

LESSONS LEARNED

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Fourth Quarter FY 2016

2016 NEPA Compliance Officers Meeting Promotes “Making NEPA Connections”



DOE’s NEPA Compliance Officers (NCOs) gathered in Washington, DC, on October 18–19 for a meeting with the theme of “Making NEPA Connections.” Recognized NEPA experts – including Ted Boling, Associate Director for NEPA, Council on Environmental Quality, and Rob Tomiak, Director, Office of Federal Activities, Environmental Protection Agency – were featured speakers, along with DOE’s General Counsel, Steve Croley.

General Counsel Steve Croley: Ensure Science-based Decisions

Steve Croley, DOE’s General Counsel, greeted the NCOs with his perspectives on the importance of NEPA to governmental decisionmaking. He reflected that, as the Obama Administration nears its close, it can claim a legacy of science-based, risk-based analysis in support of decisionmaking. He reflected on climate breakthroughs of the past year: the Paris Agreement, recent amendments to the Montreal Protocol on hydrofluorocarbons, and the greenhouse gas (GHG) rules for airlines. Mr. Croley urged the NCOs to pay special attention to CEQ’s new GHG and climate change guidance. NEPA will play an important role in future discussions on climate change, he noted, as it “increases our moral currency.”



Mr. Croley observed that, during his tenure as DOE’s General Counsel, he has come to more fully appreciate the value of NEPA as “democracy in action” in the executive branch. “Through the vehicle of NEPA, we solicit reactions and alternatives to government proposals ... in real time,” he said, calling this “an underappreciated aspect of NEPA.” NEPA’s public involvement provisions

are a strong counterargument to the claim that federal agencies are unaccountable, he added.



“I am struck by the utter professionalism and thoughtful contributions of you and your colleagues. You are a catalyst for a lot of the Department’s work,” Mr. Croley told the meeting participants.

Deputy General Counsel Kedric Payne: Promote Productive, Enjoyable Harmony

In welcoming the NCOs, Kedric Payne, Deputy General Counsel for Environment and Compliance, noted that the meeting at DOE Headquarters was the first in-person NCO gathering since 2009. “My favorite part of NEPA is its statement of purpose – to ‘encourage the productive and enjoyable harmony between man and his environment,’” he said. “What we are going to focus on the next two days is encouraging the productive and enjoyable harmony among NCOs.” He expressed appreciation for NEPA’s focus on anticipating the potential impacts of proposed DOE actions, exploring alternatives that can help protect the environment, and reaching out to potentially affected

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More on the 2016 NCO Meeting inside – pages 3–16

Inside Lessons Learned

Welcome to the 89th quarterly report on lessons learned in the NEPA process. This issue highlights “Making NEPA Connections,” the October 2016 meeting of the DOE NCOs. Thank you for your continued support of the Lessons Learned program. As always, we welcome your suggestions for improvement.

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Carol Sorenstrom

Director
Office of NEPA Policy and Compliance

Be Part of Lessons Learned

We Welcome Your Contributions to LLQR

Send suggestions, comments, and draft articles, especially case studies on successful NEPA practices, to Yardena Mansoor at yardena.mansoor@hq.doe.gov.

Quarterly Questionnaires Due February 1, 2017

For NEPA documents completed October 1 through December 31, 2016, NEPA Document Managers and NEPA Compliance Officers should submit a [Lessons Learned Questionnaire](#) as soon as possible after document completion, but not later than February 1. Other document preparation team members are encouraged to submit a questionnaire, too. Contact askNEPA@hq.doe.gov for more information.

LLQR Online

All issues of *LLQR* and the Lessons Learned Questionnaire are available on the DOE NEPA Website at energy.gov/nepa under Guidance & Requirements, then Lessons Learned. To be notified via email when a new issue is available, send your email address to yardena.mansoor@hq.doe.gov. (DOE provides paper copies only on request.)

Training Opportunities

National Environmental Justice Conference & Training Program Washington, DC; March 8–10



2017 National Environmental Justice Conference
& Training Program

Enhancing Communities through Capacity Building and Technical Assistance is the theme of the 2017 National Environmental Justice Conference and Training Program, which will be held on March 8–10 in Washington, DC. The annual conference, sponsored jointly by DOE and other federal agencies with academic and private sector partners, is free to government employees, community organizations, students, and faculty. The agenda will include consideration of environmental justice in NEPA reviews. Additional information is available on the conference [website](#).

National Association of Environmental Professionals (NAEP) Annual Conference Durham, North Carolina; March 27–30



NAEP will hold its 42nd annual conference under the theme of *An Environmental Crossroads: Navigating Our Ever-Changing Regulatory Landscape*. Planned NEPA-related sessions include: incorporating ecosystem services into NEPA, case law updates, Council on Environmental Quality developments, case studies and best practices, adaptive management, and tribal affairs. Training is offered (at separate fee) on March 27 on NEPA basics, air quality regulations, calculating climate change impacts, incorporating ecosystem services into decisionmaking, and incorporating wildlife habitat conservation in local government land use planning and ordinances. Attendance is open to environmental professionals in all levels of government, academia, and the private sector. Early registration rates are available, and discounts are offered to speakers and government employees. The agenda and registration information are available on the NAEP conference [website](#).

The listing of any privately sponsored conferences or training events should not be interpreted as an endorsement of the conference or training by the government.

Making NEPA Connections *(continued from page 1)*

communities, including people too often overlooked when important decisions are being made. Especially valuable, he noted, is how NEPA encourages teamwork.

The NCO position was established in 1990 by then Secretary of Energy Admiral James Watkins to create a center of NEPA expertise within each organization with NEPA activities, as well as a Department-wide community of NEPA expertise to promote consistency and collaboration. DOE currently claims 58 NCOs formally designated to represent 65 organizations; some organizations have more than one NCO, and some NCOs serve more than one organization.

Mr. Payne cited the meeting theme, “Making NEPA Connections,” to pose three challenges:

- Make connections by sharing our wisdom, especially between more seasoned NCOs and the more recently designated ones.
- Make connections among DOE organizations: with program and field organizations, and with the headquarters Office of the General Counsel and Office of NEPA Policy and Compliance (NEPA Office).
- Make connections with DOE’s mission, by supporting good decisionmaking.

In closing, he noted that “we are all one family ... if we can help in any way and make this meeting better for next year ... let us know.”

Responsibilities of the NCO

Carol Borgstrom, NEPA Office Director, welcomed the NCOs and cited her favorite part of the DOE NEPA regulations: “It is DOE’s policy to follow the letter and spirit of NEPA; comply fully with the [CEQ regulations](#); and apply the NEPA review process early in the planning stages for DOE proposals” (10 CFR 1021.101). “I hope the spirit of NEPA spreads during these two days,” she said.

Ms. Borgstrom provided an overview of the NCO responsibilities under the NEPA Order, [DOE O 451.1B](#), paragraph 5.d. These responsibilities may be grouped into four categories:

Organize their office’s NEPA activities

- Develop office NEPA procedures
- Coordinate office NEPA compliance strategies
- Advise on NEPA-related matters

Support NEPA document preparation

- Recommend whether an environmental assessment (EA) or environmental impact statement (EIS) is appropriate or required
- Assist with the NEPA process and document preparation
- Advise on the adequacy of NEPA documents

Make categorical exclusion (CX) determinations and issue associated floodplain and wetland documents

- Document Appendix B determinations
- Post determinations online, generally within 2 weeks

Coordinate with the DOE NEPA Office

- Report on lessons learned from each EA and EIS
- Participate in NEPA meetings and workshops
- Provide NEPA training and disseminate guidance
- Promptly notify the DOE NEPA Office of: NEPA Document Manager designation, EA or EIS determination, and issuance of a draft EA for review
- Promptly provide issued documents to the NEPA Office

Ms. Borgstrom also presented highlights of responses to a questionnaire distributed to NCOs before the meeting. The respondents reported an average of 10 years as NCO and 18 years of NEPA-related professional experience. Almost half have served as a NEPA Document Manager, and almost 90 percent have responsibilities in addition to serving as NCO. They identified NEPA guidance and training as their highest priorities for improving DOE’s NEPA compliance program.



Coordinating with NEPA Document Managers

The meeting featured an NCO panel representing three DOE organizations with the largest number of active NEPA reviews: David Kennedy, Executive Manager for Environmental Planning and Analysis, and Stacy Mason, NCO, Bonneville Power Administration (BPA); Matt Blevins, NCO and Natural Resources Manager, Western Area Power Administration; and Lori Gray, NCO and NEPA Division Director, Office of Energy Efficiency and Renewable Energy.

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Council on Environmental Quality Updates

The 2016 NEPA Compliance Officers meeting was honored to include Ted Boling, the Council on Environmental Quality (CEQ) Associate Director for NEPA, as a featured speaker. He opened by recognizing the legacy of his predecessor, Horst Greczmiel, who retired in December 2015 (*LLQR*, March 2016, page 3). Mr. Boling then provided an overview of recent activities at CEQ with a focus on CEQ’s *Final Guidance on Consideration of Greenhouse Gas [GHG] Emissions and the Effects of Climate Change* (the guidance) (August 1, 2016) and reforms contained in Title 41 of the Fixing America’s Surface Transportation Act (FAST-41).

GHG Emissions and Climate Change Effects

“Over the years, my discussions about climate change have become more detailed and more dire, and include stronger scientific support,” he said. Using the mapping capability of the *U.S. Climate Resilience Toolkit*, Mr. Boling showed how almost every coastal area of the southeastern United States is vulnerable to sea level rise. “Climate change is real and requires a national undertaking,” he said.

Mr. Boling explained that the CEQ guidance advises agencies “to get back to the fundamentals – applying the rule of reason, proportionality, and scoping” to determine to what extent to consider climate change impacts under NEPA. He added that the guidance is premised on agencies using available information to quantify GHG emissions and identify potential impacts of climate change. In those circumstances where data, tools, and methodologies are not readily available, Mr. Boling said, a qualitative analysis of GHG emissions should be provided.

Mr. Boling affirmed that the NEPA analysis should not only describe the current and expected future state of the affected environment, but also how climate change may impact the proposed action. He stressed that climate change adaptation and resilience are important considerations for actions with effects that will occur both at the time of implementation and into the future. NEPA presents an opportunity to identify potential impacts in early planning, and adjust alternatives and mitigation options to develop more resilient alternatives, he said. For more on the guidance, see *LLQR*, September 2016, page 1, and “Analyzing Climate Change in DOE NEPA Reviews” (page 18 of this issue).

Are there opportunities to reduce a project’s emissions? Small opportunities replicated across the landscape, action by action, may add up to an important reduction.

— Ted Boling

FAST-41

Mr. Boling also described the Obama Administration’s effort to modernize the federal infrastructure permitting process, culminating in passage of FAST-41 in December 2015. He explained that FAST-41 serves to better utilize NEPA processes by focusing efforts on early involvement of permitting agencies and stakeholders to tackle the complex issues involved in infrastructure projects.



FAST-41 illustrates how NEPA serves as the basket in which so many other decisionmaking processes are carried, so many other authorities really come to bear, and the number of other actors [who become involved] ... in the decisionmaking process. If you didn’t have that basket, you would be trying to invent it.

— Ted Boling

He described three main phases of the Administration’s effort: establishment of the *Federal Infrastructure Permitting Dashboard* (2011–2013); systemic reform efforts to reduce aggregate timelines for federal review of infrastructure projects (2013–2014); and building capacity to deliver on several key objectives, including expanding the collection of timeframe metrics on the Dashboard (2014–2015).

Mr. Boling explained that FAST-41 applies to any activity that requires authorization or environmental review by a federal agency involving construction of infrastructure in a designated sector that is subject to NEPA, and (a) does not qualify for an abbreviated permitting process and is likely to cost more than \$200 million or (b) is of a size and complexity likely, in the opinion of the Federal Infrastructure Permitting Improvement Steering Council, to benefit from enhanced oversight or coordination. The designated sectors are renewable or conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, manufacturing, or any other sector as determined by a majority vote of the Council.

Sponsors of projects within these sectors may request that federal agencies make use of the FAST-41 process. Mr. Boling explained that this would open doors to early consultation with federal agencies, inclusion on the Dashboard, earlier designation of the roles of various federal agencies in the environmental review process, participation by state, local, and

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CEQ Updates *(continued from previous page)*

tribal governments, and other steps to improve coordination and efficiency.

Mr. Boling clarified that Dashboard projects will still go through the normal NEPA process, but more rapidly, particularly during the early part of the process because participating agencies have been designated earlier.

Mr. Boling stated that NEPA reviews that occur in coordination with FAST-41 can have a more detailed development of the preferred alternative to facilitate analysis of potential mitigation. He noted that FAST-41 does not amend NEPA or agency NEPA implementing authorities. Mr. Boling said that he is hopeful that the implementation of FAST-41 will improve not only the infrastructure permitting and review processes, but also environmental and community outcomes.

Other CEQ Activities

Mr. Boling also described other projects that CEQ has worked on during the past year. CEQ helped lead the effort to update *Synchronizing Environmental Review for Transportation and Other Infrastructure Projects*. Also known as the “Red Book,” this how-to guide assists federal agencies in coordinating NEPA and other regulatory reviews and permit applications for major infrastructure projects.

He summarized the 2015 *Presidential Memorandum on Incorporating Ecosystem Services into Federal Decision Making*. This memorandum encourages federal agencies, in both NEPA and non-NEPA decisionmaking activities, to consider the value of ecosystems services such as clean water, clean air, biodiversity, and toxin filtration in planning, investments, and regulatory contexts. (See *LLQR*, December 2015, page 5, and June 2016, page 1.)

Mr. Boling also highlighted efforts by CEQ to improve the mitigation of potential adverse environmental impacts.

The Presidential *Memorandum on Mitigating Impacts on Natural Resources From Development and Encouraging Related Private Investment* (November 3, 2015) addresses the need for certain agencies (Department of Defense, Department of the Interior, U.S. Department of Agriculture, Environmental Protection Agency, and National Oceanic and Atmospheric Administration) to incorporate a thorough analysis of irreplaceable resources, ensure compensatory actions are durable, and include advance compensation. Mr. Boling emphasized that the memorandum establishes a net benefit goal, or at a minimum, a no net loss goal for natural resources that are important, scarce, or sensitive.

Tying the memorandum to NEPA, Mr. Boling stated, “Inevitably, if you’re working on an environmental assessment, a finding of no significant impact is going to depend on mitigation measures included with the project. If you’re working on an environmental impact statement, ultimately your record of decision is going to need to address not only the choice of alternatives, which may be a form of mitigation, but also the mitigation measures adopted as part of addressing the significant or reduced environmental impacts.”

Mr. Boling stated that the memorandum is designed to help inform an ongoing effort to improve the Federal Government’s approach to infrastructure development. He provided an example of a proposed mine expansion on Bureau of Land Management land in greater sage-grouse habitat. Recognizing the importance of the species, the project sponsor not only mitigated potential impacts, but provided additional restoration on surrounding lands, creating a net benefit to sage-grouse habitat. “We need mitigation approaches that recognize that there are those instances where you have applicants that are good stewards of the land who want to find a win-win for broader conservation purposes,” he concluded. 



Document Quality Begins and Ends with DOE

“Although contractors may assist in the Department’s NEPA implementation, the legal obligation to comply with NEPA belongs to DOE,” said John Weckerle, NCO, National Nuclear Security Administration (NNSA), quoting a key provision of DOE Order 451.1B, *NEPA Compliance Program*. In a presentation on *Managing the NEPA Process: Document Quality and the Role of the Contractor*, prepared with Jane Summerson, NNSA NCO and Director, Division of FOIA, Privacy Act, and NEPA, Mr. Weckerle reminded NCOs that the NEPA Document Manager, with support from the NCO, is responsible for document quality. “The role of the contractor is not to run the [NEPA] project, it’s not to scope it for you,” he said. “Letting [the contractor] know what the expectations are in terms of quality is extremely important.”

Start Early To Ensure Quality

When does quality begin? Early in the process, Mr. Weckerle stated. “Quality begins as soon as the proposal can be defined and always before initiating a procurement for contract services,” he said. Starting early is also key to managing contractor performance, he said. Mr. Weckerle encouraged NCOs to start managing contractor performance before preparing the solicitation. Before bringing the contractor on board, conduct early internal (federal only) scoping – including the NCO, NEPA Document Manager, project personnel, counsel, and other involved parties, he said. In addition, prior to the start of the contract, the document team should undertake the following tasks:

- Develop the purpose and need and a list of reasonable alternatives
- Develop an initial list of key environmental parameters likely to be affected
- Identify appropriate methodologies for analysis
- Create a preliminary list of connected actions
- Create an annotated outline for the NEPA document

Starting NEPA early in the planning process helps take NEPA off the critical path. Addressing quality early in the NEPA process helps keep NEPA off the critical path.

– John Weckerle

Mr. Weckerle recounted a situation where, before DOE had conducted internal scoping for the NEPA document, a contractor had already put together an annotated outline and started to draft the document. “It’s our responsibility to manage the NEPA process. Allowing contractors to do that, at best, is allowing someone unfamiliar with our needs to decide what we need. Do your internal scoping first, before you start writing contract documents,” he advised.

Build Quality into Your Performance Work Statement or Statement of Work

“Our relationship with the contractor begins with the solicitation. We have to put together a Performance Work Statement (PWS) or Statement of Work (SOW),”¹ said Mr. Weckerle. He highlighted the role of the PWS or SOW in managing contractor performance. Mr. Weckerle described key elements of the PWS or SOW and advised NCOs to ensure that the PWS or SOW:

- Requires the contractor to submit its Quality Assurance Plan
- Includes document quality requirements (e.g., is free of errors, omissions, and inconsistencies)
- Requires the contractor to provide qualifications of key personnel, including quality assurance (QA) and technical editing personnel
- Requires thorough QA (technical and editorial) for all deliverables
- Requires including all calculation packages, modeling outputs/results, etc., with preliminary draft deliverables
- Includes penalties (take-backs) for nonperformance
- Requires no-cost rework associated with inadequate quality
- Provides for incentives, as appropriate
- Includes “contract remedies” language for multiple instances of nonperformance (e.g., rework, even termination of the contract, if appropriate)

Without these elements, DOE is likely to pay for a lot of rework and encounter schedule delays, cautioned Mr. Weckerle.

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¹ In simplest terms, a conventional SOW establishes what is to be done and how it is to be done; a PWS establishes outcomes or results, along with a method of assessing contractor performance with respect to measurable standards.



NEPA Document Quality *(continued from previous page)*

Monitor and Report Contractor Performance

Once the PWS or the SOW is in place, Mr. Weckerle asked, “Now what do we have to do?” He recommended developing a Quality Assurance Surveillance Plan to describe how DOE is going to monitor and report the contractor’s performance. “You should be watching this on a regular basis. ... Enforce all provisions of the SOW/PWS and do it right away. ... Don’t wait until problems have stacked up,” he said. “You want to encourage positive performance. If you ignore the problems, if you don’t enforce these provisions, the contractor is not going to pay attention to them.”

Mr. Weckerle highlighted steps that NEPA Document Managers should take to “lay the groundwork for any [contract] remedies” that may need to be put in place. He encouraged NEPA Document Managers to work closely with the Contracting Officer (CO) and Contracting Officer’s Representative (COR) and engage with them as soon as performance issues arise. Further, “ensure that contractor performance is documented in CPARS [DOE’s Contractor Performance Assessment Reporting System],” he said. Mr. Weckerle recommended that NEPA Document Managers and NCOs take COR training. “It’s helpful to know what your options are in terms of making sure that the contract moves smoothly along,” he explained.

Jane Summerson reminded NCOs that “It’s the NEPA Document Manager’s name on the [NEPA] document, not the contractor; if we get litigated, it is the NEPA Document Manager that will sign the administrative record. ... The NEPA Document Manager should know everything that’s in [the administrative record], be sure it is complete and be able to respond to questions.” Mr. Weckerle identified the elements of document quality (below). NEPA Document Managers should “thoroughly review all deliverables, even ‘minor’ revisions,” Mr. Weckerle said. Even seemingly trivial changes, if not implemented correctly and consistently, can result in big problems, he said.

Every single version, every time you get a draft from your contractor, it’s important to go through it with a fine tooth comb.

– John Weckerle

“Sometimes when I get a document for approval review, I ask, ‘Am I the first person to have read this?’ I strongly encourage you to carefully read the document that you send forward for approval. It’s an essential component of the quality that John has been talking about today,” added Carol Borgstrom, Director, Office of NEPA Policy and Compliance. 

What constitutes document quality?

- Document is internally consistent – consistent use of values among figures, tables, and text; consistency between chapters
- Document speaks with ONE voice
- Document is free of technical/editorial errors and inconsistencies
- Content and level of detail are appropriate
- Calculations and modeling results are supported
- Document is written to be understood by the public
- Graphics are of professional quality and contain appropriate information
- Document is Section 508 compliant ²

² Section 508 of the Rehabilitation Act of 1973 was amended by Congress in 1998 to require federal agencies to make their electronic and information technology accessible to federal employees and members of the public with disabilities. For additional information, see LLQR, [December 2006](#), page 13.



NCOs are Integral to Successful Project Management

The principles of project management and NEPA “are very critical components” in achieving success in all that we do, explained Rob Seifert, Acting Director, Office of Regulatory, Intergovernmental and Stakeholder Engagement, Office of Environmental Management, during his presentation on *Integrating the NEPA Process into Project Management*. “It is important to continue to think of NEPA as we go through” the project planning process, he said. “I see it as our role as NEPA experts to ensure that our project managers and portfolio managers are well in tune with what the requirements are and how NEPA is part of that continuous process.”

Mr. Seifert focused on the role of NCOs in the integration of project management and NEPA, primarily from the perspective of those engaged in project planning for capital assets in accordance with DOE Order 413.3B.¹ However, his recommendations regarding NCO participation in project planning are applicable to both capital asset and operations projects to ensure to the extent practicable that NEPA is not on the project’s critical path.

NEPA is not just a box to check. It is not an obstacle to success. It is truly something that has to be fully integrated to ensure the success of the project.

– Rob Seifert

DOE’s Critical Decision Process and NEPA

Mr. Seifert walked through DOE’s critical decision (CD) process as outlined in DOE Order 413.3B – from CD-0 (approving mission need) through CD-4 (approving the start of operations or project completion). All along the way, “you, as NCOs, are asking questions – What’s my role? How do I factor into that? What do I need to be communicating?” said Mr. Seifert. He emphasized the key role of the NCO in integrating NEPA into project planning and execution.

Participation in the Integrated Project Team

Prior to CD-0, the Federal Project Director, the individual certified under the Department’s Project Management Career Development Program as responsible and accountable for project execution for projects subject to DOE Order 413.3B, establishes the Integrated Project Team (IPT).² An important

Critical Decision Process Steps

- CD-0:** Approve Mission Need
- CD-1:** Approve Alternative Selection and Cost Range
- CD-2:** Approve Performance Baseline
- CD-3:** Approve Start of Construction/Execution
- CD-4:** Approve Start of Operations or Project Completion

first step is the participation of the NCO on the IPT, the group that helps to define what the requirements are for a project. For example, the IPT evaluates what has to happen in order to get the mission need approved, Mr. Seifert explained.

Prior to CD-0, the project manager should notify the NCO that a potential project is being contemplated and provide a general overview of the concept. At that time, NCOs should ask “Does my project management understand my role as an NCO in the program? Am I integrated enough to provide input?” stated Mr. Seifert. The NCO should be involved in pre-conceptual planning and review of the draft Mission Need Statement (also prior to CD-0), he explained.

Development of the NEPA Strategy and Completing the NEPA Review

Development of the NEPA Strategy and an Environmental Compliance Strategy that includes a schedule for obtaining permits and licenses are a required part of the CD-1 package that is submitted for approval, explained Mr. Seifert. “The NCO’s role is to inform the development of the NEPA Strategy. Ensure there is a definitive role for the NCO in that process – it’s a critical part of CD-1 approval,” he said. Prior to CD-2, Mr. Seifert emphasized that it is critical to “lock in accountability.” By this point in the process, the NCO should have a well-defined understanding of what needs to be done, resources needed, and alternatives being pursued, he explained. DOE Order 413.3B requires issuance of the final EIS or EA and finding of no significant impact prior to CD-2 approval; for the EIS, the appropriate authority shall issue the record of decision after CD-2 approval is granted, but prior to CD-3 approval, Mr. Seifert explained.

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¹ DOE Order 413.3B, *Program and Project Management for the Acquisition of Capital Assets*, applies to capital asset projects having a Total Project Cost greater than or equal to \$10 million. DOE Order 413.3B requires completion of the NEPA review as a prerequisite for Critical Decision-2. (See Appendix A, Table 2.2, CD-2 Requirements, in DOE Order 413.3B.)

² *Integrated Project Team: A cross-functional group of individuals organized for the specific purpose of delivering a project to an external or internal customer. It is led by a Federal Project Director. (See DOE Order 413.3B, Attachment 2, Definitions, #62.)*



Project Management *(continued from previous page)*

Best Practices for NCOs

Mr. Seifert highlighted several best practices for NCOs involved with integrating project management and NEPA:

- Be part of each IPT and be actively engaged in the planning process
- Be familiar with alternatives
- Help determine the appropriate NEPA actions
- Ensure that a DOE-owned risk related to NEPA is incorporated into the project risk register³

At a minimum each IPT should have an NCO presence, said Mr. Seifert. Even if the project is quite simple, there should at least be a “touch point” with the NCO, he said. NCOs should be familiar with all of the alternatives that are being vetted through the process and should coordinate with the Federal Project Director and other relevant IPT members to ensure the same understanding of those alternatives, he said. Mr. Seifert stated that NCOs need to understand exactly what is going on so that they can provide the best counsel to the IPT to make sure they are going down the right path for NEPA.

Regarding risk management, Mr. Seifert explained that risks associated with the NEPA process are typically DOE-owned risks, not contractor-owned risks. NCOs need to appropriately categorize and quantify the potential risks and define them in the project risk register to avoid impacts to the project. For example, the project team may document the potential impacts

to the project cost and schedule associated with developing and implementing a mitigation action plan. The project team might also identify a risk relative to the possibility of delayed approval of a record of decision or NEPA litigation.

Mr. Seifert advised that NCOs account for NEPA cost and schedule ranges in the project risk register so if a risk is encountered, DOE can continue work on the project.

Mr. Seifert emphasized that it is better to be in a proactive mode with respect to risk accounting, rather than a reactive mode, to avoid an uncomfortable situation where the Federal Project Director is having to explain to the Deputy Secretary that an unaccounted for risk will cause a 6-month or more delay and cost additional millions of dollars.

Pete Yerace, NCO for the EM Consolidated Business Center, reminded the NCOs that even though the NEPA review is completed prior to CD-2 approval, NEPA can resurface later. “Sometimes there is a need to go back and look at issues under NEPA during the implementation phase, for example, due to new circumstances or information,” explained Mr. Yerace. “This potential situation can also be accounted for in the risk register,” noted Mr. Seifert. In closing, Mr. Seifert encouraged NCOs to “be a voice – ensure you are part of the IPT and try to inform and educate the project team on the NEPA process.”



³ The project risk register is an information repository for each identified project risk presented in a uniform format. Initial development of the project risk register occurs after CD-0. After CD-1 approval, the risk register is evaluated at least quarterly throughout the project lifecycle (DOE Guide 413.3-7A, Risk Management Guide).

Project Management Courses for NCOs and NDMs

The [Project Management Career Development Program \(PMCDP\)](#) in the Office of Project Management Oversight and Assessments provides training to ensure that DOE has well qualified and experienced Federal Project Directors to oversee the agency’s diverse portfolio of highly-technical construction, experimental equipment, and environmental cleanup projects. Two courses are recommended to help NCOs and NEPA Document Managers understand where the NEPA process fits within project management requirements under DOE Order 413.3B.

Project Management Systems and Practices in DOE

Participants learn how to manage the critical decision process under DOE Order 413.3B for capital asset projects, as well as other requirements for a Federal Project Director at DOE, including the federal budget process; NEPA and other environmental, safety and health laws; and understanding of DOE HQ field relations and Lead Program Secretarial Officers. This course is delivered via Adobe Connect in 11 two-hour webinars, held twice weekly over 7 weeks. See the PMCDP Training Schedule and register in CHRIS using code: 001024.

Project Management Essentials

Participants learn about primary concepts of project management and best practices from federal agencies and the private sector. This introductory course focuses on: the discipline of project management, project planning, teambuilding and effective leadership, and project execution. The course is available through the DOE On-Line Learning Center.



Understanding Environmental Justice in the NEPA Process

Federal agencies should strive to understand the interests and concerns of minority and low-income communities and address them throughout the NEPA process. This is a theme of [Promising Practices for EJ Methodologies in NEPA Reviews](#) (“Promising Practices report”), which the NEPA Committee of the Federal Interagency Working Group on Environmental Justice (EJ IWG) issued in March 2016. (See LLQR, [March 2016](#), page 1.) DOE staff and members of the EJ IWG discussed the nexus of EJ and NEPA at the October 2016 NCO meeting and, two weeks later, at a training for DOE NEPA staff and contractors. This article presents EJ highlights from the NCO meeting and the subsequent EJ training.

Kedric Payne, DOE Deputy General Counsel for Environment and Compliance, kicked off the EJ discussion at the NCO meeting by urging NCOs to take EJ into consideration early and often – by considering the Promising Practices report prior to public outreach efforts and during preparation of NEPA documents. “You can’t have the most informed decision if you don’t have the people who are going to be living with that decision as part of the discussion, and they need to be brought in early and frequently throughout the process,” he said.

EJ Promising Practices Report

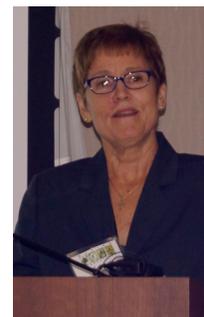
“A NEPA document’s EJ analysis is often one of the smallest sections – and not typically a controversial section,” Mr. Payne noted. He summarized the Promising Practices report’s general principles and recommendations. For example, he cited the report’s recommendation that “Throughout each step of the NEPA process (as appropriate) consider choosing meeting locations, meeting times, and facilities that are local, convenient, and accessible to potentially affected minority populations and low-income populations, and other interested individuals, communities, and organizations, which includes holding some meetings outside of traditional work hours and locations.” Mr. Payne encouraged NCOs to advise their NEPA document teams on conducting an EJ analysis and engaging with the EJ community.

EJ Activities at DOE

Melinda Downing, DOE’s Environmental Justice Program Manager, provided an update on current and future DOE EJ activities. After DOE issues its new EJ strategy (in preparation), she said that DOE will prepare its second 5-Year Implementation Plan. Ms. Downing also previewed the new Environmental Justice Institute, cosponsored with Allen University in Columbia, South Carolina, as a resource for communities around the DOE Savannah River Site, and the upcoming 10th annual National Environmental Justice Conference and Training Program (information, page 2).

Relationship between NEPA and EJ

Suzi Ruhl, Senior Attorney Advisor, Office of Environmental Justice, Environmental Protection Agency (EPA) described the “fundamental relationship between EJ and NEPA” as based on shared themes. “Both promote healthy and sustainable communities and equitable distribution of benefits,” she said, and added that “federal agencies must ensure that everyone is treated fairly as they develop and implement actions, laws, regulations, and policies.”



Steve Miller, DOE Deputy Assistant General Counsel for Environment, provided legal perspectives. Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, can be construed as bringing EJ under the purview of NEPA; however, the Executive Order doesn’t explicitly mention NEPA, he noted. If an agency identifies a potential EJ issue, Mr. Miller explained that the EIS should evaluate the extent to which it could result in a disproportionately high and adverse human health or environmental impact to low-income or minority populations. He added that if an agency includes EJ in an EA or EIS, it needs to do the analysis well. Further, Mr. Miller noted that EJ case law demonstrates that for an EJ analysis to be valid, the analyzing agency must use the most current and consistent data available to it.

“We Are Not Done”

“The Promising Practices report is a living document,” Ms. Ruhl stated. Regarding EJ IWG efforts for cross-agency engagement, she surveyed recent and planned training efforts and described supporting materials that are available or under development:

- A [compendium](#) of publicly available NEPA- and EJ-related documents from federal agencies

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EJ and the NEPA Process *(continued from previous page)*

- A *NEPA and EJ Lexicon* (described below)
- The “National Training Product” (expected in 2017), a compilation of examples to serve as a companion document to the Promising Practices report
- The NEPA Committee’s Fiscal Year 2017 Committee Goals and Fiscal Year 2016 Accomplishments Reports (being prepared as part of annual reporting to demonstrate progress in meeting the goals outlined in the *EJ IWG Framework for Collaboration, Fiscal Years 2016–2018*)

Denise Freeman, on detail from the DOE NEPA Office to EPA’s Office of Environmental Justice, currently serves as an interagency liaison to promote consideration of EJ in the NEPA process. Ms. Freeman spoke of plans to review DOE NEPA documents to identify opportunities to better involve low income and minority communities in the NEPA process and to develop DOE guidance on incorporating the principles of the Promising Practices report.

“We are not done with promising practices,” Ms. Ruhl said. She thanked DOE for the leadership it will provide as the next co-chair, beginning in 2017, of the NEPA Committee for the EJ IWG. “We have an incredible community of practice. We’d very much like to have many of you involved going forward,” Ms. Ruhl said to NCOs, “especially because DOE is going to be the leader.” (Denise Freeman will represent DOE as a co-chair of the EJ IWG NEPA Committee in 2017.)

Follow-up EJ Training

On November 1, the EJ IWG and DOE conducted a training session with webinar access. The training provided a platform for sharing tools and resources, research methods, and plans for future training and outreach.

Carrie Abravanel and Juliet Bochicchio, NEPA Office, described DOE’s effective use of EJ promising practices

in recent NEPA documents. Their review found that the EJ analyses used appropriate methodologies to identify minority and low-income populations and clearly explained the rationale for choosing those methodologies and associated parameters. The DOE NEPA documents reviewed incorporated feedback from EJ communities through meaningful engagement during the scoping process. Specific engagement steps included development of a tribal working group to receive tribal input over the course of the project and incorporation of tribal concerns directly into the NEPA document through the use of NEPA document sections authored by tribal members. Some of the DOE NEPA documents analyzed special exposure pathways for tribal communities in the EJ impact analyses through consideration of subsistence practices (such as fishing and hunting).

Maryann Mennano, Senior Law Clerk, EPA, described the forthcoming *NEPA and EJ Lexicon* that is being prepared as a companion document to the Promising Practices report. The lexicon will provide definitions and context for applying key terms (e.g., reference community, poverty thresholds, equitable distribution of beneficial impacts), she said. Ms. Mennano also summarized existing data tools that will be included. Cynthia Huber, Senior Counsel, Environmental and Natural Resources Division, U.S. Department of Justice, summarized recent case law; the decisions aligned with observations provided by Steve Miller (above).

As part of the training, Ms. Ruhl moderated a panel of NEPA practitioners from DOE and other federal agencies, to discuss existing EJ training resources and future plans. For example, Elizabeth Poole, NEPA Reviewer, EPA, Region 5, highlighted use of EPA’s EJSCREEN, a web-based tool that facilitates consideration of EJ in NEPA reviews (*LLQR*, September 2015, page 12; September 2016, page 6).

For further information about DOE’s consideration of EJ in NEPA reviews or EJ training, contact Denise Freeman at denise.freeman@hq.doe.gov. 



Denise Freeman, at the lectern, introduced panel members Steve Miller (left), Suzi Ruhl, Melinda Downing, and Kedric Payne.



Making NEPA Connections through Tribal Relationships

While members of the DOE NEPA community met in Washington, DC, in October for the 2016 NCO meeting, thousands of people participated with the Standing Rock Sioux in North Dakota and throughout the country in the largest and most diverse [tribal protest](#) in U.S. history. The protest, which has continued through November, is in response to the proposed 1,200-mile Dakota Access Pipeline for which the U.S. Army Corps of Engineers issued an EA and Finding of No Significant Impact. The U.S. District Court for the District of Columbia had upheld both the NEPA and National Historic Preservation Act (NHPA) reviews on September 9, 2016. Yet, the protest continued, illustrating that fulfilling regulatory requirements does not always resolve project controversy.

In recognition of the important role tribes play in the NEPA process, the NEPA Office convened a panel to discuss how NCOs can help ensure that tribes have the opportunity for meaningful engagement. The panel included David Conrad, Deputy Director, DOE Office of Indian Energy; Jill Conrad, Tribal Program Manager, Richland Operations Office; Ken Johnston, Tribal Program Manager, Bonneville Power Administration; Jaime Loichinger, Program Analyst, Advisory Council on Historic Preservation (ACHP); and Rachel Rosenthal, Attorney Advisor, DOE Office of the Assistant General Counsel for Environment. Throughout the hour-long conversation, panelists' remarks echoed the 2016 meeting's theme of "Making NEPA Connections" by emphasizing the importance of building relationships with tribes and many other best practices.

More than Meeting the Requirements



The panel began with a discussion on why DOE should engage tribes, including both the legal requirements and the broader benefits. Mr. Conrad reminded NCOs of the tribal consultation requirements established through Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments* (2000), *Presidential Memorandum on Tribal Consultation* (2009), and DOE Order 144.1, *Department of Energy American Indian Tribal Government Interactions and Policy* (2009).

Ms. Rosenthal and Ms. Loichinger then provided an overview of the federal responsibility to involve tribes established in the Council on Environmental Quality (CEQ) and ACHP regulations implementing NEPA and the Section 106 of the NHPA, respectively. They encouraged panelists to review *NEPA and NHPA: A Handbook for Integrating NEPA and*

Section 106 (2013) to better understand the integration of those requirements.

Beyond the regulatory requirements, Mr. Conrad shared that tribes have "specific longstanding knowledge" that should be part of the NEPA analysis. Mr. Johnston echoed the importance of tribes' knowledge, stating that we should view tribes as our "partners" because "without them, we cannot get the substantive work done that needs to be done under NEPA." Mr. Johnston described tribes as the "co-managers of the resources" that have environmental and cultural knowledge as valuable as that of any other technical expert, and without which there may be "an incomplete NEPA record." Mr. Johnston also emphasized that the NEPA record should reflect "not only the tribes' interests, but their aspirational goals" for the environment and their communities.

In order to fulfill these requirements and get the full benefit of tribes' involvement in the NEPA process, the panelists each emphasized that practitioners should focus on building relationships with tribes based on trust. Mr. Conrad explained that DOE must often request sensitive information from the tribes to complete the NEPA review, including, for example, locations of sacred sites or ceremonies. Tribes therefore need to be comfortable knowing that DOE will respect and protect that information. He also noted that trust is critical so that tribes can "be confident that you are sharing information with them" in return. Mr. Johnston emphasized that relationships require more than an occasional letter or meeting invitation, they require "continuous conversation, continuous dialogue, and continuous sharing of information."

Laying Foundations for Meaningful Engagement

The first critical step described by the panel in relationship-based consultation in the NEPA process is developing a detailed plan. Ms. Conrad recommended drafting a detailed consultation plan early in the planning phases that describes "when, where, and how" consultation should unfold

Mr. Conrad encouraged NCOs to help identify DOE's limitations as part of this planning process, particularly those associated with time and costs, and communicate those limitations to tribes from the start through framing papers. DOE should also "be clear about what it is and what it is not that you're consulting on" so tribes understand which issues are relevant to the proposed action.

In determining who should participate, Ms. Loichinger emphasized that DOE can't decide whether a tribe will want to participate in the process; tribes are the "only ones that have that ability." DOE should accordingly invite any tribe that may have an interest. Ms. Rosenthal echoed that sentiment

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Tribal Relationships *(continued from previous page)*

in regard to determining what content to share with tribes. She shared that NCOs should not “presuppose what they’re interested in – ask!” But not making assumptions doesn’t mean that we shouldn’t be prepared. Mr. Johnston reflected on his work supporting the [Columbia River System Operation Project EIS](#), through which DOE anticipates consulting with 19 tribes. He emphasized that effective communication requires a lot of “pre-work” to “identify the issues correctly” before DOE steps into the first formal meeting.

Panelists’ Best Practices

Throughout the discussion, the panelists offered best practices to guide NCOs in understanding how to meaningfully engage tribes within the framework of the NEPA process, including:

- *Host tribal-specific meetings:* Ms. Rosenthal shared that having separate meetings at the critical phases of the NEPA process (i.e., scoping and review of the draft document) “can be critical” in ensuring that tribes feel comfortable sharing information.
- *Recognize tribes’ limitations:* The panelists emphasized the resource constraints that tribes face in participating in these processes. As Mr. Conrad stated, “Many tribes don’t have any funding mechanisms to participate in NEPA.” To overcome this obstacle, Ms. Loichinger recommended identifying their timing limitations resulting from staff constraints and their own bureaucratic processes (e.g., religious observances, changes in tribal council leadership, council meetings) early in the process. She shared that this conversation will help practitioners establish an attainable NEPA schedule and become “a little more culturally sensitive.” If resource constraints prohibit tribes from submitting comments within the regulation-established timeframes, Ms. Conrad recommended practitioners communicate to tribes that though DOE schedule requirements may prohibit inclusion of their comments in the published document, DOE generally will be open to future dialogue about the proposed action.



Rachel Rosenthal (left) and Jill Conrad shared recommendations.

- *Facilitate, don’t dictate:* Ms. Conrad recommended that practitioners consider creating a more active role for tribes in the drafting of the EIS text whereby DOE facilitates the sharing of tribes’ expertise. Ms. Conrad acknowledged, for example, the narrative workshops for the Greater-than-Class C EIS (see [Appendix G](#)), in which DOE worked with tribes to help them communicate within the framework of the NEPA process so that DOE and the public could better understand their concerns.
- *Work with tribal staff:* Ms. Conrad also recommended working closely with tribal staff to “give them the information they need to properly advise their council.” Ms. Conrad cautioned against going straight to the tribal council, as they will likely turn to their staff for indications of support. In recognition of their resource constraints, Ms. Conrad recommended creating tools for staff that “help them through their own process.”
- *Use contractors carefully:* In creating plans for consultation, Ms. Rosenthal advised that practitioners should be careful in assigning tasks to contractors, noting that “feds should do the outreach and build relationships.” Ms. Rosenthal recommended that the NCOs clearly communicate their desired role for contractors early in the process so tribes have an opportunity to respond and collaboratively create a process with which both federal employees and tribes are comfortable.

Looking Ahead

The panelists each agreed that NCOs should view the goal of tribal consultation to be improving both relationships with tribes and ultimate project decisions. DOE and other federal agencies are working on a number of initiatives to ensure that the proper policies are in place to facilitate meaningful engagement, including:

- *Treaty Rights Memorandum of Understanding (MOU):* Mr. Conrad shared that EPA and other federal agencies recently signed an MOU intended to “advance protection of tribal treaty and similar rights related to natural resources affected by federal decisions.”
- *Interagency Listening Sessions on Infrastructure Permitting:* Mr. Conrad shared that DOE is participating in listening sessions led by the Department of the Interior Bureau of Indian Affairs (BIA), the Department of Justice, and the Department of the Army in response to the Dakota Access Pipeline. These listening sessions build on those Departments’ joint [response](#) to the September 9 district court decision. The invitation to participate, the framing paper, and the schedule and transcripts of listening sessions can be found on BIA’s [website](#).



Making NEPA Connections *(continued from page 3)*

These NEPA programs differ in their mix of EISs, EAs, and CX determinations, the amount of NEPA document development performed “in-house” by federal employees and by contractors, and other characteristics of their NEPA workload, but they all agree on one point. It is critically important, they stated, to have efficient internal NEPA procedures and to effectively manage the NEPA Document Managers assigned to coordinate the development of each EIS and EA.

The panelists described the division of responsibilities and working relationships among the manager of the organization’s NEPA program, the NCOs, and the NEPA Document Managers. In addition to hiring and mentoring the NEPA staff, the manager joins the NCOs in guiding staff on complicated projects and issues. The NCOs typically develop NEPA strategies for projects, provide day-to-day guidance to NEPA Document Managers, and review draft documents to ensure compliance with NEPA and other environmental requirements and to promote consistency.

BPA has designated one staff member as a “NEPA Document Processor” who is responsible for distributing document and correspondence templates to NEPA Document Managers, developing public involvement materials such as document distribution letters and mailing lists, preparing website updates for NEPA reviews, guiding documents through their approval processes, and providing status updates to the headquarters NEPA Office.

This panel offered many recommendations to participants at the NCO meeting:

- Identify a lead counsel for each NEPA review for consistency in legal review comments, and establish a working relationship early to streamline the review process.
- Adopt methods for effective communication and schedule management with geographically separated team members.
- Encourage NCOs and NEPA Document Managers to take Contracting Officer’s Representative training, even if they do not officially serve in this position.
- Look for good writing skills when hiring NEPA staff, as this helps all aspects of NEPA compliance.
- Assign in-house staff (not outside contractors) to draft the statement of purpose and need, and the description of the proposed action and alternatives. Review these sections of a NEPA document early, including legal review.

- Use, as a model, a recent NEPA document that addresses similar issues. If using an EIS or EA template, recognize the unique aspects of the project.

Interacting with Decisionmakers

One of the purposes of NEPA is to inform decisionmakers of the potential environmental consequences of the proposed action and alternatives before a decision is made. Jack Depperschmidt, NCO for the Idaho Operations Office since 2004, discussed what he has learned from the experience of briefing managers regarding NEPA reviews.

It is helpful, he said, to tailor the communication to the personality type of the decisionmaker. Some are most comfortable being told directly what the best choice is and why. Others prefer to hear options and a recommendation. The NCO must tailor communications to the manager’s level of NEPA understanding and be prepared to explain the applicable requirements – for example, that an environmentally preferred alternative must be identified and analyzed, but is not required to be selected.

Pete Siebach, an NCO for the Office of Science since 2002 and Acting Director of Communications for the Chicago Office, provided perspectives on additional decisionmakers and parties who consider themselves to have a decisionmaking role. He described how communications can inadvertently lead to misunderstandings, such as when a group (state, local, or tribal governmental entity or a permitting, licensing, or cooperating agency) is called “a partner in the decision.” “Collaborate” is a better term, he suggested, because it is less likely to be understood as a sharing of responsibility for decisionmaking.

Confusion over decisionmaking authority can arise in the area of financial assistance and grant administration. A grant recipient, for example, recently asked why DOE was doing a NEPA review when “our Senator got us this grant.” The NCO must explain that DOE must still meet its NEPA responsibilities before dispersing the grant. Mr. Siebach recommended working with the Contracting Officer to develop a clear description of any required NEPA review for inclusion in a financial assistance request for proposals or other announcements.

Public misunderstanding of the NEPA process can be another source of confusion regarding decisionmaking. During the scoping and review periods for an EIS, for example, individuals may misinterpret the comment opportunity as a chance to “vote” on the proposal. This can result in campaigns of thousands of comments that

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Making NEPA Connections *(continued from previous page)*

do not provide information useful to the EIS (e.g., on scope, alternatives, impacts, or mitigation). Mr. Siebach emphasized that NEPA is not a public approval process, and that public involvement is not a substitute for a public relations campaign.

One participant observed that it is helpful, for both the public and decisionmakers, to explain that although an EA or EIS may analyze the potential environmental impacts of all actions connected to a proposal, the scope of DOE's decision may be limited (e.g., permitting an interconnection instead of approving a generating source, or permitting an international border crossing instead of approving infrastructure in a neighboring country). The participant recommended consistently articulating the scope of agency decisionmaking in communications with the public and decisionmakers.

EPA's Role in the NEPA Process

Rob Tomiak, the new Director of the Office of Federal Activities, Environmental Protection Agency, was a featured speaker at the NCO meeting. He summarized EPA's authority, under Section 309 of the Clean Air Act, to review draft EISs prepared by federal agencies; the EPA rating system; and the importance of EPA comments. EPA's Office of Inspector General's 2013 evaluation of the impact of EPA's EIS commenting program found that "federal agencies are making changes to their EISs to mitigate or eliminate potential environmental risks based on the EPA's comments" and "EPA's comments directly resulted in positive changes to final EISs."



Mr. Tomiak emphasized that in reviewing EISs, EPA is paying special attention to the treatment of greenhouse gas emissions and climate change, and recommended that DOE continue to implement guidance issued by CEQ (related articles, page 4 and 18). EPA Headquarters is coordinating with its regional offices to review the climate change and greenhouse gas sections of EISs to ensure consistency.

Mr. Tomiak listed EPA's most common deficiencies regarding greenhouse gas and climate change analyses.

- Argument that there will be no difference among alternatives for demand for/use of coal/oil/gas with the result that the no action alternative has the same impact as the preferred alternative

- Statements that calculations of greenhouse gas emissions are not required or are meaningless to the decisionmaking process
- Inaccurate statements regarding a lack of tools to quantify impacts
- Statements that because the project's greenhouse gas emissions are small compared to a global scale, no further evaluation is required
- Lack of quantification of indirect effects
- Limited, if any, discussion of future climate scenarios to inform adaptation/exacerbation of project impacts discussion
- Limited, if any, discussion of climate adaptation
- No consideration of mitigation measures that could reduce GHG emissions

Interacting with Counsel

Matt Urie, Assistant General Counsel for Environment, provided an attorney's perspective on the NEPA process. He stated that early discussions of NEPA document schedules are helpful, especially for managing expectations, and that early coordination between field and headquarters offices is essential to maintaining the schedule.

Mr. Urie recommended selecting experienced contractors with good technical skills and positive working relationships with DOE staff. He urged early and thorough field reviews of a draft NEPA document to identify and resolve technical issues before headquarters review.

He emphasized that legal counsel can be most effective when involved early in the process to help avoid major flaws in the analytical process. For complex projects, Mr. Urie recommended establishing a headquarters review team to work with the field team well before the draft EIS is issued.

For particularly contentious projects, Mr. Urie advised that NCOs and NEPA Document Managers discuss potential issues with field and headquarters counsel. In concluding, Mr. Urie noted that NCOs and attorneys should remember that "We're all in the same boat together." He reaffirmed the value of NEPA, stating that a "good NEPA document produces a well-informed project decision."

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Making NEPA Connections *(continued from previous page)*

Programmatic Reviews and Tiering Strategy

BPA's two NCOs, Stacy Mason (top) and Sarah Biegel, described BPA's use of programmatic EISs and tiered NEPA reviews. Under this strategy, programmatic NEPA documents establish priorities and principles to govern the review of specific decisions and generically analyze the potential environmental impacts of activities, including mitigation measures. Project- or action-specific reviews can then incorporate information from the programmatic review by reference, summarize issues, and specifically address only the site-specific details. This approach is encouraged in the CEQ regulations (40 CFR 1502.20) and the 2014 guidance on *Effective Use of Programmatic Reviews*.



- BPA's *Business Plan EIS* (DOE/EIS-0183, 1995) established policy to guide BPA decisions, such as setting power rates, acquiring power or interconnecting power generators, promoting energy conservation, and supporting fish and wildlife mitigation and recovery efforts. The EIS was used to support later CX determinations, EAs, EISs, tiered records of decision, and supplement analyses.
- The *Fish and Wildlife Implementation Plan EIS* (DOE/EIS-0312, 2003), which was tiered from the *Business Plan EIS*, analyzed the potential environmental impacts of typical actions under BPA's fish and wildlife program. BPA's tiering strategies consist of a validation process to ensure compliance with other laws and public involvement, and a process for identifying actions that require additional NEPA review (beyond validation).
- BPA's *Transmission System Vegetation Management Program EIS* (DOE/EIS-0285, 2000) analyzed the

potential environmental and socioeconomic impacts of a program for managing vegetation on 84,000 acres of rights-of-way and at 357 substations and other facilities through a seven-state service area. Tiering strategies include identifying the planning steps for site-specific project implementation and using DOE's supplement analysis process to assess whether a new or supplemental EIS is required.

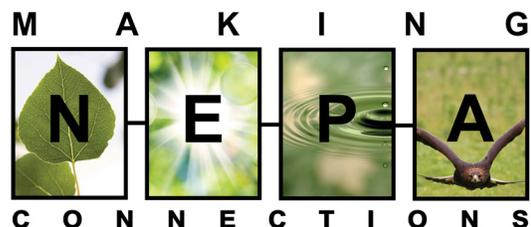
- The *Columbia Estuary Ecosystem Restoration Program EA* (DOE/EA-2006, 2016) was prepared to efficiently review site-specific projects for the conservation and restoration of riparian areas, off-channel habitat, wetlands, and floodplains through levee modification and breaching, tidal channel creation, tide gate and culvert removal or modification, and invasive species control. The EA describes the environmental impacts of projects to be implemented under this program and lists associated mitigation measures. BPA has already completed a supplement analysis for a site-specific project under this EA. Although a supplement analysis process does not require public involvement, BPA conducted a public meeting and addressed concerns expressed in public comments, while fulfilling its NEPA obligations in less time than a typical EA process.

BPA, jointly with the U.S. Army Corps of Engineers and the Bureau of Reclamation, will soon be initiating a new programmatic EIS for operation and maintenance of the system of 14 hydroelectric generation dams on the Columbia River. The programmatic EIS is intended to meet requirements under NEPA, the Endangered Species Act, and the National Historic Preservation Act for ongoing operations of the Columbia River system.

Ms. Biegel and Ms. Mason described the challenges involved in a tiered approach, including ensuring that other regulations are being addressed, considering whether additional public outreach is appropriate, and ensuring that a programmatic review remains valid over time (as technology, terminology, and applicable regulatory provisions change). **LL**

Looking Forward: Making More Connections

Participants at the October 2016 "Making NEPA Connections" meeting identified opportunities for strengthening the resources available to NCOs. The NEPA Office is working with the NCOs to establish priorities for guidance, web resources, and training.



EPA's EJ 2020 Action Agenda Emphasizes Strengthening Consideration of EJ in NEPA Reviews

EPA, on October 27, released its *EJ 2020 Action Agenda*, (EJ 2020) a strategic plan for advancing its consideration of environmental justice (EJ) in 2016 through 2020. EPA Administrator Gina McCarthy writes in the document that, “EJ 2020 will strengthen our relationships with key partners – from federal, state, tribal and local governments to community-based organizations and industry – to promote the integration of environmental justice across our nation’s larger environmental enterprise.” NEPA is a central component of EJ 2020’s implementation strategy.

EPA Commitments in EJ 2020

EJ 2020 outlines three goals:

1. Deepen EJ practice within EPA programs to improve the health and environment of overburdened communities,
2. Work with partners to expand EPA’s positive impact within overburdened communities, and
3. Demonstrate progress on significant national EJ challenges.

Under EJ 2020, EPA commits to advance EJ within federal agencies through the Federal Interagency Working Group on Environmental Justice (EJ IWG), with emphasis on strengthening the consideration of EJ in the NEPA process (related article, page 10). EPA states that it will strengthen its “ability to take action on environmental justice concerns and cumulative impacts” and will build a stronger scientific basis for these steps “by developing and using assessment, screening and decision tools.”

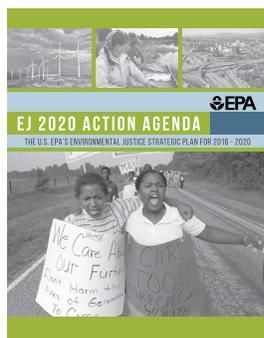
The tools EPA identifies include [EJSCREEN](#), Community-Focused Environmental Risk Screening Tool ([C-FERST](#)), Tribal-Focused Environmental Risk and Sustainability Tool, ([T-FERST](#)) and analytic methodologies for considering EJ during NEPA reviews.

Work with EJ IWG To Promote Collaboration and Strengthen Community Engagement

With respect to advancing consideration of EJ in the NEPA review process, EJ 2020 references the work of the EJ IWG and cites the March 2016 *Promising Practices for EJ Methodologies for NEPA Review* as an “important advance for considering environmental justice throughout the federal family” (*LLQR*, March 2016, page 1). In EJ 2020, EPA commits to:

- Promote cross-agency collaboration and training on NEPA by sharing EJ IWG’s NEPA Training Products with other federal agencies and governmental partners;
- Produce documents to promote better understanding of EJ analytical methodologies for NEPA reviews (e.g., supplemental material such as lexicon, crosswalk with CEQ regulations, repository of examples);
- Strengthen community and stakeholder engagement and understanding of environmental justice and NEPA by working with the EJ IWG NEPA Committee (e.g., outreach, training, technical assistance, citizens’ guide);
- Develop case studies on how EJ analytic methodologies for NEPA reviews have proven to be useful, particularly in areas of concern to communities;
- Conduct applied research to evaluate the effectiveness of the promising practices for EJ analytic methodologies for NEPA review; and
- Provide training on the promising practices to all EPA NEPA review staff and EJ Coordinators.

EPA also commits to “work with tribal governments to build tribal capacity and promote tribal action on environmental justice, and promote coordination with other tribes, as well as federal agencies and states, to address environmental justice concerns in areas of interest to tribes and indigenous peoples.”



By 2020, we envision an EPA that integrates environmental justice into everything we do, cultivates strong partnerships to improve on-the-ground results, and charts a path forward for achieving better environmental outcomes and reducing disparities in the nation’s most overburdened communities. Achieving this vision will help to make our vulnerable, environmentally burdened, and economically disadvantaged communities healthier, cleaner and more sustainable places in which to live, work, play and learn.

— EPA EJ 2020 Action Agenda

Analyzing Climate Change in DOE NEPA Reviews

By: Bill Ostrum, Office of NEPA Policy and Compliance

DOE's analysis of climate change in NEPA documents has continued to evolve with developments in science, public awareness, case law, and, recently, the release of the CEQ's *Final Guidance on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in NEPA Reviews* (the guidance). September's *LLQR* (page 1) discussed a number of important concepts from the guidance, including: analysis of how climate change affects the project (the proposed action and alternatives) and how the project affects climate change; use of existing NEPA tools and principles; quantification of GHG emissions; and comparison of alternatives as they affect emissions, mitigation, resilience, and adaptation. In this article, we explore how the guidance might be applied in DOE NEPA reviews.

- **Adaptation:** Adjustment in natural or human systems to a new or changing environment that exploits beneficial opportunities or moderates negative effects.
- **Mitigation:** Technological change and substitutions that reduce resource inputs and emissions per unit of output.
- **Resilience:** A capability to anticipate, prepare for, respond to, and recover from significant multi-hazard threats with minimum damage to social well-being, the economy, and the environment.

Definitions from the *National Climate Assessment*, 2014.

NEPA analysis of climate change generally includes the following steps:

1. Describe global climate change.
2. Identify the impacts of climate change on the affected environment.
3. Quantify emissions as a proxy for impacts on climate change.
4. Use the information to identify and compare alternatives (including mitigation, resilience, and adaptation).

Step 1: Describe Global Climate Change

"It is now well established that rising global atmospheric GHG emission concentrations are significantly affecting the Earth's climate," states the guidance. NEPA documents should succinctly describe greenhouse gases and the greenhouse effect, in addition to the global impacts of climate change. Common examples of climate change impacts include sea level rise, heat waves, degraded air quality, increased wildfire risk, and regional drought. These impacts are often described in the "affected environment" section of a NEPA document.

The following resources are available to help identify national and local climate change impacts.

- Climate Resilience [Toolkit](#)
- Intergovernmental Panel on Climate Change (IPCC) *Fifth Assessment Report*
- U.S. Global Change Research Program (USGCRP)'s *National Climate Assessment*
- DOE Site Vulnerability Assessments

Other regional, state, and local resources may also be available.

Step 2: Identify the Impacts

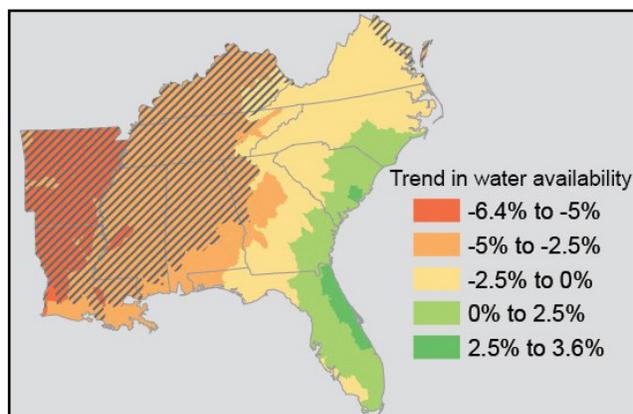
It may not be reasonable to assume that the current environment will remain unchanged over the project lifetime. If changes are reasonably foreseeable, it may aid decisionmaking to include, as appropriate, a discussion of how climate change is expected to affect that environment. However, the guidance states that "agencies need not undertake new research or analysis of potential climate change impacts in the proposed action area." Instead, practitioners may find it helpful to stay abreast of developments in climate science in regions where they work and to summarize relevant scientific literature in NEPA documents.

Many of the same resources listed above also contain regional projections that may be useful in NEPA analysis. In addition, some states and localities also have even finer-scale reports and data that may be helpful. California's *Climate Change Assessments*, for example, include detailed projections for climate change impacts in the state.

It is important to consider how these risks could impact the project and the environment through the project's entire lifetime. For example, according to the USGCRP, some areas already at moderate water supply sustainability risk are expected to have high or extreme risk by 2060 (map, next page). A nuclear power plant project that expects to use a significant amount of water as part of normal operations may need to consider both the impacts of and to the project under these projections. Will the required quantity of water still be reliably available late in the project's life? If the water will be available, will a reduced quantity of water change the impact of water discharges on the environment (e.g., temperature of receiving waterbody)? How will the project impact the water supply not just under today's conditions, but under the projected conditions in over the project lifetime?

(continued, next page)

Climate Change in DOE NEPA Reviews *(continued from previous page)*



Trends in Water Availability (2010-2060):¹ Water availability is expected to decline across most of the Southeast away from the coasts (comparing decadal trends between 2010 and 2060, relative to 2010). The hatched areas indicate where projections are most certain.

Step 3: Quantify Emissions

According to the guidance, GHG emissions can serve as a “proxy” for the project’s potential impacts on climate change, and together with a summary of the impacts of GHG emissions (described in steps 1 and 2), “provides sufficient information to make a reasoned choice between ... alternatives.” Quantification should include short- and long-term emissions, along with direct and indirect emissions. The guidance provides an example of a federal lease sale of coal for energy production. Direct emissions include those emitted during exploration and extraction. Indirect emissions would be the “reasonably foreseeable combustion of that coal.”

Agencies should quantify greenhouse gas emissions unless “tools, methodologies, or data inputs are not reasonably available.” Generally, emissions of different GHGs are consolidated into a single measurement of metric tons of CO₂-equivalent (CO₂-e). As with the potential impacts of climate change on the project, the quantification of emissions can rely on existing tools. CEQ has updated its list of *Greenhouse Gas Accounting Tools* to help practitioners identify ways to quantify project emissions. If quantification is not feasible, the guidance recommends that agencies still provide a qualitative discussion of anticipated emissions and describe why a quantitative analysis was not warranted.

Whether quantitative or qualitative, this analysis, combined with the earlier discussion of global and local impacts, serve as the cumulative effects analysis and the basis for comparison of alternatives, mitigation, and resilience. The guidance also notes that for most federal agency actions, it is not expected

that an EIS would be required based solely on the global significance of cumulative impacts of GHG emissions.

Step 4: Identify and Compare Alternatives

It is important, according to the guidance, not to “limit” the analysis to comparing projected emissions from the project to sector, national, or global emissions. Instead, a comparison of alternatives, including “emissions... trade-offs with other environmental values, and the risk from – and resilience to – climate change,” aids agency decisionmaking and is “fundamental to the NEPA process.”

The guidance notes that it also may be helpful to incorporate by reference applicable state, local, tribal, or agency emissions targets and “make it clear whether the emissions being discussed are consistent with such goals.” Emissions quantities and consistency with emissions goals should be included with the discussion of other potential impacts, as appropriate, to allow for comparison of alternatives.

Alternatives should generally incorporate measures to adapt to the impacts of climate change on the project (identified in step 2) and to mitigate CO₂-e emissions (identified in step 3). Even a project with minimal projected emissions may benefit from such measures because the proposed action and alternatives may be impacted by climate change. A project with few anticipated impacts from climate change may still reduce its emissions through mitigation measures. In the nuclear power plant example discussed above, the project may be expected to result in a net decrease in emissions by replacing fossil fuel plants, but the NEPA analysis should still consider how climate change impacts like reduced water availability may impact the project. The project may include sustainability measures to reduce water consumption and other measures to prepare for a time with low water availability.

Looking Toward the Future

DOE will continue to adapt this approach to particular projects and situations as the science of climate change and the practice of analyzing climate change impacts in NEPA reviews develops. For example, some DOE projects (e.g., nuclear waste disposal) evaluate alternatives thousands of years into the future, while many climate change models project out 100 years or less. Managing this uncertainty of how long-term climate change may impact the project and the affected environment will be the subject of further discussion within DOE and across the Federal Government.

For additional information, contact Bill Ostrum at william.ostrum@hq.doe.gov or 202-586-4149. 

¹ Source: Carter, L. M. et al., 2014: *Ch. 17: Southeast and the Caribbean. Climate Change Impacts in the United States: The Third National Climate Assessment*, J. M. Melillo, Terese (T.C.) Richmond, and G. W. Yohe, Eds., U.S. Global Change Research Program, 396-417. doi:10.7930/J0NP22CB.

“RAPID”: A Toolkit for Bulk Transmission and Certain Renewable Energy Projects

The RAPID (Regulatory and Permitting Information Desktop) Toolkit can assist NEPA practitioners with environmental compliance for bulk transmission and certain renewable energy (solar, geothermal, or hydropower) projects. The [RAPID Toolkit](#) “makes regulatory and permitting information rapidly accessible from one location by providing links to permit applications, regulations, manuals, and related information. Its goal is to facilitate communication between project developers and permitting agency personnel . . . and among all project stakeholders – including the public,” explains DOE’s National Renewable Energy Laboratory (NREL), developer of the RAPID Toolkit.

Key Features

The user can select the project type and location (state or states); the Toolkit then provides flowcharts and narratives for applicable regulatory and permitting requirements (e.g., Land Use Planning, Environmental Process). The flowcharts identify the required federal and, in some cases, state consultations and approvals, with their respective timelines. If a state has delegated its authority to local jurisdictions, basic information about these requirements may be provided, as well. The narratives provide additional detail about what is required for each step in the flowchart.

For example, information on “Environmental Review” is listed under “Environmental Process” in the “Project Development Timeline.” By clicking on “Environmental Review,” the user can find information on the “State Environmental Process.” If applicable, the narrative will notify the user that the selected state has an environmental review process that is separate from NEPA and link to a flowchart for the state process, such as the [California Environmental Quality Act \(CEQA\)](#). In addition, the “Environmental Process” topic in the Toolkit prompts the user to consider various environmental resources. Each module asks questions to identify regulatory and permitting requirements that may need to be included in a NEPA review – for example, “Is there potential for activities to cause effects to historic properties?” and “Will the Project require use of an underground storage tank?”

The “NEPA Database” feature, listed under “Tools,” is a collection of completed NEPA documents and related information that can be used to inform future NEPA analyses. For example, DOE and NREL used the database to identify NEPA timelines for geothermal projects. (See “NEPA Timelines” under “Best Practices.”) NEPA practitioners can use the Toolkit’s NEPA Database to perform basic searches of those NEPA documents.

The “Best Practices” feature, also listed under “Tools,” contains other information useful to NEPA practitioners. For example, the “NEPA Timelines” section provides information on the types of NEPA reviews that may be required for each phase of development and a timeline for development of a geothermal location. The “NEPA Timelines” section also highlights potential obstacles (e.g., untrained agency personnel, lack of inter-agency coordination) that can lengthen the NEPA process. Understanding these obstacles might improve and reduce timelines for NEPA reviews.

There are two other tools available in the Toolkit. The “Regulatory Flowchart Library” contains all the flowcharts from within the Toolkit but includes various filters (e.g., technology, jurisdiction, federal agency, and topic) to help users find the most appropriate flowchart(s) for their situation. The “Reference Library” includes a collection of links to regulatory and permitting resources—including permit applications, guidance, manuals, tools, regulations, and rules—that are available on other websites.

The RAPID Toolkit provides transparency and helps project developers and regulatory agencies break down the barriers to permitting renewable energy and bulk transmission facilities.

— Aaron Levine, NREL

Development and Maintenance of RAPID

DOE’s NREL developed the RAPID Toolkit in 2012 with initial funding from DOE’s Office of Energy Efficiency and Renewable Energy and the Western Governors’ Association. Currently, the Toolkit’s infrastructure is being funded by several different DOE program offices.

When developed in 2012, the Toolkit provided only the geothermal regulatory roadmap. NREL has since expanded it to include bulk transmission, solar, and hydropower, and is expanding the hydropower and bulk transmission portions to include additional state regulations. NREL maintains the accuracy of information found in the Toolkit with feedback and contributions from developers; federal and state agencies; policymakers; and other stakeholders.

To arrange for more complex analysis of NEPA documents in the database, contact Aaron Levine, Legal and Regulatory Analyst at NREL’s Strategic Energy Analysis Center, at aaron.levine@nrel.gov or 303-275-3855. For general information, contact Brad Mehaffy, Office of NEPA Policy and Compliance, at bradley.mehaffy@hq.doe.gov or 202-586-7785. 

DOE Updates EIS and EA Distribution Guidance

Updated guidance on *EIS and EA Distribution*, prepared by the NEPA Office in consultation with the Department's NEPA Compliance Officers, the Office of the Assistant General Counsel for Environment, and the Office of Congressional and Intergovernmental Affairs (CI), was issued in October.

In conjunction with the guidance, DOE General Counsel Steve Croley issued two variances to the DOE NEPA Order to ensure consistency with current practices for providing documents to the NEPA Office and filing EISs with the Environmental Protection Agency (EPA). The guidance presents recommendations on the EIS distribution process, including creating and maintaining a distribution list, distributing an EIS, and filing an EIS with EPA.

The guidance updates the 2006 edition to promote efficient and effective distribution of EAs and EISs, including:

- A new, reader-friendly organization that follows the EIS development process,
- Updated EPA EIS filing procedures and DOE interoffice coordination procedures,
- Revised procedures for electronic distribution,
- A new section on EA distribution, and
- Updated, easier-to-use templates for related communications (also provided as editable files on the guidance webpage listed above).

Who, What, Where, When and How

The guidance begins with recommendations on initiating a new distribution list, using resources like DOE's [Stakeholders Directory](#), site stakeholder lists, and interested federal, state, and local agencies. It then provides advice on building and maintaining the list throughout the NEPA process and preparing the list for publication in a draft and final EIS, including protection of personally identifiable information.

A distribution list is the list of individuals and organizations that will receive a copy of the EIS and related documents or notification of its availability. Per the Council on Environmental Quality's [NEPA regulations](#)

(40 CFR 1502.10(i)), it is published in the EIS, usually in an appendix.

The guidance advises document preparers to consult with CI and the Office of Public Affairs early when preparing a communication plan for the EIS. This plan includes the "who, what, where, when and how" of communication with congressional, state, and tribal officials; news media; stakeholders, including organizations; and the general public. The guidance also provides updated templates and recommendations for the distribution letters that announce that a document is available, and instructions for the distribution of the document.

Filing an EIS

Filing an EIS with EPA, which can occur only after distribution of the EIS has been completed, results in the EIS being included in EPA's Notice of Availability (NOA) published weekly in the *Federal Register*. The NOA officially starts the clock on a comment period for a draft EIS or a waiting period after a final EIS before a record of decision may be issued. In 2012, EPA launched its online EIS filing system, [e-NEPA](#). The guidance discusses how this new system affects EIS approval, coordination, and timing.

Mr. Croley approved two variances to DOE O 451.1B, [NEPA Compliance Program](#), to reflect current DOE practice.

1. Only one printed copy and one electronic file of NEPA documents need be provided to the NEPA Office. (Paragraph 5.d(12) of the Order specifies two printed copies.)
2. DOE Program and Field Offices may choose, in coordination with the NEPA Office, to use EPA's e-NEPA system to file an EIS directly or have the NEPA Office file the EIS. (Paragraph 5.g(7) of the Order states that the NEPA Office will file the EIS.)

The guidance serves as an important reference of the relevant requirements and guidance associated with EIS distribution, along with best practices identified by DOE. For additional information, contact Bill Ostrum at william.ostrum@hq.doe.gov, or 202-586-4149. 

Contracting Update: DOE-wide NEPA Support Services

DOE, through the National Nuclear Security Administration (NNSA) Office of Acquisition Management, is in the process of awarding multiple blanket purchase agreements (BPAs) for DOE-wide NEPA support services. These BPAs under the General Services Administration (GSA) Schedules are designed to provide high-quality and timely NEPA document support that can be accessed quickly to meet DOE needs. The contractor teams include a full range of expertise in disciplines required for DOE NEPA documents. All DOE program and field offices, as well as the Federal Energy Regulatory Commission, may use the BPAs to acquire support for NEPA documents and related activities and environmental reviews. Task orders under these BPAs will be administered by the NNSA Office of Acquisition Management. Additional information will be provided on the [DOE NEPA Website](#) as it becomes available. 

Transitions: “Welcome” to Three NEPA Compliance Officers ...

Environmental Management: Cathy Bohan

Cathy Bohan has been designated as the NCO for the Office of Environmental Management. Ms. Bohan has worked for DOE for 16 years, most recently at the West Valley Demonstration Project as a project manager responsible for the decontamination and demolition of nuclear, hazardous, and industrial facilities; maintenance and operation of site infrastructure; treatment of contaminated groundwater; and conduct of site environmental characterization activities. She has served as the site’s NCO, NEPA Document Manager for the site’s [decommissioning and long-term stewardship EIS](#), and Tribal Liaison to the Seneca Nation of Indians. She is a Certified DOE Federal Project Director and Nuclear Quality Assurance (NQA-1) Lead Auditor.

Ms. Bohan holds a Master of Science in Agronomy from West Virginia University and a Bachelor of Natural Science in Soil Science from the University of Wisconsin-Madison. In her free time, Cathy enjoys exploring national parks and historical sites, canning and preserving local produce, and singing/acting in community theater. She can be reached at catherine.bohan@em.doe.gov or 301-903-9546.



Energy Efficiency and Renewable Energy: Casey Strickland

Casey Strickland has been designated as an NCO for the Office of Energy Efficiency and Renewable Energy (EERE) at the Golden Field Office, where he has worked for the past 7 years. Most recently he served as the NEPA Coordinator for EERE’s Advanced Manufacturing, Building Technologies, Fuel Cell Technologies, and Geothermal Technologies Offices and also for DOE’s Office of Indian Energy Policy and Programs. His earlier professional experience includes surveying on Alaska’s North Slope near Prudhoe Bay, underground storage tank remediation in Louisiana, and regulatory permitting and compliance for locatable and fluid minerals (gold/silver/copper mining and geothermal) in Nevada with the Bureau of Land Management. Mr. Strickland holds a Master of Science in Geosciences from the University of Louisiana at Monroe with specializations in geo-archaeology and paleontology. In his free time, if it isn’t snowing or icy, you may glimpse him riding by on his Moto Guzzi. He can be reached at casey.strickland@ee.doe.gov or 720-356-1575. *Mr. Strickland joins the EERE NCO team of Robin Sweeney, Lisa Jorgensen, Lori Gray, and Kristin Kerwin.*



Livermore Field Office: Dan Culver

Having served from 2011 to 2014 as NCO for the National Nuclear Security Administration’s Livermore Field Office, **Dan Culver** now resumes the NCO role and reports that he is glad to be back in the DOE NCO community. He joined DOE as an attorney in 2010, after retiring from service in the U.S. Army as a judge advocate. For over 20 years, he advised environmental specialists and represented the Army in NEPA and other environmental matters in several states and the Pacific Territories. He can be reached at daniel.culver@nnsa.doe.gov or 925-422-3126. *Former NCO Karin King continues to support the Office’s NEPA activities and remains the Sustainability Lead and Federal Energy Manager.*

... and One “Farewell”

Strategic Petroleum Reserve: Katherine Batiste

Katherine Batiste retired from the Strategic Petroleum Reserve (SPR) Project Office in October, closing a 32-year career with DOE, half of that time as NCO. As the Office’s Waste Management Program Manager, Ms. Batiste was responsible for evaluating data and programs at the four SPR sites in Louisiana and Texas for compliance with federal and state regulations. As NCO, she led the preparation of several EAs and supported the Office of Fossil Energy in the preparation of EISs for SPR facilities. In 2004, the National Association of Environmental Professionals recognized the SPR and its management and operating contractor, with the National Environmental Excellence Award for Environmental Management. The award was for SPR’s Environmental Management System, developed under Ms. Batiste’s leadership, which fully integrates with its NEPA process to identify opportunities for environmental improvement throughout the project lifecycle. *On behalf of the DOE NEPA Community, the Office of NEPA Policy and Compliance offers Katherine best wishes on her retirement. The acting NCO, Will Woods, can be reached at will.woods@spr.doe.gov or 504-734-4329.*

EAs and EISs Completed July 1 to September 30, 2016

EAs¹

Bonneville Power Administration

[DOE/EA-2006](#) (7/7/16)

Columbia Estuary Ecosystem Restoration Program, Clatsop, Columbia, and Multnomah Counties, Oregon, and Pacific, Wahkiakum, Cowlitz, Clark, and Skamania Counties, Washington

EA was prepared in-house; therefore, there were no contractor costs.

Time: 17 months

Office of Fossil Energy

[DOE/EA-2041](#) (7/15/16)

Cameron LNG Expansion Project,

Cameron and Calcasieu Parishes, Louisiana

EA was adopted; therefore, contractor cost and time data are not applicable to DOE. [Federal Energy Regulatory Commission (FERC) was the lead agency; DOE was a cooperating agency.]

Western Area Power Administration

[DOE/EA-2018](#) (9/21/16)

Front Range-Midway Solar LLC Interconnection Project, El Paso County, Colorado

EA preparation cost was paid by the applicant; therefore, contractor cost is not applicable to DOE.

Time: 14 months

EISs

Office of Fossil Energy

[DOE/EIS-0491](#) (7/15/16) 81 FR 46077

(Draft EIS EPA Rating: EC-2)

Lake Charles Liquefaction Project,

Calcasieu Parish, Louisiana

EIS was adopted; therefore, contractor cost and time data are not applicable to DOE. [FERC was the lead agency; DOE was a cooperating agency.]

[DOE/EIS-0498](#) (9/30/16) 81 FR 67348

(Draft EIS EPA Rating: EC-2)

Magnolia LNG and Lake Charles Expansion Projects, Calcasieu Parish, Louisiana

EIS was adopted; therefore, contractor cost and time data are not applicable to DOE. [FERC was the lead agency; DOE was a cooperating agency.]

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 an explanation of these definitions, see the EPA [website](#).)

NEPA Document Cost and Time Facts²

EA Cost and Completion Times

- There were no EAs completed during this quarter for which cost data were applicable.
- For this quarter, the median and average completion times for 2 EAs for which time data were applicable was 16 months.
- Cumulatively, for the 12 months that ended September 30, 2016, the median cost for the preparation of 10 EAs for which cost data were applicable was \$205,000; the average was \$324,000.
- Cumulatively, for the 12 months that ended September 30, 2016, the median completion time for 17 EAs for which time data were applicable was 17 months; the average was 21 months.

EIS Cost and Completion Times

- There were no EISs completed during this quarter for which cost or time data were applicable.
- Cumulatively, for the 12 months that ended September 30, 2016, the median cost for the preparation of 4 EISs for which cost data were applicable was \$5,410,000; the average was \$6,060,000.
- Cumulatively, for the 12 months that ended September 30, 2016, the median completion time for 8 EISs for which time data were applicable was 39 months; the average was 46 months.

¹ EA and finding of no significant impact (FONSI) issuance dates are the same unless otherwise indicated.

² For EAs, completion time is measured from EA determination to final EA issuance; for EISs, completion time is measured from the Federal Register notice of intent to the EPA notice of availability of the final EIS. Costs shown are the estimated amounts paid to contractors to support preparation of the EA or EIS, and do not include federal salaries.

Questionnaire Results

What Worked and Didn't Work in the NEPA Process

To foster continuing improvement in the Department's NEPA Compliance Program, DOE Order 451.1B 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 Didn't Work

- *Establishing a realistic EA schedule.* The initial EA schedule was not based on realistic timelines that considered potential impacts to staffing and funding needs.

Data Collection/Analysis

What Worked

- *Clarifying impacts.* The document manager provided guidance to the EA preparation contractor to clarify the impact analyses and methodologies.

Schedule

Factor that Facilitated Timely Completion of Documents

- *Management commitment.* Commitment by management to provide timely document reviews facilitated timely completion of the EA.

Factors that Inhibited Timely Completion of Documents

- *Untimely review process.* Delays in the preparation of the EA resulted from untimely regional staff reviews of the draft EA.
- *Ineffective internal review procedures.* Ineffective internal review procedures inhibited timely completion of the EA.
- *Lack of staff availability.* The EA preparation process could not adhere to its initial schedule due to a lack of staff availability. This was mostly due to unforeseen position vacancies, routine time lost in refilling positions, and reassignment of project responsibilities.
- *Cooperating agencies did not prioritize their participation.* The cooperating agencies did not prioritize their participation in the EA preparation process, which inhibited the timely completion of the document.
- *Ambitious schedule.* The initial schedule for the preparation of the EA was too ambitious.

Teamwork

Factors that Facilitated Effective Teamwork

- *Project proponent interest.* The project proponent was eager to complete this EA and participated in the EA preparation process to keep the document on schedule.
- *Committed DOE team members.* DOE staff were committed to the timely completion of the EA. Timely consultation and review of draft documents facilitated completing the EA on schedule.

Process

Successful Aspects of the Public Participation Process

- *Addressed public comments.* All public comments were easily addressed in the final EA.

Unsuccessful Aspects of the Public Participation Process

- *No comments received from public.* No comments were received during the public comment period on the draft EA.

Usefulness

Agency Planning and Decisionmaking: What Worked

- *Informed decision.* The EA process informed decisionmakers and assisted DOE in arriving at a decision regarding a project proponent's application.
- *Programmatic EA.* The programmatic EA provided an analysis from which future site-specific project NEPA documents could tier, making those efforts more timely and cost-effective.

(continued on next page)

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

Enhancement/Protection of the Environment

- *Protection of the environment.* The environment was protected through measures outlined in the EA.
- *Environmental enhancement.* The programmatic EA enhances the environment by allowing future restoration projects to be implemented quickly and more effectively.

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 2 EA questionnaire responses were received, 2 respondents rated the NEPA process as “effective.”

- A respondent who rated the process as “4” stated that the NEPA process was an effective tool for considering and analyzing a project proponent’s application.
- A respondent who rated the process as “3” stated that this was a programmatic analysis only, with no project-specific decision being made.