period based on *Federal Register* publication starts with the calendar day after publication. When the period (e.g., 30 days) ends on a weekend or holiday, the last day of the time period will be the next Federal business day (1 CFR 18.17). The earliest a ROD may be signed is the day *following* the last day of the review period, not the last day of the period, advises EPA's Office of Federal Activities.

Together, these provisions mean that the earliest date that a ROD can be signed will normally fall on a Tuesday or, if Monday of that week is a Federal holiday, on a Wednesday. Because EPA publishes its notice of availability in the *Federal Register* every Friday, "day 1" is Saturday and "day 30" is the fourth subsequent Sunday, so the last day of the review period is on Monday (unless it's a holiday) and the ROD may be signed on Tuesday. When a Federal holiday occurs on a Friday, EPA publishes its notice of availability one day earlier, and the earliest a ROD may be signed would still be on Tuesday.



It is not necessary to calculate the time period and insert a specific date into a *Federal Register* notice. The Government Printing Office will do so where the electronic file submitted for publication uses this wording and formatting: **[INSERT DATE XX DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

For planning purposes – for example to schedule public events – in the first issue of each month, the last page in the *Federal Register* is a "Table of Effective Dates and Time Periods," which provides the dates that are 15, 21, 30, 35, 45, 60, and 90 days after each Federal business day that month. See, for example, page iii of Reader Aids in the November 1, 2011, issue.

Keep the Public Informed When EIS Plans Change

DOE's plans may change during the preparation of an EIS, resulting in a decision to suspend, reactivate, cancel, or make major changes in the scope of the NEPA review. Keeping regulators, cooperating agencies, and the general public informed of EIS status and schedule is a good management practice that promotes transparency and helps stakeholders plan for effective involvement.

Notification is an important first step when EIS plans change, and additional public involvement also may be appropriate. Substantial changes in the proposed action or alternatives relative to those announced in a notice of intent, for example, may call for additional public scoping.

Sometimes an EIS process is significantly extended for consideration of comments received during scoping or on a draft EIS, new alternatives, new information on technologies or costs, or other, unanticipated factors. In these circumstances, periodic announcements to stakeholders should be considered.

When a project's proponent – i.e., a program, site, or applicant – suspends active preparation of an EIS, announcing that the EIS is on hold helps inform stakeholders. Also, DOE measures the time spent preparing NEPA documents in addition to costs and other metrics, and tracking the beginning and end of suspension periods would make time metrics more accurate and informative.

When a project's proponent cancels preparation of an EIS, a brief announcement in the *Federal Register* is appropriate to inform the public and close the record. (To view prior notices of cancellation, enter "cancellation" in the search box at the upper right of any page of the DOE NEPA Website.)

Although current status and schedules of DOE EISs are posted on the DOE NEPA Website, these charts alone do not provide adequate notification or explanation to interested and affected parties. Appropriate mechanisms for communicating changes to the public are the same ones used throughout the NEPA process: *Federal Register* notices, announcements in local media and on DOE websites, and mail or email to known interested parties. The measure(s) should be tailored to the circumstances.

Final CEQ Report to Congress: Nearly All Recovery Act NEPA Work Is Done

Federal agencies have completed nearly all required NEPA reviews for projects funded by the American Recovery and Reinvestment Act of 2009 (Recovery Act), said the Council on Environmental Quality (CEQ) in its eleventh and final report to Congress on the status of Recovery Act-related NEPA actions. Through their efforts, Federal agencies "demonstrate that we can respect the health of our environment and add value to our decisions by conducting environmental reviews while expeditiously contributing to our nation's economic health," said CEQ Chair Nancy H. Sutley in her November 2, 2011, transmittal letter.

To address concerns that NEPA might delay projects receiving Recovery Act funds, Congress directed that agencies devote adequate resources to ensure that applicable NEPA reviews are completed expeditiously. Section 1609(c) of the Recovery Act contained a novel reporting requirement to keep Congress abreast of the status of NEPA compliance activities through September 30, 2011.

CEQ reported that approximately 99.9% of the environmental reviews for Recovery Act projects (or 192,707 of the 192,912 required NEPA reviews) had been completed. Federal agencies completed close to 1,200 of these NEPA reviews during the quarter ending September 30, including more than 300 that were completed by DOE. Cumulatively for Recovery Act projects through September 30, 2011, Federal agencies completed more than 184,730 categorical exclusion (CX) determinations and more than 7,130 EAs, and analyzed more than 840 projects in EISs. Agencies concluded that NEPA is not applicable to fewer than 4,280 other Recovery Act projects. Together, these projects involve obligations of more than $300 billion, an increase of almost $3.8 billion since the previous quarter.

CEQ reported that, as of September 30, fewer than 210 NEPA reviews were underway: approximately 80 CX determinations, 110 EAs, and 20 EISs. These pending NEPA reviews for Recovery Act projects included 12 DOE EAs and 8 DOE EISs; DOE reported no pending CX determinations. "Agencies continue to complete the NEPA reviews that are underway and expect they will conclude their NEPA reviews in time to allow for the orderly expenditure of the ARRA funds," CEQ reported. Agencies, including DOE, could identify the need for additional NEPA reviews as they consider proposals for remaining Recovery Act funds.

As of September 30, DOE had completed more than 10,150 NEPA reviews supporting the obligation of more than $35 billion for projects receiving Recovery Act funding, an increase of more than $1.2 billion since June 30, 2011 (*LLQR*, September 2011, page 5). Of the completed reviews, more than 9,990 are CX determinations, approximately 130 are EAs, and more than 30 are EISs.

The CEQ reports to Congress are available at *NEPA.gov*. For more information, contact Brian Costner, Office of NEPA Policy and Compliance, at brian.costner@hq.doe.gov or 202-586-9924.

CEQ Selects Pilot Projects to Improve NEPA Efficiency

The Council on Environmental Quality (CEQ) has selected three pilot projects to demonstrate ways to improve NEPA implementation. The first pilot project, selected August 31, spotlights two information technology tools developed by the U.S. Forest Service and the National Park Service. The other two pilot projects, announced on October 19, will identify best practice principles for EAs and improve access to the Environmental Protection Agency's (EPA's) NEPAssist geographic information system (GIS) tool.

"The NEPA Pilot Program is part of CEQ's broader effort to modernize and reinvigorate Federal agency implementation of NEPA and improve the transparency and effectiveness of Federal environmental reviews," wrote CEQ in announcing the first NEPA pilot project.

In response to its March 2011 request (*LLQR,* June 2011, page 11), CEQ received 37 nominations, including 19 from the public, for simplifying NEPA implementation, reducing the time and cost of NEPA reviews, using information technology, and improving the effectiveness of public engagement. In collaboration with the relevant agencies, CEQ will track implementation of the selected projects, evaluate their outcomes, and disseminate lessons learned.

Next Steps

In its October announcement, CEQ said that it will select up to two more pilot projects with the potential to increase the efficiency of environmental reviews in ways that can be replicated across the Federal government. For more information, see the CEQ NEPA Pilot Program web page and the August 31 and October 19 announcements on CEQ's website. LL

NEPA is a cornerstone of our Nation's effort to protect the health of our communities and the natural resources that fuel our economy. These pilot projects will help Federal agencies save time and money, and promote more efficient and effective environmental reviews for projects that create jobs, grow our economy, and protect the health and environment of our communities.

– Nancy H. Sutley, CEQ Chair
October 19, 2011, News Release

Forest Service, Park Service: Deploy Information Technology Tools

This pilot project features two information technology tools: the electronic Modernization of NEPA (eMNEPA) and the Planning, Environment and Public Comment System (PEPC), developed by the U.S. Forest Service and the National Park Service, respectively. Deployment of these tools will "have significant potential to reduce costs and save time in Federal NEPA implementation . . . [and] facilitate Federal agencies' compliance with President Obama's memorandum . . . on 'Speeding Infrastructure Development through More Efficient and Effective Permitting and Environmental Review,'" noted CEQ. The selected tools "improve the efficiency of environmental reviews by enabling online submission and processing of public comments, or allowing personnel from different agencies or jurisdictions to coordinate review timelines, share data, and review documents through a common, internet-based platform." (DOE NEPA staff and NEPA Compliance Officers participated in recent webinars on use of these NEPA process management tools.)

NAEP: Identify Best Practice Principles for EAs

As its pilot project, the National Association of Environmental Professionals (NAEP) will engage Federal agency NEPA practitioners to identify experience-based best practices for preparing EAs that are timely and cost-effective, and that incorporate those environmental issues that are most relevant to the decisionmaking process. The goal is to improve the quality and transparency of agency decisionmaking by decreasing the length and complexity of EAs, encouraging the use of timelines and page limit ranges, providing for expedited review, and promoting public involvement. NAEP will assemble lessons learned and identify best practices in a report to CEQ. CEQ will solicit agency and public comment, and will provide a final report to the agencies for their use.

EPA: Expand Access to NEPAssist GIS Tool for NEPA Reviews

This project broadens access to EPA's NEPAssist, a web-based GIS designed to help NEPA practitioners analyze and use environmental and geographic data. NEPAssist facilitates coordination in environmental reviews by providing standardized data from Federal, state, and local agencies, and helps identify areas where impacts should be avoided or mitigation would be most helpful. The pilot project will make NEPAssist publicly available (in spring 2012) and create a more user-friendly interface. (See *LLQR*, September 2008, page 1, and December 2009, page 10.)

Fugitive Emissions Working Group Wins Secretarial Award

Energy Secretary Steven Chu presented DOE's Fugitive Emissions Working Group (FEWG) with the Secretary's Achievement Award for uniting more than 20 DOE laboratories, power marketing administrations, and National Nuclear Security Administration facilities in a successful campaign to significantly reduce DOE emissions of the most highly potent greenhouse gases (GHGs). The award is the Department's highest nonmonetary honor for a group or team effort.

After the award ceremony on October 27, FEWG Chair Josh Silverman commented on the special role the Working Group plays for DOE: "When we began assessing fugitive emissions within the Department, we were shocked by how much these potent gases expand DOE's carbon footprint. Thanks to the efforts of FEWG participants, fugitive emissions have quickly turned from a major environmental challenge into a DOE climate change success story."

Through the use of science, technology, and managerial know-how, FEWG members identified and implemented measures that reduced DOE's fugitive emissions by almost 40% from 2008 to 2010, largely due to a decrease in sulfur hexafluoride (SF_6) emissions. Sulfur hexafluoride is a nontoxic gas used in industrial applications such as electric insulation. It is the most potent GHG − with a global warming potential nearly 24,000 times greater than carbon dioxide (CO_2). Sulfur hexafluoride may be inadvertently released through valve leaks or breaks, but emissions often can be prevented through measures such as replacing and tightening valves and gaskets. In addition to providing effective maintenance, FEWG is deploying technologies to capture and reuse these gases – for example, in electron microscopes, accelerators, and other high-energy equipment.

At DOE's Princeton Plasma Physics Laboratory, a technician tightens seals on a high-voltage enclosure to prevent sulfur hexafluoride leaks.

Eliminating fugitive emissions reduced overall DOE GHG emissions by almost 6%, avoiding the release of nearly 600,000 metric tons of CO_2-equivalent since 2008. The FEWG plans to cut fugitive emission rates from DOE operations in half again by 2014. This will put DOE on track to achieve as much as one-third of its goal to reduce GHG emissions by 28% at very low cost well before the 2020 deadline.

DOE is reducing its greenhouse gas footprint, years ahead of schedule, by aggressively controlling its fugitive emissions.

– Josh Silverman, FEWG Chair

A Western Area Power Administration electrician checks a circuit breaker, which contains 85 pounds of sulfur hexafluoride to protect substation equipment from excessive electrical currents.

DOE committed in its 2010 *Strategic Sustainability Performance Plan* to a combined Scope 1 and Scope 2 GHG emissions reduction goal of 28% by 2020 relative to the fiscal year 2008 baseline. (Scope 1 covers direct emissions from operations owned or controlled by DOE; Scope 2 emissions result from generation of purchased electricity, heat, and steam.) NEPA analyses for proposed new or expanded facilities are expected to serve as an important tool to meet these GHG reduction goals by identifying impacts associated with energy usage and alternative energy sources. (See *LLQR*, December 2010, page 20.)

The FEWG promotes the sharing, among DOE sites, of information and best practices in inventory management, monitoring and control technologies, and environmentally preferable substitutes. For further information contact Josh Silverman, Director, Office of Sustainability Support, at josh.silverman@hq.doe.gov or 202-586-6535.

National Research Council Provides Guidance on Health Impact Assessment and NEPA

Even when human health is not the primary focus of an agency proposal, an action may have significant health impacts that should be factored into the decisionmaking process through a systematic Health Impact Analysis (HIA). This is the principal recommendation of *Improving Health in the United States: The Role of Health Impact Assessment*, a report prepared by the National Research Council of the National Academies (September 2011).

Many now realize that substantial improvement in public health will occur only by ensuring that health considerations are factored into projects, programs, plans, and policies in non-health-related sectors.

– Improving Health in the United States: The Role of Health Impact Assessment

NEPA-related Health Assessment Provisions

NEPA

- Section 2: "The purposes of this Act are: . . . to promote efforts which will . . . stimulate the *health* and welfare of man . . . ."
- Section 101: The government must "assure for all Americans safe, *healthful* . . . surroundings; attain the widest range of beneficial uses of the environment without . . . risk to *health* . . . ." "The Congress recognizes that each person should enjoy a *healthful* environment . . . ."

CEQ Regulations, 40 CFR Part 1508

- Section 1508.8: "Effects includes . . . *health*, whether direct, indirect, or cumulative."
- Section 1508.27: "The degree to which the proposed action affects public *health* or safety" should be considered when evaluating intensity.

Executive Orders (E.O.)

- E.O. 12898: Environmental Justice in Minority Populations and Low-Income Populations (Presidential Transmittal Memorandum)
- E.O. 13045: Protection of Children from Environmental Health Risks and Safety Risks

HIA, as defined in the report, is a systematic process for assessing the potential effects of a proposed policy, plan, program, or project on the health of a population and the distribution of those effects within the population. HIA uses an array of data sources and analytic methods, considers input from stakeholders to identify effects, and communicates them to decisionmakers and the public. HIA can serve as a basis for recommendations on monitoring health effects and mitigating adverse effects.

General Guidance for NEPA Reviews

NEPA, the Council on Environmental Quality (CEQ) regulations, and Executive Orders establish the foundation for including analysis of health impacts in an EIS. To assist agencies, an appendix to the report provides general NEPA guidance on five issues, summarized below.

- **Determine when to analyze health impacts.**

  The report observes that the CEQ NEPA regulations require health impacts to be considered (40 CFR 1508.8) but analyzed in detail only when there is reason to conclude that they may be significant (40 CFR 1501.7(a)(3)). In determining the potential for significant health impacts, consider scoping comments, whether health concerns are controversial (40 CFR 1501.7 and 1508.27(b)(4)), and whether the proposal is likely to result in significant changes to factors known to affect health, such as changes in emissions of hazardous substances; community demographics; industry actions or practices, employment, government revenues, or land-use patterns; modes or safety of transportation; access to natural resources; and food and agricultural resources. Principles of environmental justice guidance may be generally relevant to health effects in the general population, as well as low-income and minority-group communities, the report advises and notes that CEQ's 1997 NEPA guidance on environmental justice suggests that agencies should consider outreach to public health agencies and clinics.

- **Determine the appropriate scope.**

  The report recommends systematic consideration of the potential for direct, indirect, or cumulative health impacts associated with a proposed action and alternatives (40 CFR 1508.8), not just obvious or direct health effects, such as those related to emissions or discharges. Health determinants may include factors such as the quality and affordability of housing; access to employment and government

(continued on next page)

Informal Public Involvement (continued from page 8)

of a brief presentation by the NEPA Document Manager, followed by a question and answer period facilitated by the LSO Public Affairs Director. The final block of time was structured as a return to the posters, offering participants an opportunity to follow up with any additional questions based on what they had just learned.

We asked that comments on the Draft Supplement Analysis be submitted in writing – at the public meetings or via email or mail during the comment period. LSO received comments from 50 organizations and individuals, and responded to all comments in a separate volume of the Supplement Analysis.

Based on the Supplement Analysis, LSO found that for continued and reasonably foreseeable LLNL operations for 2010 through 2015, potential impacts for all resource types would not be significantly different from those analyzed in the 2005 site-wide EIS. Therefore, LSO determined that neither a supplement nor a new EIS was needed.

Did this public involvement approach work? Despite low attendance at the meetings, feedback was uniformly positive and many of the written comments on the Draft Supplement Analysis reflected information presented at the meetings.

Was it worthwhile? The meetings required a high level of LSO and LLNL effort for a fairly small number of attendees. We believe, however, that the open discourse helped public understanding and built some good will. We look forward to applying these lessons in the future.

For more information, please contact us at michael.wahlig@oak.doe.gov (925-422-2602) or daniel.culver@oak.doe.gov (925-422-3126).

Health Impact Assessment (continued from previous page)

revenues; the quality and accessibility of parks, schools, and transportation services; neighborhood safety; exposure to environmental hazards; the quality and affordability of food resources; and the extent and strength of social networks.

- **Identify affected populations and communities; describe baseline conditions.**

  A description of the affected environment establishes the baseline against which impacts of the alternatives can be compared. In an HIA, the report advises, the baseline should include a concise description of public health status and health determinants relevant to the health impacts that will be analyzed. Consultation or cooperating agency relationships with relevant health agencies may be desirable.

- **Analyze health impacts in a scientifically and legally defensible manner.**

  Although the CEQ NEPA regulations do not provide specific guidance on methods for assessing health impacts, they establish basic standards and expectations (as for all other effects considered in an EIS) regarding a broad-based, interdisciplinary, and scientifically sound approach.[1] In the face of uncertainty, this may include making informed judgments about reasonably foreseeable impacts.

- **Identify mitigation of identified effects on public health.**

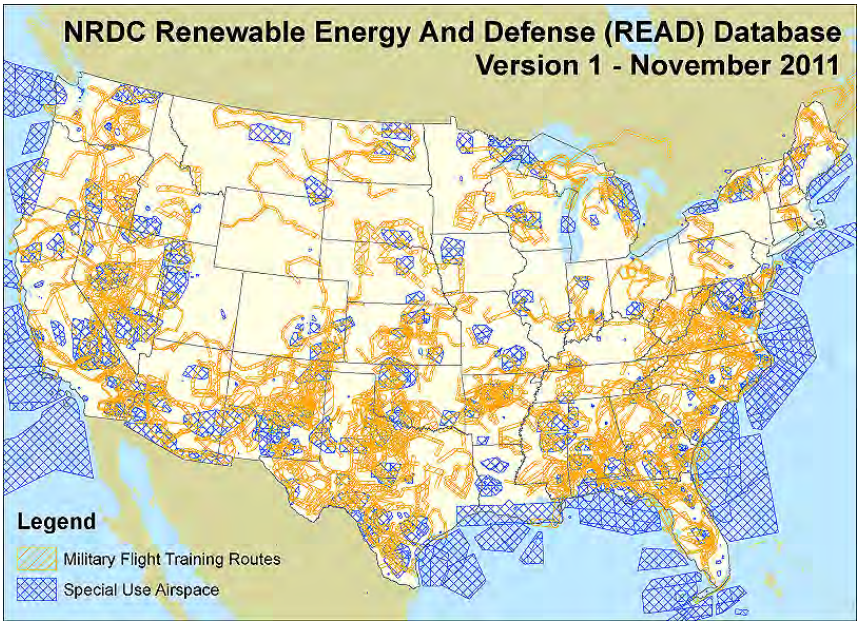
  Agencies are required to consider mitigation as part of the alternatives or in response to any identified significant effects. Health mitigation measures may be implemented by the lead agency and through actions taken by a cooperating agency, another government entity, or a local, state, or tribal health department, or through voluntary actions taken by a project proponent or another stakeholder.

The National Research Council report is available (for purchase or free download) at *www.nap.edu/catalog.php?record_id=13229*. The June 2008 issue of *LLQR* (page 18) summarizes a presentation by one of the authors at a CEQ meeting of the Federal NEPA Contacts. The presentation described the lack of HIA in a sample of EISs examined, and identified approaches to overcoming obstacles to preparing HIAs.

[1] *DOE's* Recommendations for the Preparation of Environmental Assessments and Environmental Impact Statements ("Green Book"), *Second Edition (December 2004), Section 6.2, provides general recommendations related to health impact analysis (for example, to consider all potential exposure routes and state the basis for calculations, such as timing of exposure and effects) and detailed recommendations on carcinogenic effects from radiation exposure and effects from chemical exposure.*

DOD, NRDC Partnership Produces Mapping Tool To Aid in Siting Renewable Energy Projects

The Natural Resources Defense Council (NRDC), in collaboration with the U.S. Department of Defense (DOD), recently announced an online mapping tool to aid developers in siting renewable energy projects. This tool also could be helpful to NEPA practitioners when evaluating proposed project locations. The Geographic Information Systems (GIS)-based tool, called the Renewable Energy And Defense Geospatial Database (READ-Database), can help identify locations that are unlikely to interfere with military activities and training. It includes three geospatial data layers ("Military Installations, Ranges, and Training Areas," "Military Training Routes and Special Use Airspace," and "Radar Sites") compiled from both open sources and unclassified information provided by DOD.



The READ-Database allows users to identify potential conflicts between locations of proposed renewable energy projects and, for example, military flight training routes and special use airspace.

Users can enter geographic coordinates into the READ-Database to identify potential conflicts with military operations and proposed project locations. For example, the mapping tool can help identify sites where projects such as wind turbines could interfere with technical radar systems. For example, DOE categorical exclusion B5.18 includes a minimum distance from aviation navigation aids (text box, page 5). In addition, the READ-Database offers conservation-based data layers relevant to renewable energy siting in western states (e.g., national parks and national wildlife refuges).

"NRDC has created a one-stop shop for developers to prescreen potential project locations for environmental impacts as well as conflicts with military testing, training and homeland defense operations," said David Belote, Executive Director of the DOD Siting Clearinghouse.

Users can request access to the READ-Database via NRDC's website: *www.nrdc.org/energy/readgdb.asp*. Users should note DOD's disclaimer that the information may not be current and should be used for preliminary planning purposes only. If use of the READ-Database indicates an intersection of a planned renewable energy project and a DOD activity, individuals are advised to contact the DOD Siting Clearinghouse at DoDSitingClearinghouse@osd.mil. DOD encourages all renewable energy developers to contact the Clearinghouse as early as possible in the siting process. For further information about the READ-Database, please contact Dr. Matthew McKinzie, NRDC scientist, at mmckinzie@nrdc.org. LL

DOE Environmental Attorneys' Training: Resolving Conflict, Sharing Lessons Learned

Environmental professionals from DOE and other Federal agencies gathered at DOE Headquarters in Washington, DC, and online via audio and video links, to participate in DOE's 2011 Environmental Attorneys' Training. The annual training, held October 18–19, 2011, was jointly sponsored by DOE's Headquarters, Field, and contractor environmental attorneys, the Office of Conflict Prevention and Resolution, and the Office of Health, Safety, and Security.

Resolving Environmental Conflict

The critical role for conflict resolution to help settle environmental controversy was a highlight of the training agenda. Participants brushed up on essential techniques, such as joint fact-finding, consensus building, and collaborative problem-solving approaches, as they interacted in a hands-on, hypothetical case study designed by staff from the U.S. Institute for Environmental Conflict Resolution (*www.ecr.gov*). The case study allowed participants to exercise their collaborative skills in considering how to support existing financial commitments to states and tribes at a time when Federal budgets are being cut. The exercise underscored the advantages of collaborative leadership when parties believe they can achieve better outcomes by working together and when a continuing relationship between parties is anticipated. The theme of collaboration flowed into presentations about DOE's Environmental Justice Program guidance and Native American tribal law.

Sharing Lessons Learned

"We strongly support alternative dispute resolution," stated DOE Acting General Counsel, Sean A. Lev, as he reflected on lessons gained from collaboration in recent departmental energy efficiency rulemaking activities. Because alternative dispute resolution techniques focus on building good will, common understanding, and trust among stakeholders over time, DOE has successfully established efficiency standards for products (such as refrigerators) that offer more features while also providing energy and space savings to consumers and are widely supported by both consumer advocates and industry groups. These experiences illustrate the potential for collaborative decisionmaking efforts to save money and time, promote DOE decisions that industry can live with, and protect consumer interests and the environment, he said.

Lessons learned from recent DOE National Historic Preservation Act (NHPA) Section 106 consultations with Native American tribes were shared by Rachel Rosenthal from the Office of the Assistant General Counsel for Environment. She provided simple suggestions for complying with requirements under Section 106 of the NHPA, including initiating consultation early, reaching out to consulting parties often, being mindful of potential cultural sensitivities when engaging Native American tribes, and thinking ahead about the proper means (e.g., a memorandum of understanding) for resolving adverse effects to cultural or historic properties from a Federal undertaking.

Legal staff from the U.S. Department of Defense (DOD) shared their experiences with property transfers, asset revitalization, and environmental review related to DOD's Base Realignment and Closure activities. In a corresponding presentation, Cynthia Anderson, Program Executive Officer, DOE Asset Revitalization Initiative (ARI), discussed the ARI Task Force Phase 1 Status Report and ARI (Phase II) path forward. The implementation of ARI will focus on potential opportunities to improve the efficiency of the environmental review process related to DOE property transfers and other ARI activities. These discussions highlighted a key lesson for the DOE NEPA Community from experiences with property transfers: NEPA reviews can be expedited by knowing the intended end use for a property.

Suggestions for Improving DOE NEPA Reviews

The process leading to the recent revision of the DOE NEPA implementing regulations at 10 CFR Part 1021 (related article, page 1) was a collaborative experience that engaged several Federal and non-Federal stakeholders in improving the efficiency of DOE NEPA reviews. Brian Costner, Office of NEPA Policy and Compliance, provided an update on the revised NEPA rule that focused on an underlying goal for continuous improvement in NEPA review process efficiencies. Drawing from the rulemaking experience, as well as from a systematic review of NEPA compliance cost data, time data, and examples of "what worked and what didn't work" provided by DOE NEPA Compliance Officers and NEPA document managers, he also offered suggestions for further expediting DOE NEPA reviews. These included: (1) focusing management attention on key EIS schedules that are "uncertain," (2) improving skills in project management that promote higher quality EISs that are presented to a DOE NEPA review team, and (3) analyzing the range of reasonable alternatives in an EIS to avoid delays if a project proposal changes over time.

Information about speakers, access to presentations, and other helpful materials from this year's training can be found at: *www.ch.doe.gov/eatc-2011*.

Training Opportunities

NEPA-related courses are listed in the Lessons Learned Quarterly Report *for information purposes only. This listing is not an endorsement of any of the training or entities listed. Cost and schedule information are subject to change; check with the course provider.*

- Environmental Protection Agency
  Office of Federal Activities
  202-564-6069
  mims.alice@epa.gov
  www.netionline.com

  National Environmental Policy Act (Recorded Webinar LIS155R)
  Available through September 30, 2012
  No Fee

- Continuing Legal Education
  800-873-7130
  www.cle.com

  NEPA: Recent Developments under NEPA
  Sacramento, CA: January 23-24
  $795 (GSA contract: $695)

- EOS Alliance
  425-270-3274
  pt@nwetc.org
  www.eosalliance.org/schedule/calendar/courses-eos

  NEPA/SEPA Training
  Lacey, WA: December 13-14
  $545 (GSA contract: $445)

  NEPA: Writing the Perfect EA/FONSI, or EIS
  Glendale, AZ: January 17-18
  $595 (GSA contract: $545)
  Gulfport, MS: February 28-29
  $545 (GSA contract: $495) until 12/17/11
  San Diego, CA: March 13-14
  $545 (GSA contract: $495) until 1/14/12
  Portland, OR: April 24-25
  $545 (GSA contract: $495) until 2/25/12

- Graduate School
  888-744-4723
  customersupport@graduateschool.edu
  www.graduateschool.edu/course_details.php?cid=ENVS4435E

  NEPA: Policy, Procedure and Science/Art
  Washington, DC: Tuesdays, April 10 – June 12
  $375

- The Shipley Group
  888-270-2157 or 801-447-5977
  shipley@shipleygroup.com
  www.shipleygroup.com

  Clear Writing for NEPA Specialists
  Bountiful, UT: December 13-15
  $985 (GSA contract: $895)

  Applying the NEPA Process *and* Writing Effective NEPA Documents
  Baltimore, MD: January 10-13
  $1,185 (GSA contract: $1,095)
  Portland, OR: March 6-9
  $1,145 (GSA contract: $1,055) until 1/24/12
  Houston, TX: April 17-20
  $1,145 (GSA contract: $1,055) until 3/5/12

  NEPA Cumulative Effects Analysis and Documentation *and* NEPA Climate Change Analysis and Documentation
  Morrow, GA: January 24-27
  $1,145 (GSA contract: $1,055) until 12/13/11
  Missoula, MT: April 24-27
  $1,145 (GSA contract: $1,055) until 3/13/12

  Reviewing NEPA Documents
  Las Vegas, NV: February 1-3
  $945 (GSA contract: $855) until 12/21/11

  Core Principles: Telling the NEPA Story, Keeping Documents Brief, Meeting Legal Requirements
  Albuquerque, NM: February 7-9
  $945 (GSA contract: $855) until 12/27/11

  Overview of the NEPA Process
  San Francisco, CA: February 14
  $345 (GSA contract: $255) until 1/3/12

  Preparing Specialist Reports as Part of the NEPA Process
  Sacramento, CA: February 22-24
  $945 (GSA contract: $855) until 1/11/12

  Overview of the NEPA Process *and* Managing NEPA Projects and Teams
  Nashville, Tennessee: March 13-16
  $1,145 (GSA contract: $1,055) until 1/31/12

  Applying the NEPA Process: Emphasis on Native American Issues
  Nashville, TN: April 2-4
  $945 (GSA contract: $855) until 2/20/12

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NEPA Certificate Program
Requires successful completion of eight courses offered by The Shipley Group.
$5,450
Contact: NEPA Certificate Program, Utah State University; 435-797-0922
judy.kurtzman@usu.edu
www.cnr.usu.edu/htm/students/grad-degrees/nepa

- U.S. Institute for Environmental Conflict Resolution
  520-901-8501
  usiecr@ecr.gov
  www.ecr.gov/training/training.aspx

  Advanced Multi-Party Negotiation of Environmental Disputes
  Denver, CO: April 10-11
  $500

  Introduction to Managing Environmental Conflict
  Denver, CO: May 9-10
  $500

Upcoming Conference

- National Association of Environmental Professionals
  NAEP@bowermanagementservices.com
  www.naep.org

  Science, Politics, and Policy: Environmental Nexus
  Portland, OR: May 21-24, 2012
  $545; discounts for Government employees and early registration

Customized NEPA Training

- Environmental Impact Training
  512-963-1962
  info@eiatraining.com
  www.eiatraining.com

- Environmental Planning Strategies, Inc.
  563-332-6870
  jleeeps@mchsi.com
  www.jlee-eps.com/workshops.php

- Environmental Training & Consulting International, Inc.
  503-274-1790
  info@envirotrain.com
  www.envirotrain.com

- ICF International
  916-737-3000
  info@icfi.com
  www.icfi.com/events/education-and-training

- International Institute for Indigenous Resource Management
  303-733-0481
  iiirm@iiirm.org
  www.iiirm.org

- SWCA Environmental Consultants
  800-828-7991
  training@swca.com
  www.swca.com/index.php/training/course-catalog

EAs and EISs Completed July 1 to September 30, 2011

EAs[1]

Golden Field Office/Office of Energy Efficiency and Renewable Energy
DOE/EA-1705* (7/1/11)
Construction and Operation of a Proposed Cellulosic Biorefinery, Kinross Charter Township, Michigan
Cost: $90,000
Time: 22 months

DOE/EA-1792 (9/26/11)
University of Maine's Deepwater Offshore Floating Wind Turbine Testing and Demonstration Project, Maine
The cost of this EA was paid by the applicant; therefore, cost information does not apply to DOE.
Time: 16 months

DOE/EA-1800 (8/11/11)
Monarch Warren County Wind Turbine Project, Warren County, Illinois
Cost: $75,000
Time: 15 months

DOE/EA-1814* (7/6/11, FONSI 7/7/11)
City of Montpelier Combined Heat and Power and District Energy System, Montpelier, Vermont
Cost: $40,000
Time: 14 months

DOE/EA-1861* (7/7/11)
Frito-Lay Biomass Boiler Project, Beloit, Wisconsin
Cost: $65,000
Time: 7 months

DOE/EA-1890 (8/24/11)
Reedsport PB150 PowerBuoy Deployment and Ocean Test Project, Reedsport, Oregon
DOE adopted this EA on 8/24/11; therefore, cost and time data are not applicable. [Federal Energy Regulatory Commission was the lead agency.]

Office of Loan Programs
DOE/EA-1798* (7/7/11, FONSI 7/8/11)
Abengoa Mojave Solar Project, Barstow, California
The cost for this EA was paid by the applicant; therefore, cost information does not apply to DOE.
Time: 13 months

DOE/EA-1824 (7/11/11)
Construction of a Wind Energy Project, Roxbury, Maine
The cost for this EA was paid by the applicant; therefore, cost information does not apply to DOE.
Time: 11 months

DOE/EA-1826* (8/1/11, FONSI 8/2/11)
AV Solar Ranch One Project, Los Angeles and Kern Counties, California
The cost for this EA was paid by the applicant; therefore, cost information does not apply to DOE.
Time: 12 months

DOE/EA-1840* (8/3/11)
California Valley Solar Ranch Project, San Luis Obispo and Kern Counties, California
The cost for this EA was paid by the applicant; therefore, cost information does not apply to DOE.
Time: 10 months

DOE/EA-1849* (7/29/11, FONSI 8/22/11)
Ormat Nevada Northern Nevada Geothermal Power Plant Projects, Elko, Pershing, and Lander Counties, Nevada
The cost for this EA was paid by the applicant; therefore, cost information does not apply to DOE.
Time: 8 months

National Energy Technology Laboratory/ Office of Electricity Delivery and Energy Reliability
DOE/EA-1750* (8/26/11)
Smart Grid, Center for Commercialization of Electric Technology (CCET), Technology Solutions for Wind Integration, Houston, Texas
Cost: $26,000
Time: 17 months

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[1] *EA and finding of no significant impact (FONSI) issuance dates are the same unless otherwise indicated.*
** Recovery Act project*

EAs and EISs Completed July 1 to September 30, 2011

(continued from previous page)

National Energy Technology Laboratory/ Office of Energy Efficiency and Renewable Energy
DOE/EA-1869* (9/29/11)
Supplemental Environmental Assessment for General Motors LLC, Electric Drive Vehicle Battery and Component Manufacturing Initiative (DOE/EA-1723-S1), White Marsh, Maryland
The cost for this EA was paid by the applicant; therefore, cost information does not apply to DOE.
Time: 7 months

DOE/EA-1876* (8/31/11)
Pennsylvania State Energy Program's Conergy Navy Yard Solar Project, Philadelphia County, Pennsylvania
The cost for this EA was paid by the applicant; therefore, cost information does not apply to DOE.
Time: 5 months

National Energy Technology Laboratory/ Office of Fossil Energy
DOE/EA-1846* (7/8/11)
Demonstration of CO_2 Capture and Sequestration of Steam Methane Reforming Process Gas Used for Large Scale Hydrogen Production, Jefferson and Brazoria Counties, Texas
Cost: $183,000
Time: 8 months

Western Area Power Administration
DOE/EA-1617 (9/23/11)
Lovell-Yellowtail and Basin-Lovell Transmission Line Rebuild Project, Big Horn County, Wyoming and Big Horn and Carbon Counties, Montana
Cost: $708,000
Time: 42 months

DOE/EA-1853 (7/8/11)
Perrin Ranch Wind Energy Interconnection Project, Coconino County, Arizona
The cost of this EA was paid by the applicant; therefore, cost information does not apply to DOE.
Time: 7 months

DOE/EA-1864 (7/26/11, FONSI 8/9/11)
Electrical District 5-Palo Verde Hub Project, Maricopa and Pinal Counties, Arizona
Cost: $97,000
Time: 5 months

[1] EA and finding of no significant impact (FONSI) issuance dates are the same unless otherwise indicated.
** Recovery Act project*

EISs

Bonneville Power Administration
DOE/EIS-0419 (76 FR 54767, 9/2/11)
(EPA Rating: LO)
Whistling Ridge Energy Project, Skamania County, Washington
The cost for this EIS was paid by the applicant; therefore, cost information does not apply to DOE.
Time: 29 months

Office of Fossil Energy/National Energy Technology Laboratory
DOE/EIS-0444* (76 FR 47578, 8/5/11)
(EPA Rating: EC-2)
Texas Clean Energy Project, Ector County, Texas
The cost for this EIS was paid by the applicant; therefore, cost information does not apply to DOE.
Time: 14 months

Office of Loan Programs
DOE/EIS-0458 (76 FR 50213, 8/12/11)
(EPA Rating: EC-2)
Construction and Startup of the Topaz Solar Farm, San Luis Obispo County, California
The cost for this EIS was paid by the applicant; therefore, cost information does not apply to DOE.
Time: 10 months

National Nuclear Security Administration/ Los Alamos Site Office
DOE/EIS-0350-S1 (76 FR 54768, 9/2/11)
(EPA Rating: EC-2)
Supplemental Environmental Impact Statement for the Nuclear Facility Portion of the Chemistry and Metallurgy Research Building Replacement Project, Los Alamos National Laboratory, Los Alamos, New Mexico
Cost: $2,150,000
Time: 11 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

(For a full explanation of these definitions, see the EPA website at *www.epa.gov/compliance/nepa/comments/ratings.html*.)

NEPA Document Cost and Time Facts

EA Cost and Completion Times

- For this quarter, the median cost for the preparation of 8 EAs for which cost data were applicable was $83,000; the average cost was $160,000.
- Cumulatively, for the 12 months that ended September 30, 2011, the median cost for the preparation of 42 EAs for which cost data were applicable was $53,000; the average was $90,000.
- For this quarter, the median completion time of 17 EAs for which time data were applicable was 11 months; the average was 13 months.
- Cumulatively, for the 12 months that ended September 30, 2011, the median completion time for 61 EAs was 10 months; the average was 11 months.

EIS Cost and Completion Times

- For this quarter, the cost for the preparation of one EIS for which cost data were applicable was $2.2 million.
- Cumulatively, for the 12 months that ended September 30, 2011, the median and average costs for the preparation of 5 EISs for which cost data were applicable was $2 million.
- For this quarter, the median completion time of 4 EISs for which time data were applicable was 13 months; the average was 16 months.
- Cumulatively, for the 12 months that ended September 30, 2011, the median completion time for 10 EISs was 20 months; the average was 23 months.

Recent EIS-Related Milestones September 1 to November 30, 2011

Notices of Intent

Office of Fossil Energy/National Energy Technology Laboratory
DOE/EIS-0473
W.A. Parish Post-Combustion CO_2 Capture and Sequestration Project (PCCS),
Fort Bend County, Texas
November 2011 (76 FR 70429, 11/14/11)

National Nuclear Security Administration
DOE/EIS-0288-S1
Supplemental Environmental Impact Statement for the Production of Tritium in a Commercial Light Water Reactor, Spring City and Soddy-Daisy, Tennessee
September 2011 (76 FR 60017, 9/28/11)

Notice of Cancellation

Western Area Power Administration
DOE/EIS-0461
Hyde County Wind Energy Center Project,
Hyde County, South Dakota
October 2011 (76 FR 64941, 10/19/11)

Extension of Public Comment Period

National Nuclear Security Administration/ Nevada National Security Site
DOE/EIS-0426
Site-wide Environmental Impact Statement for the Continued Operation of the Department of Energy/National Nuclear Security Administration Nevada National Security Site and Off-Site Locations, Nevada
October 2011 (76 FR 65508, 10/21/11)

Draft EISs

Energy Efficiency and Renewable Energy/ Golden Field Office
DOE/EIS-0403-S1
Supplement to the Draft Programmatic Environmental Impact Statement for Solar Energy Development in Six Southwestern States
October 2011 (76 FR 66925, 10/28/11)
[Co-lead: Department of the Interior's Bureau of Land Management]

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Recent EIS-Related Milestones September 1 to November 30, 2011

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Western Area Power Administration
DOE/EIS-0440
Quartzsite Solar Energy Project and Proposed Yuma Field Office Resource Management Plan Amendment, La Paz County, Arizona
November 2011 (76 FR 70130, 11/10/11)
[Department of the Interior's Bureau of Land Management is a cooperating agency.]

Records of Decision

Bonneville Power Administration
DOE/EIS-0421*
Big Eddy-Knight Transmission Project, Wasco County, Oregon and Klickitat County, Washington
September 2011 (76 FR 59394, 9/26/11)

Office of Fossil Energy/National Energy Technology Laboratory
DOE/EIS-0444*
Texas Clean Energy Project, Ector County, Texas
September 2011 (76 FR 60478, 9/29/11)

Office of Loan Programs
DOE/EIS-0407*
Abengoa Biorefinery Project, Hugoton, Stevens County, Kansas
October 2011 (76 FR 2096, 1/12/11)

DOE/EIS-0448*
Desert Sunlight Solar Farm Project, Riverside County, California
October 2011 (76 FR 60252, 10/6/11)

DOE/EIS-0454*
Crescent Dunes Solar Energy Project, Tonopah, Nye County, Nevada
September 2011 (76 FR 60475, 9/29/11)

DOE/EIS-0455*
Genesis Solar Energy Project, Riverside, California
September 2011 (76 FR 54454, 9/1/11)

Amended Record of Decision

National Nuclear Security Administration/ Los Alamos Site Office
DOE/EIS-0350
Chemistry and Metallurgy Research Building Replacement Project, Los Alamos National Laboratory, Los Alamos, New Mexico
October 2011 (76 FR 64344, 10/18/11)

Supplement Analyses

Bonneville Power Administration

Transmission System Vegetation Management Program
(DOE/EIS-0285)

DOE/EIS-0285-SA-449
Vegetation Management along the Kalispell-Kerr No. 1, 115-kV Transmission Line Corridor Right-of-Way, Flathead and Lake Counties, Montana
(Decision: No further NEPA review required.)
September 2011

DOE/EIS-0285-SA-450
Vegetation Management along the Flathead-Hot Springs No. 1, 230-kV Transmission Line Corridor Right-of-Way, Flathead, Lake, and Sanders Counties, Montana
(Decision: No further NEPA review required.)
September 2011

DOE/EIS-0285-SA-451
Vegetation Management along the Carlton-Tillamook No. 1, Transmission Line Corridor, Yamhill and Tillamook Counties, Oregon
(Decision: No further NEPA review required.)
November 2011

DOE/EIS-0285-SA-452
Vegetation Management and Access Road Maintenance Activities along the Entire Right-of-Way Corridors, Clark County, Washington and Multnomah County, Oregon
(Decision: No further NEPA review required.)
November 2011

DOE/EIS-0285-SA-453
Vegetation Management and Access Road Maintenance along the Entire Rivergate-Keeler No. 1, 230-kV Transmission Line Corridor, Multnomah and Washington Counties, Oregon
(Decision: No further NEPA review required.)
November 2011

** Recovery Act project*

What Worked and Didn't Work in the NEPA Process

To foster continuing improvement in the Department's NEPA Compliance Program, DOE Order 451.1B requires the Office of NEPA Policy and Compliance to solicit comments on lessons learned in the process of completing NEPA documents and distribute quarterly reports.

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 NEPA Policy and Compliance.

Scoping

What Worked

- *Review of state processes*. Reviewing information regarding the state energy commission process assisted in DOE's EA scoping process.

What Didn't Work

- *Late change to scope*. Addressing late scope changes and late comments from cooperating agencies was challenging.

Data Collection/Analysis

What Worked

- *Use of existing documentation.* A NEPA document from a nearby location contained much of the affected environment's background information.
- *Adaptive management strategy*. The project proponent prepared an avian and bat protection plan with the Fish and Wildlife Service to implement an adaptive management strategy for golden eagles and bats.

What Didn't Work

- *Changing cooperating agency requirements*. Changes in requirements made by some cooperating agency resource specialists created a problem.

Schedule

Factors that Facilitated Timely Completion of Documents

- *Coordination and focus*. Effective coordination with cooperating agencies, the Fish and Wildlife Service, and the State Historic Preservation Officer (SHPO), as well as regular interagency meetings focused on meeting milestones, facilitated timely completion of the EA.
- *Timely data submittal*. The applicant supplied needed data in a timely fashion.
- *Close coordination*. Close coordination with the SHPO in developing a Memorandum of Agreement and historic properties treatment plan to resolve adverse impacts to National Register of Historic Places eligible properties helped keep the EA on schedule.
- *Responsive applicant*. The applicant was responsive to requests for additional information and analysis.
- *Communication methods*. Timely communication and "tracking changes" in draft documents facilitated timely reviews and revisions.
- *NEPA adoption benefits*. All permits, applications, and consultations had been done prior to DOE's involvement, allowing timely EA adoption.
- *Lack of controversy*. No public conflicts with the project made timely completion of the EA easier.
- *Excellent contractors*. Constant communication with excellent NEPA contractors, who responded quickly to DOE requests, kept the EA on schedule.
- *Early data collection*. The proponent began gathering bird count data prior to the start of the EA.
- *Monthly meetings*. Monthly team meetings helped to keep the EA on schedule.
- *Coordination with cooperating agencies*. Extensive coordination with and reminders to cooperating agencies facilitated timely EA completion.
- *Potential cultural resources*. DOE had to mitigate some areas potentially containing cultural resources, but was able to do so in a timely manner by starting early.

Factors that Inhibited Timely Completion of Documents

- *Data gaps*. Floodplain information was lacking and required additional data collection.
- *Additional public review*. Public requests for more review time delayed EA completion.

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What Worked and Didn't Work

(continued from previous page)

- *State agency review*. The state agency review process was time consuming and somewhat piecemeal. State-specific needs were not identified up front, resulting in a need to collect more information, extending the preparation time.
- *Poor writing skills*. A subcontractor's inability to write in plain language resulted in lost time.
- *Late scope changes*. A significant change to the project's scope late in the EA process resulted in additional coordination with cooperating agencies regarding the National Historic Preservation Act, delaying completion.

Teamwork

Factors that Facilitated Effective Teamwork

- *Weekly meetings*. Holding weekly meetings between DOE and contractors facilitated effective teamwork.
- *Budgeting review time*. Reviewers were notified in advance of EA reviews so they could budget their time.
- *Well-written document*. A well-written and thoroughly analyzed EA, meeting all of DOE's expectations, facilitated teamwork and the adoption of the document.
- *NEPA and project staff communication.* Program office NEPA and project staff worked closely on the project. The flow of information helped integrate NEPA into overall project planning.
- *Email address*. The contractor's establishment of a project-specific email address facilitated teamwork.
- *Knowledgeable contractor*. The contractor was very knowledgeable, quick, and responsive.
- *Communicating expectations*. Working with the DOE project manager and communicating expectations to NEPA contractors was the key to success.

Process

Successful Aspects of the Public Participation Process

- *Prior state process*. Because this project went through the state process prior to the NEPA process, there was very little public reaction to the DOE process.
- *Incorporation of previous agreements.* The project had gone through extensive public participation during a state process, and DOE incorporated the project conservation measures, project footprint, and other items that were agreed to by the county into the EA.
- *Agency consultation.* Several comments were received that an EIS should be completed due to potential impacts to a federally listed endangered species. Consultation with the U.S. Fish and Wildlife Service resulted in a no-jeopardy determination, which was incorporated into the final EA and was not challenged.
- *Open-house meeting*. Holding a public scoping open-house meeting clearly established the start of the public participation process.
- *Organized approach*. The public process for this project included mailings to agencies, five newspaper ads, and a public open house meeting, all of which ran smoothly.
- *Multiple opportunities*. Public meetings, mailings, and establishing a website with an email address allowed many opportunities for public input.
- *Effective process*. Although a few people said the NEPA process took too long, overall public feedback was positive and useful in identifying alternatives.

Unsuccessful Aspects of the Public Participation Process

- *Mixed reaction*. Some members of the public felt that the process was rigged and that a decision was preordained.
- *Scope changes*. Late scope changes resulted in a need for DOE to provide a second public comment period.

Usefulness

Agency Planning and Decisionmaking: What Worked

- *NEPA adoption benefits.* The availability of a sound final EA led to an expeditious and informed DOE adoption decision, allowing for the first full-size wave energy device to be deployed with DOE funds.
- *Consideration of environmental consequences.* The project office found the NEPA process of value in ensuring that program applicants fully consider the environmental consequences of their proposals.
- *Prior state review.* A state review prior to the EA resulted in the applicant designing the project to mitigate potential environmental impacts.
- *Reduced environmental impacts*. The EA showed that environmental concerns were addressed.

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What Worked and Didn't Work *(continued from previous page)*

- *Decisionmaker insight*. The NEPA process gave the decisionmaker insight through scientific analysis of impacts and public comments.
- *Agency input*. Feedback from cooperating and other agencies definitely facilitated informed decisionmaking.

Enhancement/Protection of the Environment

- *Environment protected.* The NEPA process ensured that all appropriate environmental measures were employed.
- *Protection provided.* The NEPA process provided protection for endangered species and cultural finds.
- *Resources protected*. As a result of the EA, a national recreation area and other resources will be protected through mitigation.

Other Issues

Guidance Needs Identified

- *Plain Language*. More guidance emphasizing the use of plain language in NEPA documents would be useful. A good technical writer is important in making technical topics understandable to the public.

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 decisionmaking.

For the past quarter, in which 9 questionnaire responses were received for EAs, 9 out of 9 respondents rated the NEPA process as "effective."

- A respondent who rated the process as "5" stated that the NEPA process facilitated coordination with cooperating and other agencies. Useful suggestions and alternatives were identified that were both practical and good for resource protection.
- A respondent who rated the process as "4" stated that although another agency had already conducted a review, DOE was able to make an informed decision.
- A respondent who rated the process as "4" stated that because the energy project was in an area needing more power, the NEPA process was understood and effective.
- A respondent who rated the process as "4" stated that the NEPA process helped DOE take a hard look at the environmental impacts associated with the Federal action and the connected action.
- A respondent who rated the process as "4" stated that clarifying that environmental concerns were protected had a positive effect on the project moving forward.
- A respondent who rated the process as "3" stated that the NEPA process verified the evaluation done previously by the state.
- A respondent who rated the process as "3" stated that, althought the site was already approved by the state and county, DOE's process allowed for an informed decision.
- Two respondents who rated the process as "3" stated that the applicant designed the facility to minimize potential environmental impacts and to demonstrate environmental stewardship. This gave the the DOE team confidence in moving the project forward.