

LESSONS LEARNED

September 1, 2009; Issue No. 60

Third Quarter FY 2009

DOE NCO Volunteers Lend a Hand To Expedite Recovery Act Projects



**A BIG TASK,
BUT REWARDING**

When the Office of Energy Efficiency and Renewable Energy (EERE) issued a call for help in meeting its NEPA responsibilities under the American Recovery and Reinvestment Act of 2009 (Recovery Act) early this summer, many experienced NEPA Compliance Officers (NCOs) offered their services. With the assistance of these “volunteers,” two EERE grant programs – the Energy Efficiency and Conservation Block Grant Program (\$3.2 billion) and the State Energy Program (\$3.1 billion) – have begun distributing funds to accelerate the creation of green jobs across the country, achieve widespread energy savings, and deploy a multitude of mostly small-scale renewable energy projects.

This cadre of 16 NCOs from EERE, the Office of Civilian and Radioactive Waste Management, the Office of Environmental Management, the Office of Fossil Energy, the Office of Electricity Delivery and Energy Reliability, the National Nuclear Security Administration, and various Field Offices, has already reviewed more than 800 Recovery Act funding applications and completed more than 900 categorical exclusion determinations. However, more NEPA work remains to be done, and Matt Rogers, Senior Advisor to the Secretary of Energy for Recovery Act Implementation, recently issued another plea for further assistance through September 30 to meet Departmental goals.

(continued on page 6)

DOE General Counsel Scott Blake Harris Aims To Improve the NEPA Review Process



Scott Blake Harris stated that his goals are to improve the speed, efficacy, and transparency of DOE NEPA reviews (interview, page 5).

In his first month on the job, DOE’s new General Counsel, Scott Blake Harris, issued operating principles for NEPA document review by the Office of General Counsel (GC) to reduce the time required for such reviews and avoid multiple rounds of comments, particularly for environmental impact statements (EISs). “We can spend more time on what is important if we spent less time on what is unimportant,” he said about the procedures, which are designed to eliminate unnecessary delays, provide high-quality information to Program Offices, and achieve the environmental assessment envisioned by the National Environmental Policy Act. These process improvements will also encourage Program and Field Offices to take early and active ownership of the quality of their documents, he said.

(continued on page 7)

Inside *LESSONS LEARNED*

Welcome to the 60th quarterly report on lessons learned in the NEPA process. We are pleased to feature the extraordinary support provided by our NCO volunteers and to introduce Scott Blake Harris, DOE General Counsel, and his plans for improving the DOE NEPA process. Thank you for your continuing support of the Lessons Learned program. As always, we welcome your suggestions for improvement.

CEQ Report to Congress on Recovery Act	3
DOE Grants NEPA Variances for Two Solicitations	4
Introducing DOE's New General Counsel	5
Mercury Storage EIS Under Way	8
DOE Cancels SRS Energy Park EA.....	9
CEQ Guidance Updates	10
EPA Guidance on Analysis of Diesel Emissions.....	10
2009 Stakeholders Directory Issued.....	11
New Approach to the LLQR Cumulative Index.....	11
U.S. Climate Science Report Issued	12
NOAA Issues Revised <i>NEPA Handbook</i>	13
Collaborative Electronic Review	14
Optimize Electronic Files for Internet Publication	15
New Tools for Visualizing the Environment	16
DOE-sponsored Environmental Training	17
Transitions	18
DOE-wide NEPA Contracts Small Business Policy	19
Litigation Updates.....	20
Training Opportunities	22
EAs and EISs Completed This Quarter.....	24
Cost and Time Facts.....	25
Recent EIS Milestones	26
Questionnaire Results	27

Carol Borgstrom
Director
Office of NEPA Policy and Compliance

Be Part of Lessons Learned

We Welcome Your Contributions

We welcome suggestions, comments, and contributed drafts for the *Lessons Learned Quarterly Report*. We especially seek case studies illustrating successful NEPA practices. Draft articles for the next issue are requested by November 2, 2009. Contact Yardena Mansoor at yardena.mansoor@hq.doe.gov or 202-586-9326.

Quarterly Questionnaires Due November 2, 2009

Lessons Learned Questionnaires for NEPA documents completed during the fourth quarter of fiscal year 2009 (July 1 through September 30, 2009) should be submitted by November 2, but preferably as soon as possible after document completion. The Questionnaire is available on the DOE NEPA Website at www.gc.energy.gov/nepa under Lessons Learned Quarterly Reports. For Questionnaire issues, contact Vivian Bowie at vivian.bowie@hq.doe.gov or 202-586-1771.

LLQR Online

Current and past issues of the *Lessons Learned Quarterly Report* are available on the DOE NEPA Website at www.gc.energy.gov/nepa. Also on the website is a newly formatted cumulative index of the *Lessons Learned Quarterly Report*, described on page 11.


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Act Fast – NEPA Office Openings Close September 3!

The Department of Energy's Office of NEPA Policy and Compliance is seeking strong candidates for several Environmental Protection Specialist positions (GS-12, 13 and 14). These are limited term appointments not to exceed 2 years (may be extended up to 4 years) and do not confer competitive status. Job announcement number HQ-09-DE-02-GC-ARRA-2264, posted at www.usajobs.gov, is open to U.S. citizens. If you are interested, please apply online to the job announcement by September 3, 2009. 

NAEP Conference To Celebrate NEPA at 40 Abstracts, Award Nominations Due Soon



Tracking Changes: 40 Years of Implementing NEPA and Improving the Environment is the theme of the National Association of Environmental Professionals (NAEP) 2010 conference, to be held April 27–30 in Atlanta. Abstracts for presentations are due by **September 15**. NAEP is seeking Track Chairs and Session Chairs; contact Lynn McLeod at naep2010@battelle.org or 781-952-5381.

NAEP will present Environmental Excellence Awards to acknowledge outstanding contributions in eight categories, including NEPA Excellence, Environmental Stewardship, and Public Involvement/Partnership. Nominations are due **October 1** and do not require NAEP membership. Further information is available at www.naep.org. 



More Than 73,000 Recovery Act NEPA Reviews Complete; CEQ Reports No Major Delays

The Council on Environmental Quality (CEQ) reported to Congress on August 3, 2009, on the NEPA status of more than 79,000 projects and activities receiving funding through the American Recovery and Reinvestment Act (Recovery Act). As of June 30, 2009, Federal departments and agencies had completed more than 70,000 categorical exclusion determinations, 1,600 environmental assessments (EAs), and 840 EISs related to Recovery Act projects and activities and had determined that NEPA is not applicable to almost 2,000 other projects and activities. Still pending for these 79,000 projects were almost 6,800 expected categorical exclusion determinations, 3,500 EAs, and 100 EISs.

The CEQ report includes 156 DOE Recovery Act projects – three times the number included in the first report, which CEQ submitted to Congress on May 18. As of June 30, DOE had completed more than 170 NEPA reviews for all or part of 68 projects and determined that NEPA reviews are not required for another eight projects. This effort supported the obligation of more than \$6.6 billion of Recovery Act funding in areas such as weatherization, environmental cleanup, and science.

Agencies Addressing NEPA Quickly

CEQ wrote that, “As the [May and August] reports show, many agencies have ‘shovel ready’ projects which have completed environmental analyses and are fully permitted, approved, and ready for implementation. For any projects and activities for which necessary environmental analyses and permits or approvals have not been completed, agencies are expeditiously addressing their compliance requirements.”

The August report describes NEPA compliance for projects expected to receive more than \$97 billion in funding. More than \$45 billion of this total was obligated by the Department of Education for formula grants to states, for which NEPA review is not required. “Overall, the progress that departments and agencies have reported indicates that NEPA analyses are informing decisions for expenditure of [Recovery Act] funds in an environmentally sound manner,” CEQ noted.

CEQ also highlighted steps by agencies to implement NEPA efficiently. “Several agencies are using programmatic NEPA reviews to address similar projects and activities, to facilitate implementation of individual projects and activities either by providing full NEPA compliance or programmatically addressing common environmental issues, thereby eliminating the need to replicate the review of those issues,” CEQ wrote.

DOE Making Progress, Much Work Ahead

The tripling in the number of DOE Recovery Act projects between the May and August reports reflects progress by DOE Program Offices in completing the approval process for the allotment of funding. The status of NEPA compliance varies among these projects. Most Office of Environmental Management Recovery Act projects rely on pre-existing NEPA reviews and so are reported as complete in the CEQ report. The Office of Science had completed NEPA reviews for almost half of its projects by June 30, primarily by reviewing existing NEPA documents and applying categorical exclusions.

The bulk of NEPA reviews pending as of June 30 are related to applications received in response to funding opportunity announcements issued by DOE. Thousands of applications were received in late June and additional applications are expected through the summer. The Office of Energy Efficiency and Renewable Energy is responsible for most of these, including applications for the State Energy Program and Energy Efficiency and Conservation Block Grant Program (related article, page 1). Funding opportunities also have been initiated by the Advanced Research Projects Agency–Energy, Office of Fossil Energy, Office of Electricity Delivery and Energy Reliability, and the Loan Guarantee Program Office. The Western Area Power Administration and Bonneville Power Administration also are expected to identify projects that will require NEPA review.

Future Reports To Explain Pending Actions

The next CEQ report to Congress will cover NEPA activities through September 30, 2009. DOE and other Federal agencies are required to submit their agency reports to CEQ by October 15, and CEQ will submit its report to Congress on November 2.

The report will continue the cumulative update of the status of NEPA actions to implement the Recovery Act. In addition, CEQ has asked agencies to explain the status of pending NEPA actions. At a meeting of Federal agency NEPA contacts on August 25, Horst Greczmiel, CEQ Associate Director for NEPA Oversight, noted that NEPA actions that remain pending on multiple reports will be scrutinized.

Section 1609(c)* of the Recovery Act requires quarterly reports on NEPA activities related to implementing the Recovery Act through September 30, 2011. The CEQ reports to Congress are available at www.nepa.gov. For more information, contact Brian Costner, DOE Office of NEPA Policy and Compliance, at brian.costner@hq.doe.gov or 202-586-9924.

DOE Grants NEPA Variances for Two Solicitations

To facilitate timely review of applications under two programs funded by the American Recovery and Reinvestment Act (Recovery Act), DOE has granted two variances from certain provisions in its NEPA regulations. DOE explained that granting the variances would expedite the award of funding and “facilitate the nation’s economic recovery by creating and retaining jobs.” One program would accelerate “development and production of electric drive vehicles,” and the other would accelerate “deployment of sustainable energy infrastructure and energy efficient industrial technologies that will reduce energy use.”

The variances were for the Electric Drive Vehicle Battery and Component Manufacturing Initiative (advanced battery solicitation; 74 FR 30558; June 26, 2009), and the Deployment of Combined Heat and Power, District Energy Systems, Waste Energy Recovery Systems, and Efficient Industrial Equipment Initiative (combined heat and power solicitation; 74 FR 41693; August 18, 2009). DOE found that the variances from 10 CFR 1021.216(c) through (h), *Procurement, Financial Assistance, and Joint Ventures*, are “soundly based on the interests of public welfare.” These variances primarily negated the need to prepare an environmental critique and environmental synopsis for the solicitations.

Recovery Act Funds Awarded

The Recovery Act includes \$2 billion for DOE to provide grants to manufacturers of advanced battery systems and vehicle batteries to be produced in the United States. The variance notice explains that DOE views these grants as critical to the development and production of electric-drive vehicle systems that will substantially reduce petroleum consumption, and that DOE expects the grants to result in U.S.-based manufacturing jobs that will meaningfully aid in the Nation’s economic recovery. President Obama announced the awardees selected from more than 80 applications on August 5, 2009. (See DOE news release at www.energy.gov/news2009/7749.htm.)

DOE made \$156 million of Recovery Act funds available through the combined heat and power solicitation. The variance notice explained that the funding is “critical to the deployment of new and replacement systems and equipment that are highly efficient and that make use of energy that would otherwise be wasted.” DOE expects to make selections in September from the more than 225 applications received.

Integrating NEPA and Procurement Processes


10 CFR 1021.216 establishes a process for considering potential environmental impacts within the procurement process for evaluating proposals, including prior to the conditional selection of applications for award. As the

variance notices describe, the central element of this “216 process” is preparation by DOE of a confidential environmental critique containing, among other things, a brief comparative evaluation of the proposed projects’ potential environmental impacts. The environmental critique may contain information provided by the applicant as well as supplemental information developed by DOE. This environmental critique forms the basis for an environmental synopsis, which is made available to the public and is incorporated into any EA or EIS prepared. (See DOE’s NEPA regulations and [LLQR, December 2008, page 14](#), both available on the DOE NEPA Website at www.gc.energy.gov/nepa.)

Variances Requested to Speed Process

For both solicitations, DOE received more applications than it is able to fund and undertook a merit review process in order to select awardees. The merit review criteria for the advanced battery solicitation included consideration of anticipated environmental impacts, among other factors. Although there was no similar merit review criterion for the combined heat and power solicitation, applicants did complete an environmental questionnaire that is being considered in the selection process. DOE’s National Energy Technology Laboratory, which was responsible for application review in both cases, noted that there would be some redundancy between the requirements of the merit review process and the 216 process, and it requested a variance to speed processing of the applications.

In granting the variances from certain requirements of 10 CFR 1021.216, DOE concluded that the process for making the funding awards “will provide the selecting official with sufficient information regarding potential environmental impacts in the Merit Review Report.” The variances do not affect requirements to prepare an EA or EIS for selected proposals. Indeed, any such EA or EIS will describe the relevant environmental factors noted in the Merit Review Report, consistent with the openness provisions of the 216 process (10 CFR 1021.216(h)).

The authority to grant variances is established in DOE’s NEPA regulations at 10 CFR 1021.343. DOE has used the authority in the past to implement alternative arrangements for complying with NEPA in order to take emergency actions (10 CFR 1021.343(a)). (See [LLQR, September 2000, page 1](#); [June 2004, page 8](#); and [March 2006, page 1](#).) However, the two recent variances are the first for which DOE has used the provision for actions that are “soundly based on the interests of national security or the public health, safety, or welfare” (10 CFR 1021.343(c)). The regulation states that such variances must be approved by the Secretary, but the Secretary delegated that authority to the General Counsel in December 2008. 

Introducing DOE's New General Counsel

Scott Blake Harris was confirmed in May 2009 as DOE's General Counsel. He is thus the senior official responsible for overall review of DOE NEPA compliance under 10 CFR 1021.105.

Mr. Harris brings a breadth of regulatory experience to the challenges of the NEPA review and compliance process. He has practiced law for 33 years in the private sector and in government in areas including telecommunications, trade, national security, litigation and administrative law. At his confirmation hearing before the Senate, Mr. Harris characterized his most recent experience as being "at the intersection of law, technology and policy."

Before joining DOE, he founded the law firm of Harris, Wiltshire & Grannis and served as its Managing Partner. Previously Mr. Harris served in the Federal government from 1993 to 1996, first as Chief Counsel for Export Administration in the U.S. Department of Commerce, and then as the first Chief of the International Bureau at the Federal Communications Commission. Before starting his own firm he had also been a partner at the law firms of Williams & Connolly and Gibson, Dunn & Crutcher.

An outspoken advocate for public service, Mr. Harris asserts that his most rewarding work experiences have been those in the Federal government. He states that he hopes to bring to DOE an approach to public service that stresses "efficacy and efficiency."

In an interview for LLQR, on August 26, Mr. Harris discussed the DOE NEPA Community's response to the Recovery Act and expanded on his goals of making the Department's NEPA process more transparent, efficient, effective, and useful to decisionmakers.

Thanking the NCOs

Mr. Harris expressed his appreciation for the ongoing work of DOE NEPA Compliance Officers (NCOs) in helping to meet the NEPA obligations for the massive number of Recovery Act projects (related articles: page 1, 3, and 4). The Recovery Act work has been overwhelming, he said. "I am amazed by the way NEPA Compliance Officers have stepped up to the plate to deal with this challenge. They each deserve an award for the astonishing amount of high-quality work. When I look at the Recovery Act metrics, it seems impossible to get all the work done, yet they are succeeding. I stand in awe of their efforts."

"No superlative to describe the NCOs' work would overstate the case."

Promoting Transparency, Efficiency through Technology

In response to questions on how DOE can enhance transparency and public involvement in the NEPA process, Mr. Harris drew from his experience in the communications sector. "I am a deep believer in using technology to enhance transparency," he stated. "One of my top priorities is to help the Department do an even better job in its use of the web and other communications technologies." He described two ways in which technology can help the NEPA process.

First of all, for disclosure: We should be proud of our work. The public should be able to see what we are doing, when we're doing it. If we make a mistake, the public will identify it and corrections can be made quickly, he said.


In addition, for efficiency: Mr. Harris is enthusiastic about the use of technology to facilitate collaboration on creative ideas. He announced that GC's General Law division is testing document review software tools and that he plans to roll them out for the entire Office of General Counsel. (Any new technology brings with it some start-up frustrations, he acknowledged.)

"We can do an even better job in using technology to give the public a view of what its government is doing."

Informing Decisionmakers Effectively

Mr. Harris advocated attention to the purpose of NEPA – which is to provide information on environmental concerns to decisionmakers. "The more that we prepare NEPA documents that present useful information in a concise and meaningful way, the more effective they will be. Unfortunately, some people see NEPA as an obstacle," he observed. Because some have used NEPA to delay projects that they oppose, it is sometimes seen as a litigation tool. In response, in order to strengthen a possible defensive position, we tend to put everything into an EIS. But unneeded detail in an EIS delays the NEPA process, which makes us ineffective, said Mr. Harris, and can result in an EIS so long that no decisionmaker can take the time to read it. "We need to have an output that is accessible by decisionmakers," he said.

"The NEPA process is not about checking the boxes, but rather about making meaningfully informed decisions."

In closing, Mr. Harris said that "The environment counts." The Secretary of Energy cares deeply about the environment, and in large measure, that's why he is here. Environmental considerations are critical to making progress on our Nation's greatest challenges: moving to a greener economy, reducing our reliance on foreign sources of energy, addressing global warming, and enhancing national security. 



DOE NCOs Lend a Hand *(continued from page 1)*

2,300 Block Grant Applications Received

The Energy Efficiency and Conservation Block Grant Program (Block Grant Program) has received approximately 2,300 applications from states, territories, Indian tribes, cities, and counties. The purpose of the Block Grant Program is to provide grants to communities to fund programs and projects that reduce energy use and fossil fuel emissions and improve energy efficiency. Block grants may be used to carry out a wide range of activities, including energy efficiency retrofits, bike lanes and pedestrian walkways, development of advanced building codes, district heating and cooling systems, and renewable energy projects on or in government buildings.

DOE received the first batch of Block Grant Program applications on June 25 and a second batch of applications on August 10. The first Block Grant awards were made in late July and DOE continues to issue awards each week, with the ultimate goal of delivering funding to 80 percent of the June 25 applicants by September 30.

Several DOE Offices have agreed to process a portion of the applications, including conducting NEPA reviews, to help DOE meet this schedule. **Steve Blazek**, NCO for the Golden Field Office, coordinated with NCOs from other offices to develop an overall process to review applications, and each week EERE hosts a conference call among NCOs to check on progress and discuss any issues that arise during the reviews. The review process includes reading applications and environmental questionnaires, and sometimes seeking additional information from applicants.

The NCOs assisting Mr. Blazek are **Kristin Kerwin**, Golden Field Office; **Jody Barringer**, **David Boron**, and **Othalene Lawrence**, EERE Headquarters; **Pete Yerace**, Environmental Management Consolidated Business Center (EM Business Center); **Gary Hartman**, Oak Ridge Operations Office; **Mary Martin**, National Nuclear Security Administration; and **Jane Summerson** and **Narendra Mathur**, Office of Civilian Radioactive Waste Management. John Hudy, an environmental engineer on a 60-day detail from the Federal Aviation Administration, is also supporting the Block Grant Program.

Although the work has been demanding (most of the “volunteer” NCOs are providing support to EERE in addition to their usual workload), the NCOs report satisfaction in supporting the Recovery Act efforts. Ms. Summerson said her participation has been highly rewarding. “First, I appreciate the opportunity to support

my fellow NCOs, who have been so generous in their support to me. Second, to evaluate such proposed projects is fascinating. I actually know physically many of the counties and cities, and in a number of cases can visualize the buildings or districts they are targeting. Most of these applications are well thought out and will make a very real difference to these communities,” she said.

Big Boost for State Energy Program

DOE received 56 applications from states, the District of Columbia, and U.S. territories for grants and technical assistance under its State Energy Program. The purpose of the Program is to provide funding to promote energy conservation and reduce the growth of energy demand. State energy offices use Program funds to develop state plans that identify opportunities for adopting renewable energy and energy efficiency technologies and implementing programs to improve energy sustainability. Many states also proposed to establish revolving loan funds to finance such opportunities over time.

DOE’s National Energy Technology Laboratory (NETL) has the lead for reviewing grant applications under the State Energy Program. Mr. Blazek helped the NETL NCOs (**Paul Detwiler**, **John Ganz**, and **Roy Spears**) initially to determine the level of NEPA review required. Four NCOs (**Drew Grainger**, Savannah River Operations Office; **Pete Yerace**, EM Business Center; **Brian Mills**, Electricity Delivery and Energy Reliability; and **Stephanie Jennings**, Oakland Projects Office) stepped in to help NETL with follow-up calls to applicants to get clarifying information. Mr. Boron observes a “very congenial, collaborative, and diligent team that is working well with EERE State Energy Program project directors and corresponding state points of contact.”

EERE deeply appreciates the dedication and support from all the NCO volunteers as well as from GC staff. Their efforts are helping to make funds available in communities throughout the country that will create jobs while furthering energy conservation.

– Rita Wells, EERE Executive Director for Field Operations

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New DOE NEPA Procedures

(continued from page 1)

The new GC NEPA review process is based on six operating principles:

Ad Hoc Delegation – GC will delegate EIS approval to the Program Offices on a project-by-project basis, upon request, when GC concludes that its further involvement is no longer required. Factors affecting delegation will include the EIS experience of the Program Office, the quality of the submitted materials, the complexity and sensitivity of the project, and the potential national impacts of the EIS review.


Coordinated Substantive Comments – GC will provide Program Offices with a single set of comments focused on substantive, rather than stylistic, issues. Comments will differentiate between matters legally required and other suggestions.

Single Coordinator – For each NEPA-related document being reviewed, GC will appoint a single GC coordinator to be the Program Office’s point of contact with GC.

Agreed Schedule – GC will begin the process by agreeing with the Program Office on a realistic schedule for all GC work that can be met reliably. Whenever possible, within 5 working days of document receipt, GC will identify any

significant issues that may affect schedule and likely major comments.

Regular Meetings – GC will arrange regular meetings with Program Offices to identify issues and resolve any problems in the EIS process.

Technology – GC will identify and implement modern information technologies to facilitate more efficient review and communication, such as software to facilitate document markup and comment, and videoconferencing to facilitate low-cost collaboration. (See related article, page 14). 

I believe these steps will enhance our ability to meet program needs, particularly in regard to schedule, without sacrificing quality in the NEPA process.

*GC NEPA Review Process Improvements
Memorandum of June 15, 2009*

DOE NCOs Lend a Hand

(continued from previous page)

Now serving an EERE Headquarters detail, Mr. Yerace is working with the other volunteer NCOs to develop approaches for expediting the NEPA process for the State Energy Program to ensure that NEPA review is not a bottleneck.

Reflecting sentiments similar to Ms. Summerson’s, Mr. Grainger described his work for the State Energy Program as “very satisfying,” noting that he is happy to be contributing to the “sustainable and energy independent future of the United States.” “For the first time in 20 years with the Department of Energy, I’m actually working on an energy project, and it’s exciting,” he said.


A key objective of the DOE Recovery Act money is to help boost the Nation’s economy through green jobs and environmentally-friendly energy projects. The NEPA volunteers, through the support and cooperation of their organizations, are helping to make this happen.

– David Boron, NCO
Energy Efficiency and Renewable Energy

More Help Needed!

EERE still needs help from NCOs and NEPA Document Managers to fulfill its responsibilities under the Recovery Act. Matt Rogers, Senior Advisor to the Secretary of Energy for Recovery Act Implementation, sent an email to NCOs on August 20 seeking help through September 30 in reviewing block grant applications. NCOs could work from their offices. Travel to Washington, DC, is not required. Mr. Rogers said that interested NCOs should speak to their supervisors and contact Claire Johnson, Energy Efficiency Advisor, Office of the Secretary, for additional information at claire.johnson@hq.doe.gov or 202-586-2887. “We need your help to complete these awards on a timely basis,” said Mr. Rogers.

EERE also will need experienced NEPA Document Managers to help prepare any EAs or EISs required for the Block Grant Program, State Energy Program, or any of its other Recovery Act programs.

See “NEPA Efficiency Essential to Recovery Plan” and “Recovery Act Stimulates Significant NEPA Workload” (*LLQR*, March 2009, page 1, and June 2009, page 8, respectively). 



Mercury Storage EIS Under Way: A Complex Undertaking

DOE's Office of Environmental Management recently completed an extensive public scoping process for its EIS on the *Long-Term Management and Storage of Elemental Mercury* (DOE/EIS-0423). With seven potential alternative sites across the country, preparing this EIS will be a complex undertaking. Add to the task the controversy associated with the long-term storage of a potentially hazardous material – highlighted in the public scoping comments – and the job becomes harder. Moreover, specific statutory requirements make the challenge even greater.

"While we recognize that completing this EIS is going to be difficult, we're up to the challenge," DOE NEPA Document Manager David Levenstein said. "We intend to give careful consideration to all public comments we receive," he continued, "and will complete detailed analyses of the potential environmental impacts of the alternatives. We aim to have the Draft EIS ready for public review and comment by the end of the year."

Legislation Requires DOE Action

The Mercury Export Ban Act of 2008 (Public Law No. 110-414) prohibits, effective January 1, 2013, the export of elemental mercury from the United States and directs DOE to designate a facility(ies) to manage and store (long-term) elemental mercury generated in the United States. Under the Act, this facility(ies) must be operational by January 1, 2013, and obtain a permit under the Resource Conservation and Recovery Act (RCRA).

There are several sources of elemental mercury in the United States, including the manufacture of chlorine and sodium hydroxide (i.e., the chlor-alkali process), reclamation and waste recovery activities, and gold mining processes (as a byproduct). The Environmental Protection Agency (EPA), a cooperating agency for the preparation of the EIS, estimates the total amount of elemental mercury from commercial sources that would be eligible for DOE storage is between 7,500 and 10,000 metric tons over a 40-year period.

Separate from the commercial inventory, DOE stores approximately 1,200 metric tons of elemental mercury at its Y-12 National Security Complex at Oak Ridge, Tennessee. Additionally, the Department of Defense (DOD) stores approximately 4,400 metric tons of elemental mercury at various locations within the United States. (DOD's Defense Logistics Agency published its mercury storage EIS in 2004 (69 FR 15830; March 26, 2004) and selected the Hawthorne, Nevada, site for consolidated storage (69 FR 23733; April 30, 2004). DOE was a cooperating agency for that EIS.)

Alternatives Identified

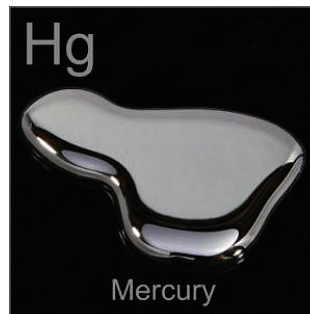
DOE developed a list of criteria to use as a framework for identifying candidate storage alternatives, including no interference with existing site missions; ability to comply with a RCRA storage permit; and compatibility with local land use plans. In March 2009, DOE published a Request for Expressions of Interest in the *Federal Register* (74 FR 11923) as well as in the *Federal Business Opportunities* seeking interest from Federal agencies and the private sector regarding potential storage locations. Section 5 of the Mercury Export Ban Act states that the Secretary of Energy shall designate a facility(ies) which shall not include Y-12 or any other portion or facility of the Oak Ridge Reservation.

Based on responses to the notices and on the criteria developed, DOE selected seven alternative sites to analyze in its EIS: Grand Junction Disposal Site, Grand Junction, CO; Hanford Site, Richland, WA; Hawthorne Army Depot, Hawthorne, NV; Idaho National Laboratory, Idaho Falls, ID; Kansas City Plant, Kansas City, MO; Savannah River Site, Aiken, SC; and Waste Control Specialists, Andrews, TX. Under the No Action Alternative, long-term management and storage of privately-owned mercury would remain the responsibility of its owners, and government-owned elemental mercury would remain at existing facilities. No preferred alternative for the EIS has been identified.

Many Scoping Comments Received

In July and August, DOE conducted eight public scoping meetings in eight states, following the issuance of a Notice of Intent to prepare an EIS (74 FR 31723, July 2, 2009). The initial scoping period for the EIS was extended to accommodate requests for an additional scoping meeting in Portland, Oregon (74 FR 36684, July 24, 2009).

The 52-day public scoping period ended on August 24, 2009, and approximately 490 comments were received, including via email, letters, the telephone, and the Internet (<http://mercurystorageeis.com>). At most of the public scoping meetings, the majority of commentors were against the project. At one or two of the meetings,



Mercury (chemical symbol – Hg) is a heavy, silvery-white metal that is a liquid at room temperature and is used in thermometers, barometers, batteries, and pesticides.

(continued on next page)

Mercury Storage EIS *(continued from previous page)*




Various flasks used for storing and transporting elemental mercury. Note: All flasks are about 12 inches. See ruler above.

commentors were fairly evenly divided as to their position on the project. Many commentors oppose locating a mercury storage facility in their community, including the Governors of Colorado and Idaho, while a smaller number of commentors support the proposed project. Those who feel the project would be beneficial cite job growth as the main reason for their support. Some commentors were concerned about the shipment of mercury over long distances and on routes that run adjacent to or cross major water sources.

Governors Brian Schweitzer (Montana), Chairman of the Western Governors' Association, and C.L. "Butch" Otter (Idaho), Vice Chairman, wrote to DOE that "We are concerned that in this current proposal for storing mercury, five of the seven sites proposed in DOE's notice of intent are located in Western States. The West is willing to do its share but the region should not become the dumping ground for all of the Nation's waste problems."

Next Steps

In addition to preparing the EIS, DOE, in consultation with EPA and the states, is also in the process of preparing *Guidance on Packaging, Transportation, Receipt, Management, and Long-Term Storage of Elemental Mercury*, as mandated by the Act. This guidance will establish standards and procedures for the receipt, management, and long-term storage of elemental mercury at the facility(ies) DOE eventually selects (including requirements to ensure use of suitable shipping/storage containers). The milestone date for publication of this guidance document, per the Act, is October 1, 2009. 

Savannah River Energy Park EA Cancelled


DOE's Savannah River Operations Office recently determined that a proposal for an "energy park" at the Savannah River Site near Aiken, South Carolina, is not sufficiently specific to permit meaningful environmental analysis under NEPA. (See the definition of "proposal" at 40 CFR 1505.23.)

The energy park concept, still in development, would establish approaches for transferring unneeded resources at DOE sites to support initiatives that address critical national energy, climate change, and economic challenges. The Savannah River Operations Office announced a determination in April 2009 to prepare an EA for a proposed action to lease lands to the Savannah River Site Community Reuse Organization. The mission of this private nonprofit organization is to promote economic growth and diversity within a five-county region in the Central Savannah River Area of Georgia and South Carolina.

The EA would need to provide evidence and analysis sufficient for DOE to determine whether to prepare an EIS or issue a finding of no significant impact

(40 CFR 1508.9). Because the Savannah River Site Community Reuse Organization proposed a very broad range of possible future uses of the leased lands, from light manufacturing to nuclear power generation, the environmental impacts cannot be meaningfully assessed. The Savannah River Operations Office therefore decided to cancel the preparation of an EA at this time and notified the Governors of South Carolina and Georgia.

The Office of NEPA Policy and Compliance responded to inquiries by concerned individuals and organizations regarding the energy park proposal for the Savannah River Site and DOE's NEPA review for it. Similar inquiries were made related to DOE's Portsmouth Site in Piketon, Ohio. DOE is now reevaluating its NEPA approach for energy park proposals.

A public workshop on the Savannah River Site Energy Park was held on August 18, 2009, to discuss the concept of an energy park, and another is being planned for October. During the workshop DOE announced that it had cancelled preparation of the EA. 

Council on Environmental Quality Guidance Updates



The Council on Environmental Quality (CEQ) is progressing towards issuing guidance intended to help agencies make their NEPA processes more efficient, a need heightened by the greatly increased number of proposals associated with


the American Recovery and Reinvestment Act. In mid-June 2009, CEQ provided NEPA contacts at the Federal agencies with the opportunity to review *Establishing, Revising, and Applying Categorical Exclusions under the National Environmental Policy Act* (draft) and *Guidance on Preparing Concise and Timely Environmental Assessments* (draft).

The categorical exclusion guidance aims to reduce the resources and time spent on NEPA compliance for proposals with no significant impacts by encouraging agencies to identify additional categories of such actions, amend their categorical exclusion lists through an appropriate process, and apply categorical exclusions efficiently. The guidance addresses comments provided on proposed guidance that had been developed by an interagency working group and published by CEQ for public comment in September 2006 (71 FR 54816; September 19, 2006).

The EA guidance addresses situations where the proposed action has not been evaluated in an existing NEPA document, does not have potential for significant impacts, and cannot be categorically excluded, and where there is no applicable statutory exemption. It states that a concise and focused EA can be prepared in a short time and describes information to include in the core elements of an EA (40 CFR 1508.9):

- Need for the proposal
- Alternatives as required by NEPA Section 102(2)(E)
- Environmental impacts of the proposed action and alternatives
- Agencies and persons consulted

The draft builds on CEQ guidance issued for forest health projects in 2002 and for Hurricane Katrina response actions in 2005 (www.nepa.gov).

The Office of NEPA Policy and Compliance submitted comments on both draft guidance documents in July 2009, with assistance from several NEPA Compliance Officers and staff of the Office of the Assistant General Counsel for Environment. 

EPA Guidance on Analysis of Diesel Emissions Available




Interim guidance on how to address diesel emissions in NEPA documents, prepared by the Environmental Protection Agency's (EPA's) Office of Federal Activities, was recently provided to Federal NEPA contacts by the Council on Environmental Quality.

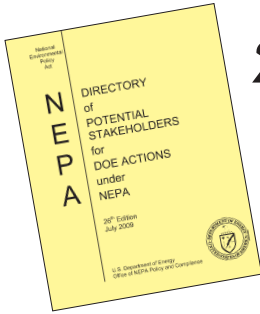
Although intended for internal use by EPA personnel involved in reviewing NEPA documents under Clean Air Act Section 309, the interim guidance is made available to the Federal NEPA community because it addresses the types of projects where diesel emissions may warrant consideration in NEPA documents, the appropriate level of analysis of impacts from the emissions, and possible mitigation measures that could be proposed.

Proposals that involve the use of construction equipment could result in diesel emissions. EPA personnel may review DOE NEPA documents for discussions of total (i.e., direct and indirect) and cumulative impacts of diesel

emissions on air quality and human health related to the short-term use of construction equipment or projects that contain an ongoing transportation component. Projects planned near an existing roadway, port, rail yard, or other transportation facility may also be reviewed for analysis of impacts from diesel emissions.

Regardless of project type, qualitative assessment of diesel emissions is indicated as the starting point for properly disclosing diesel emissions impacts as they relate to the overall proposal. More complex analyses, such as quantification of emissions, toxicity-weighting of emissions, air quality dispersion modeling, and risk assessments, which may need to be considered based on the level of diesel emissions attributable to a proposed project, are also discussed.

For additional information or to request a copy of *NEPA/Clean Air Act Section 309 Diesel Emissions Guidance*, contact James G. Gavin in the EPA Office of Federal Activities at 202-564-7161. 



2009 Stakeholders Directory Issued

The newest *Directory of Potential Stakeholders for DOE Actions under NEPA* (26th Edition, July 2009) has been issued. Updated annually, the *Directory* is intended to supplement Field Office distribution and


notification lists for NEPA documents of national interest or broader geographic scope than is typical for a Field Office document. This responds to the provision of the Council on Environmental Quality NEPA regulations (40 CFR 15.06.6(b)(2)): “In the case of an action with effects of national concern notice shall include publication in the *Federal Register* and notice by mail to national organizations reasonably expected to be interested in the matter Agencies shall maintain a list of such organizations.”

The 2009 *Directory* identifies almost 400 potential NEPA document reviewers in Federal agencies, states, and national and regional nongovernmental organizations. For the convenience of NEPA Document Managers, the *Directory* includes appendices that list DOE contacts who may be involved in certain aspects of NEPA document coordination and distribution: NEPA Compliance Officers, DOE and National Laboratory public affairs directors, and points of contact for tribal issues. A fourth appendix lists public reading rooms where DOE Program and Field Offices typically make NEPA documents available for review.

More Stakeholders Look To the Web for Documents

During preparation of each edition of the *Directory*, every stakeholder contact is asked to identify preferences for receiving NEPA documents as paper copies, compact disks, or notification of the document’s web address, if posted by the distribution date. The trend identified in past years continues: a growing number of contacts wants something other than a full paper copy. If a document is posted on the web at the time of distribution, one-sixth of the stakeholders requested only notification of the document’s web address and one-half prefer to receive only a compact disk. If a document is not available on the web at time of distribution, about two-thirds prefer to receive only a compact disk. Regardless of the timing of web posting, one-third of the stakeholders prefer a paper copy or a paper copy with a compact disk.

To meet these preferences, and to realize the savings in printing, packaging, and mailing, NEPA Document Managers should plan ahead for the timely posting of an EIS online and notification of the posting before filing, as DOE must certify that it has completed the required distribution before filing an EIS with the Environmental Protection Agency.

The *Directory* is posted on the DOE NEPA Website. It complements the June 2006 *EIS Distribution* guidance. For additional information, contact Yardena Mansoor at yardena.mansoor@hq.doe.gov or 202-586-9326. 




New Approach to the LLQR Cumulative Index

With each issue of *LLQR*, the cumulative index has become more challenging to use, mostly because a large portion of the articles fall within a small range of topics. To facilitate searches, the index has been restructured. The cumulative index is now divided into three parts:

The **Subject Index** lists articles by topic. Several extremely broad first-level keywords (such as “document preparation,” “mini-guidance,” and “process, NEPA”) have been eliminated and the subtopics that were under them are now first-level keywords. Articles that were formerly indexed under “EISs/documents, DOE,” “EAs/documents, DOE,” “Litigation, DOE,” and “Litigation, Other Agency” have been moved into separate sections.

The **DOE NEPA Documents Index** lists articles on specific DOE EAs and EISs. The **Litigation Index** lists articles that report on DOE’s and other agencies’ NEPA litigation. Each DOE case is listed as appropriate to reflect the challenged proposal, that is, one or more of: a specific facility (Fast Flux Test Facility), generic facility (biological research laboratories), program (energy efficiency standards), or activity (transuranic waste shipment). Articles on other agency NEPA cases are listed under the name of the principal defendant agency.

These changes are reflected in the *LLQR* cumulative index posted on the DOE NEPA Website with this 60th issue. A paper copy of the cumulative index will no longer be provided. 

Recent U.S. Climate Science Report – Useful Resource for Climate Change Impacts

By: Julie A. Smith, Office of NEPA Policy and Compliance



The impacts of a changing climate are already being observed across the United

States, according to the latest climate status report to Congress by the U.S. Global Change Research Program, *Global Climate Change Impacts in the United States* (June 2009). Approved by the National Atmospheric and Oceanic Administration and 12 other Federal agencies and organizations, the report provides a “state of knowledge” assessment of the science of climate change and climate change-related impacts, now and in the future.

“Observations show that warming of the climate is unequivocal,” and “. . . is due primarily to human-induced emissions of heat-trapping gases,” the report states. Given increased attention to climate change and a recognized need to address reasonably foreseeable impacts, which may include effects of greenhouse gas emissions, in NEPA documents (*LLQR*, June 2009, page 12), this report may be useful to NEPA practitioners seeking current information about potential climate change-related impacts on specific environmental resources, economic sectors, and regions of the United States.

The U.S. Global Change Research Program was established in 1990 by the Global Change Research Act to coordinate interagency Federal research on climate change. DOE is among 13 Federal agencies and organizations participating in the Program with oversight by the White House Office of Science and Technology Policy, Office of Management and Budget, and Council on Environmental Quality. The Global Change Research Program encompasses the U.S. Climate Change Science Program, which synthesizes and provides up-to-date results on the science of climate change (*LLQR*, June 2008, page 10), including results from the Intergovernmental Panel on Climate Change (*LLQR*, December 2007, page 1).

The report presents a wide variety of scientific assessments and recently published research in an accessible, reader-friendly style. It summarizes what is known about observed and projected (from global climate models) consequences of climate change on different regions across the United States and states that impacts are expected to become increasingly more severe as the level of warming increases. The report synthesizes analyses of impacts on various environmental resource areas – such as water, ecosystems, and energy – with assessments of key

potential impacts on related economic activities – such as agriculture, energy use and production, transportation, and water distribution. For example, the report discusses changes in hydrologic processes, water quality, water demands, and aging water infrastructure in relation to managing limited water resources for multiple uses – including energy production, agriculture, and industry. The report draws particular attention to the connection between water and energy. Water is used by the power generation sector directly for hydropower, and is critical in cooling processes for other forms of electric power generation. Energy, in turn, is used for pumping and heating water, in drinking water treatment, and for wastewater treatment. The report states that competing needs and limitations imposed by the close interconnection between these two resources are already becoming evident in the American West.

Challenges for Energy Supply and Use

A main point of emphasis in the report is on climate change effects already being observed in the United States, including: (1) loss of coastal land in the Southeast and Alaska to rising sea levels; (2) increases in heavy downpours and droughts impacting agricultural crop yields; and (3) increased flooding and storm surges in vulnerable regions like the Gulf Coast that threaten existing transportation infrastructure. Based on observed effects of climate change, the report highlights present and future challenges to the Nation’s energy supply and use, such as:

- Overall increases in demand for cooling energy due to rising temperatures that will likely result in increases in electricity use and high peak demand in most regions;
- Constraints on thermal (fossil and nuclear) energy production caused by limited water supplies and rising temperatures, which reduce the efficiency of power plant cooling technologies;
- Likely disruptions to energy production and delivery systems, such as oil and gas operations, in vulnerable areas (e.g., the Gulf Coast) due to extreme weather events and rising sea levels; and
- Likely effects on renewable energy technologies, such as hydropower (due to changes in precipitation patterns and snowmelt), solar energy (due to changes in cloud cover), wind power (due to variations in wind patterns), and biofuels production (due to changes in water availability and temperature).

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NOAA Issues Revised *NEPA Handbook*



The National Oceanic and Atmospheric Administration (NOAA) issued a revised *NEPA Handbook* (Version 2.3) in May 2009 that may be useful to *LLQR* readers. Primarily intended as a tool for NOAA staff, the *Handbook* also serves as a useful reference for applicants, contractors, tribal representatives, and others participating in the NOAA NEPA process. In addition, the *Handbook* provides some useful suggestions on topics, such as how to organize an EIS and prepare and maintain an administrative record, that are generally applicable to NEPA practitioners from other Federal agencies.

The *Handbook* outlines the steps to prepare, review, and process environmental analyses and describes NOAA directives, policies, and guidelines to assist NEPA practitioners in complying with NEPA, the Council on Environmental Quality NEPA regulations, and NOAA's administrative order outlining the agency's NEPA implementation. It also summarizes related environmental laws and Executive Orders.

How To Organize an EIS


The *Handbook* identifies four approaches for organizing an EIS: the traditional format, which addresses the affected environment and environmental consequences in separate chapters, and three variations, which involve combining the affected environment and environmental consequences into a single chapter, presenting the environmental consequences on an alternative-by-alternative basis, and presenting the environmental consequences on an affected resource-by-affected resource basis. "All of these approaches (and combinations thereof) are acceptable, but their effectiveness and efficiency are highly dependent on the complexity of the action," explains the *Handbook*.

Regardless of which organizational approach is used, the *Handbook* advises that EIS preparers be consistent – choose one organizational scheme and stick to it. For example, present alternatives and affected resources in the same order throughout the document. Also, the EIS should present the no action alternative first to establish a baseline against which other alternatives will be compared. The *Handbook* also suggests that the EIS summarize the net environmental effects at the beginning or end of the discussion and present the net effects in tabular form to allow ease of comparison.

How To Prepare an Administrative Record

An administrative record "memorializes" consideration of all relevant and reasonable factors. The administrative record should consist of relevant and significant documents considered by the decisionmaker when making the decision and demonstrate and document that the agency examined the proposed action and its reasonable alternatives thoroughly as required by law, explains the *Handbook*. In addition, the *Handbook* describes the types of records and documents an administrative record should contain, including (1) documents relied on by the decisionmaker, or incorporated by reference in documents relied on by the decisionmaker (whether or not those documents support the final agency decision); (2) background documents that help explain the context in which the decision was made; (3) comments received during the public review process and the corresponding agency responses; and (4) summaries of meetings with the public to discuss the proposed action.

The NOAA *NEPA Handbook* is available online at www.nepa.noaa.gov/NEPA_HANDBOOK.pdf.


For questions on the *Handbook*, contact NOAA's Office of Program Planning and Integration at 301-713-1632. 

Recent U.S. Climate Science Report (continued from previous page)

Mitigation and Adaptation

While the primary focus of the report is on impacts, it also underscores the importance of mitigation and adaptation as necessary elements of the Nation's overall response strategy for climate change. It does not evaluate the effectiveness of various approaches or endorse mitigation technologies. Rather, it emphasizes the importance of considering mitigation measures by comparing impacts that are expected to result from scenarios of higher versus lower greenhouse gas emissions, and provides examples

of adaptation approaches being tried in various economic sectors and regions of the country. For example, the report discusses efforts in New York City to adapt the city's water distribution system infrastructure to accommodate the impacts of a changing climate, as well as efforts currently under way to "climate proof" roads in coastal areas against projected increases in heavy downpours and sea level rise.

The full report can be found online at: www.globalchange.gov/usimpacts. 

Challenges in Collaborative Electronic Document Review

By: Carrie Moeller, Office of NEPA Policy and Compliance

Since his arrival at DOE, Scott Blake Harris, the new General Counsel, has emphasized the role of technology in the workplace and its usefulness for improving efficiencies. In particular, Mr. Harris, whose legal background includes communications and information technology litigation, pointed to the use of current technologies for more efficient review of NEPA documents. (See related article on NEPA review process improvements that the Office of General Counsel (GC) will employ for ongoing and future NEPA reviews, page 1.)

Conforming to the operating principle to employ technology in NEPA document reviews, the Office of NEPA Policy and Compliance recently participated in a collaborative electronic EIS review. The NEPA Office had previously participated in collaborative reviews, using the same commenting system. Described below are positive and negative aspects based on these experiences and some tips for improving future collaborative electronic NEPA document reviews.

What Is a Collaborative Electronic Document Review?

A collaborative electronic document review entails reviewing a document online, typically a pdf or word processing file posted on a document management system's website. What makes the review "collaborative" is that multiple reviewers can "share" or read the same document at the same time and post or "publish" comments for others to see.

The sharing and publishing of comments can either be in "real time" or the system may be set up in such a way that a reviewer can "check out" a file (e.g., pdf file or word processing document) for commenting and then "check in" the file (with comments inserted) for others to review and insert their comments or "reply" to existing comments. The document management system application that NEPA Office staff recently encountered allows for reviewers to simultaneously review and comment on the document within an Internet browser, potentially creating a more efficient and productive environment for identifying and resolving issues (rather than each person individually reviewing a document and submitting their comments at the close of the review period).



Tips for a Smooth, Productive Collaborative Electronic Review



✓ Consider the circumstances

For NEPA Document Managers deciding whether to use a document management application, first consider the participants. If the review will involve many different people in different DOE Program or Field Offices commenting on the same portions of the document, then use of such an application, particularly in a "live" or real time manner, may be valuable. However, if the review only involves a few people in one office, then it might not be necessary.

In the recent collaborative review in which the NEPA Office participated, staff from the NEPA Office and the Office of the Assistant General Counsel for Environment were the only reviewers. As a result, it seemed unnecessary to use a collaborative electronic commenting application because the two GC offices coordinated their reviews of the document internally face-to-face and ultimately submitted their comments via a single point of contact, in accordance with GC NEPA review policy. In this circumstance, the main benefit of using a collaborative electronic commenting application (i.e., "live" commenting by several different reviewers from different organizations) was nullified.

The NEPA Document Manager, however, emphasized the benefits of using a collaborative electronic commenting application when reviewers, including staff from the respective DOE Program and Field Offices, GC, and members of the EIS preparation team, are spread across the country. "Using a collaborative electronic commenting application facilitates interaction among reviewers, allows for commenting in the same 'space' – creating a dialogue," said the NEPA Document Manager. In addition, compared to a typical review where each reviewer comments separately, a collaborative electronic review significantly reduces the likelihood of contradictory comments, she said.

✓ Conduct a test run

If you are the NEPA Document Manager for a collaborative electronic review, conduct a test run prior to the start of the collaborative electronic review. Document managers should not assume that reviewers have the technical capability (i.e., software requirements) to be able to participate in a

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e-NEPA Reminder: Optimize Electronic Files for Internet Publication

By: Denise Freeman, NEPA Webmaster




In an environment of openness and transparency, it is extremely important for DOE NEPA Document Managers to “begin with the end in mind” as they prepare NEPA documents. This simply means that as you prepare the electronic files (e-files) of a NEPA document, don't forget to “optimize” (i.e., reduce or compact) the e-file size. Pay particular attention to graphics, which should be optimized prior to including them in documents that will be converted to pdf for web publication. Graphic images can communicate a great deal of information while adding visual appeal to documents. However, large images can cause increased download time and accessibility issues and therefore are contrary to the Administration's goals of transparency and openness.

Recently, for example, the Office of NEPA Policy and Compliance received a large e-file of an EA for posting on the DOE NEPA Website. Due to the large file size, the file

was sent back to the Field Office for optimization. After optimization, the e-file was one-third of its original size.

Suzanne Nawrot, DOE HQ Web Manager, Office of the Chief Information Officer, says in regard to the submission of such large files for posting on the DOE NEPA Website, “...they're too big for the server, they're too big for the bandwidth, and they're too big for users to download without crashing their system.”

NEPA Document Managers and contractors are urged to review current posting procedures, *Procedures for Submitting Documents for Posting on the DOE NEPA Website* (August 2008). Adherence to these procedures will help expedite posting of DOE NEPA documents on the DOE NEPA Website. If you have any questions, please contact me at: denise.freeman@hq.doe.gov. 

Collaborative Electronic Review *(continued from previous page)*

collaborative electronic review or that the software will function as expected. A test run can be as simple as having the website administrator post a sample pdf file to the document management system's website and request that reviewers log on, load the pdf file for review, and enter and publish comments for other reviewers to see.


During a recent test run, the NEPA Office identified staff that were unable to access the commenting features that are part of the collaborative electronic review despite having the required software. Working with the DOE Help Desk over a period of several weeks resolved technical issues for some reviewers, while others still had unresolved technical problems when the review began. As a result, they were unable to take advantage of the collaborative review process. If technical problems remain unresolved, NEPA Document Managers should be flexible and accept comments by other means and in formats that differ from those submitted via the collaborative electronic review application.

NEPA Document Managers should plan to do a test run at least a few weeks prior to the NEPA document review to resolve any technical issues that may arise, particularly if the reviewers are new or unfamiliar with the collaborative review application. In addition to NEPA Document Managers staging a test run in advance of the review, commentors should work proactively with their technical support organization to resolve any potential software compatibility or firewall issues.

✓ Identify comment resolution needs

Reviewers may find it more difficult (and time consuming) to conduct follow-up comment resolution reviews if their original comments were submitted through collaborative electronic application because it is difficult to produce a comprehensive and cohesive list of all submitted comments. For example, generally, commentors have to click through each page of the pdf file scanning for comments, and to produce a paper copy, they either have to selectively print each of the pages where a comment was made or print the entire file. (Either way, printing will result in a comment summary page that follows each page of the document where comments were inserted.) Once the comment period has concluded, reviewers should at least download all document files to their computer to have them for future reviews to check comment resolution status.

Feedback

Please contact Carrie Moeller at carrie.moeller@hq.doe.gov or 202-586-8397 if you have any feedback you'd like to share based on your experiences using a collaborative electronic review application. The NEPA Office welcomes any suggestions on how to improve this process. 

New Tools For Visualizing the Environment

By: Jeff Dorman, Office of NEPA Policy and Compliance

My work as a NEPA practitioner has made me realize that the visualization of information, and the use of new tools, presents unique challenges and opportunities for the NEPA process. Collecting and analyzing the necessary information is a complicated process; so too is reporting all that information to the public and the decisionmaker. Deciding what information to collect and from where, and how best to present it, were some of the questions discussed at a recent Resources for the Future (RFF) seminar I attended, Visualizing Our Relationship with Natural Resources and the Environment – The Role of New Information Technology in Informing and Communicating Research, on June 3, 2009.

Younger generations may first encounter, or may only ever encounter, some natural resources through advanced technologies such as visualization, said Molly Macauley, Senior Fellow and Director, Academic Programs, RFF. When considering protection of natural resources, she asked “What are the implications of a person’s ability to virtually be in a park, or to virtually be in a rainforest?” With high resolution imagery, you can virtually be in another location to experience such locations, and that could change how you value protecting them, she said.

Extraordinary advances are occurring in information technology. It affects the way we do research, the way policy makers make decisions, and the way policies can be implemented.

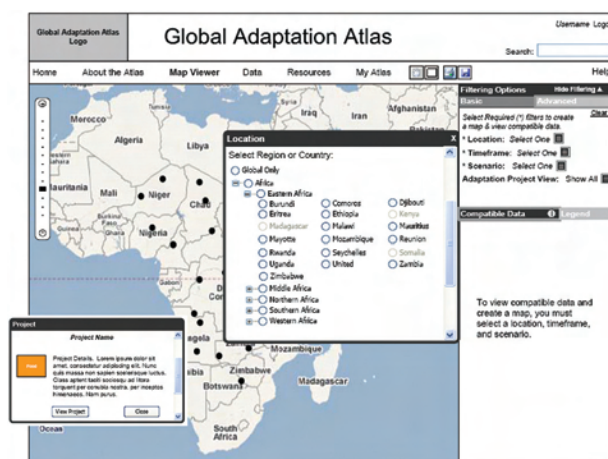
— Philip R. Sharp, President of RFF

How Big Is Your Backyard?

The “not in my back yard” phenomenon applies when considering reactions to where impacts may occur, said Dr. Shalini Vajjhala, Fellow, RFF. People understandably do not want impacts in the areas they care about. In her research, Dr. Vajjhala has asked, “How big is your backyard?” She described how participants defined their backyard by making their own hand drawn map of the places they cared about, and the maps ranged from only a few blocks around their homes to entire metropolitan areas.

Dr. Vajjhala also described the Global Adaptation Atlas (sample at right), which is an online map and visualization tool being developed to help people around the world adjust to local changes in their climates. This project aims to go beyond predicting individual changes in average annual temperature, precipitation, and sea level rise. The aim is to summarize all the anticipated impacts from global warming, including secondary impacts like

disease outbreaks, and identify “hot spots” where those impacts will be most severe. It will not only present this information, but allow users to perform their own analysis and create summaries tailored to their areas of interest.



A more detailed description of the [Global Adaptation Atlas](http://www.rff.org) is available online at www.rff.org. The prototype Global Adaptation Atlas is scheduled for release in December 2009.



Constructive Fantasy

William Gail, Director, Startup Business Accelerator Group at Microsoft, describes visualization as “constructive fantasy.” He said when we visualize the Earth, we are not replicating it as it actually is. We are distorting it in a way that adds information to it. These distortions, such as converting the three dimensional Earth into two dimensional maps, have become second nature to us, he explained, and added that this trend will continue as new technologies allow us to build bigger and better visualizations. In the Microsoft application Virtual Earth (now known as Bing Maps for Enterprise, available at www.bing.com/maps/), one area of focus is Denver, Colorado. Over 100,000 buildings and 300,000 trees were accurately placed to model the area for a variety of applications. This level of detail is currently available for other cities and eventually three dimensional maps will

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New Tools for Visualization


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exist for the entire globe. Mr. Gail noted that technology can blur the line between real and virtual worlds. It allows you to conduct experiments in a virtual world that simply are not possible or responsible in the real world. With visualizations, decisions can be made differently from the way they are today, he predicted.

Basics of Color in Visualization

Bonnie Scranton, an information designer, described principles of presenting visual information by separating the individual components of color: value, intensity, and hue. The differences in these qualities change the way the information is presented and the way it is perceived. Poor choices in color can make it difficult to convey information, such as when reproducing color information in black and white. Unless there are differences in color value, the features in the reproduction will not be distinguishable. Keeping the principles of color in mind

when presenting visual information is as important as selecting the methods used to collect the data, she said.

For more information about this seminar, including video cast of the presentation, visit: www.rff.org/events/pages/visualizing_relationships.aspx. 



Resources for the Future is a nonprofit and non-partisan organization that conducts independent research – rooted primarily in economics and other social sciences – on environmental, energy, natural resource and public health issues.

For more information, visit www.rff.org.

DOE-sponsored Environmental Training Offered

Two upcoming environmental training sessions, to be held in the Forrester Building in Washington, DC, will be hosted by DOE field and contractor environmental attorneys, as well as the Office of Conflict Prevention and Resolution and the Assistant General Counsel for Environment (in the Office of General Counsel) and the Office of Environmental Policy and Assistance (in the Office of Health, Safety and Security).


Environmental Conflict Resolution

On September 25, 2009, the U.S. Institute for Environmental Conflict Resolution (the Institute) will facilitate a discussion about environmental conflict resolution (ECR) approaches with DOE ECR programmatic points of contact, DOE and contractor environmental attorneys, and any NEPA Compliance Officers and NEPA Document Managers who are interested. The Institute is an independent and impartial Federal program, with a mission to help organizations find workable solutions to environmental conflicts. ECR offers techniques that can be used to bridge gaps, build relationships, and promote collaboration. The training discussion will highlight best practices, share lessons

learned, and facilitate a conversation about enhancing DOE ECR efforts.

Current Environmental Issues

On October 20–21, 2009, the annual environmental attorneys' training will have audio links for the entire training and a video link for October 20 only. This training, traditionally held for Departmental and contractor environmental attorneys (Continuing Legal Education credits may be available), is being opened to include DOE NEPA practitioners and program staff involved in environmental issues. The agenda will include Native American issues (including ECR), natural resource damages, appropriations related to cleanup activities, energy parks, the Recovery Act, and other environmental issues.

For more information, and to register for either training, NEPA practitioners should contact Beverly Whitehead in the Office of Environmental Policy and Assistance at beverly.whitehead@hq.doe.gov or 202-586-6073, or Steven Miller in the Office of the Assistant General Counsel for Environment at steven.miller@hq.doe.gov or 202-586-2925. 



Transitions: New NCOs

Energy Efficiency and Renewable Energy: Jody Barringer and David Boron

To accommodate a large increase in NEPA compliance activities resulting from the American Recovery and Reinvestment Act (Recovery Act), the Office of Energy Efficiency and Renewable Energy (EERE) has designated two NEPA Compliance Officers (NCOs) who will serve for the duration of the Office's NEPA-related activities associated with the Recovery Act, along with EERE's long-term NCO, Othalene Lawrence.

Jody Barringer joined EERE in August 2008, after serving as a litigator of environmental insurance coverage claims at a Manhattan law firm. Since March, she has been reviewing applications for the State Energy Program, Weatherization Assistance Program, and Energy Efficiency and Conservation Block Grant Program in the Office of Weatherization and Intergovernmental Programs. Ms. Barringer can be reached at jody.barringer@ee.doe.gov or 202-586-5404.

David Boron, a Supervisory Management and Program Analyst, has 15 years of experience as the NEPA coordinator in EERE's Industrial Technologies Program and previously served as environmental compliance officer for the New York State Energy Research and Development Authority. Mr. Boron is a scientist by training; "a technologist and engineer at heart." He brings program and project management experience to complement his environmental duties. He can be reached at david.boron@hq.doe.gov or 202-586-0080.

Golden Field Office: Kristen Kerwin

The Golden Field Office, which also is facing a substantial increase in NEPA compliance activities for Recovery Act projects, has designated Kristen Kerwin as an additional NEPA Compliance Officer. Since joining the Golden Field Office as an Environmental Specialist in 2004, Ms. Kerwin has worked primarily with NCO Steve Blazek on Golden's NEPA activities for EERE programs and the National Renewable Energy Laboratory. Prior to working at Golden, Kristin facilitated water quality projects in the agricultural and non-profit sectors. She can be reached at kristin.kerwin@go.doe.gov or 303-275-4968.

Idaho Operations Office: Richard Kauffman (Interim)

Richard Kauffman was recently designated Interim NCO of the Idaho Operations Office while the Office's long-time NCO, Jack Depperschmidt, serves a detail as Acting Director for the Office's National Security/Science and Technology Division. Mr. Kauffman has 20 years of radiological and environmental experience with DOE and the U.S. Navy's former Mare Island Naval Shipyard as a program manager and facility representative for environmental monitoring, waste management, wastewater, and drinking water. He has worked closely with Mr. Depperschmidt on Idaho's NEPA activities for the past 2 years. "Mr. Depperschmidt mentored my preparation in the NEPA field," says Mr. Kauffman, who can be reached at kauffmrm@id.doe.gov or 208-526-7177.

Kansas City Site Office: David Caughey

After a 4-year hiatus, David Caughey returns as the NCO for the National Nuclear Security Administration's Kansas City Site Office (KCSO), where he has served for 20 years in numerous environment, safety, health, and operational positions – including as NCO from 1995 through 2005. In 1995, as a member of the Environmental Assessment Process Improvement Team, he received a Secretary of Energy NEPA Team Award.

Curtis Roth, the KCSO NCO since 2005, is moving on to Idaho as the Recovery Act Site Representative for the Office of Environmental Management.

National Energy Technology Laboratory: Fred Pozzuto


Fred Pozzuto was designated as an NCO for the National Energy Technology Laboratory (NETL) soon after he joined its new Office of Project Facilitation and Compliance in May. Mr. Pozzuto brings significant NEPA and regulatory experience to DOE, having spent the past 23 years with the U.S. Army Corps of Engineers (Corps), Pittsburgh District, in the Civil Design, Regulatory, and Programs and Project Management Branches. In the Corps' Regulatory Branch, including 3 years as the Chief of the Permit Enforcement and Compliance Section, he oversaw the preparation of

(continued on next page)

DOE-wide NEPA Contracts Small Business Policy

In its administration of the seven DOE-wide, indefinite delivery-indefinite quantity contracts for NEPA support services (www.gc.energy.gov/nepa, under NEPA Contracting), and other such multiple award contracts, the National Nuclear Security Administration’s Headquarters Procurement Office is applying the “Rule of Two” to competitions for task orders. That is, if there are at least two small businesses that could qualify to perform the work at fair market price, a task order worth over \$100,000 will be set aside for competition among the small businesses.

The “Rule of Two” is found in the Federal Acquisition Regulations (FAR), Section 19.502-2(b) (*Total small business set-asides*). The Government Accountability Office found this section to be applicable to task orders under multiple award contracts in an October 2008 decision involving the U.S. Navy and Delex Systems, Inc. (www.gao.gov/decisions/bidpro/400403.pdf). Under similar conditions found in Section 19.502-2(a) of the FAR, a task order exceeding \$3,000 but not \$100,000 is automatically reserved for small businesses.

The following tasks have been awarded recently under the DOE-wide NEPA contracts. For questions, including information on earlier tasks awarded under DOE-wide NEPA contracts, contact Aneesah Vaughn at aneesah.vaughn@nnsa.doe.gov or 202-586-1815. Information and resources for potential users of these contracts are available on the DOE NEPA Website. 

Description	DOE Contact	Date Awarded	Contract Team
EIS: Continued Operation of the Nevada Test Site and Offsite Locations within the State of Nevada	Linda Cohn, NSO 702-295-0077 cohnl@nv.doe.gov	7/14/2009	Potomac-Hudson Engineering

Transitions: New NCOs (continued from previous page)



numerous EAs and EISs for Clean Water Act permits and activities. His last assignment with the Corps was in the Programs and Project Management Branch, where he served as program manager for several major environmental restoration projects. Mr. Pozzuto can be reached at fred.pozzuto@netl.doe.gov or 304-285-5219.

Fred Pozzuto joins Paul Detwiler, John Ganz, Mark Lusk, and Roy Spears in carrying out NETL’s NEPA responsibilities, which have been greatly increased by projects funded under the Recovery Act.

Southeastern Power Administration: Douglas Spencer

The new NCO for the Southeastern Power Administration (SEPA) is Douglas Spencer, a hydraulic engineer. He joined SEPA in 2003 and has experience in bulk electric system operations, streamflow analysis, and electrical engineering. Mr. Spencer can be reached at douglas.spencer@sepa.doe.gov or 706-213-3855.

SEPA’s former NCO, Herb Nadler, has taken a new position within the organization. 



Litigation Updates

DOE NEPA Litigation in Brief

Court Orders NEPA Review of Proposed LBNL Facility

Construction of the proposed Computational Research and Theory Facility at Lawrence Berkeley National Laboratory (LBNL) remains enjoined following a Federal district court ruling on August 17, 2009. Despite arguments by the University and DOE that the proposed facility is a University of California project, the court found sufficient Federal involvement to require a NEPA review before the project may proceed. Whether an EA or EIS would be required, the court held, is a decision for DOE in the first instance.

The complaint filed in *Save Strawberry Canyon v. DOE, et al.* on July 21, 2008, alleged that DOE violated

NEPA by not preparing an EA or EIS. (See [LLQR, September 2008, page 20.](#)) The plaintiff, Save Strawberry Canyon, is a local citizens' group based in Berkeley, California, whose stated mission is "to preserve and protect the watershed lands and cultural landscape of Strawberry Canyon." The proposed facility would be constructed at LBNL adjacent to Strawberry Canyon.

The parties have 60 days to appeal the decision. (Case No.: 08-03494 (N.D. Cal.))

DOE Settles Distribution Transformer Suit

In December 2007, the State of California, the Sierra Club, and the Natural Resources Defense Council filed a lawsuit against DOE and petitioned the U.S. Court of Appeals for the Ninth Circuit for review of DOE's establishment of energy conservation standards applicable to electrical distribution transformers. The plaintiffs alleged that DOE violated NEPA by failing to prepare an EIS and by relying on an inadequate EA.

In July 2009, DOE and the plaintiffs executed a settlement agreement, which the Court subsequently approved. DOE agreed to conduct a review of the current standards for liquid-immersed and medium-voltage dry-type distribution transformers (72 FR 58190; October 12, 2007) and publish in the *Federal Register*, no later than October 1, 2011, either a determination pursuant to the Energy Policy and Conservation Act that standards for these products do

not need to be amended, or a notice of proposed rulemaking including any new proposed standards for these products. DOE further agreed that if after such review it determines that amendment of the standards is warranted, DOE shall publish in the *Federal Register*, no later than October 1, 2012, a final rule including any amendments to the standards. As part of the settlement, DOE agrees that the promulgation of any new standard will comply with NEPA.

DOE previously prepared *Environmental Assessment for Energy Conservation Standards for Distribution Transformers* (DOE/EA-1565) in October 2007 and issued a Finding of No Significant Impact in November 2007, which were the subject of this suit. (*State of California v. DOE*; Case No.: 07-74819)

Agencies Sued Over Adequacy of Energy Corridors PEIS

The Wilderness Society, 12 other environmental groups, and the County of San Miguel, Colorado, filed a lawsuit on July 7, 2009, against the Department of the Interior, Bureau of Land Management (BLM), Department of Agriculture, U.S. Forest Service (Forest Service), and DOE. Raising claims under the Energy Policy Act of 2005 (EPA) and several Federal environmental laws, the plaintiffs challenge the adequacy of the *Final Programmatic EIS for the Designation of Energy Corridors on Federal Lands in 11 Western States* (DOE/EIS-0386, November 2008), prepared pursuant to Section 368 of EPA, and associated Records of Decision issued by BLM and the Forest Service ([LLQR, March 2009, page 18.](#))

The complaint includes claims under NEPA, the Endangered Species Act, and the Federal Land Policy and Management Act. However, DOE is listed as a defendant only with respect to the plaintiffs' EPA challenges that the agencies failed to (1) consult with other units of government and interested individuals, (2) perform all the necessary environmental reviews, and (3) account for the need for corridors that will improve reliability, relieve congestion, or enhance grid capability. With regard to the NEPA claims, the plaintiffs contend that the Programmatic EIS does not consider all reasonable alternatives and fails to assess the corridors' direct, indirect, and cumulative environmental impacts. (*The Wilderness Society v. Interior*; Case No.: 09-03048 (N.D. Cal.))

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Other Agency NEPA Litigation

Court Vacates Amendments to FERC NEPA Regulations; Orders Consultation with CEQ

The U.S. Court of Appeals for the Fourth Circuit overturned the Federal Energy Regulatory Commission's (FERC) interpretation of its authority under Section 216 of the Federal Power Act¹ with respect to siting electric transmission facilities and vacated the NEPA regulations FERC had established to implement this authority. Section 216 of the Federal Power Act grants FERC permitting jurisdiction for the construction or modification of electric transmission facilities in national interest electric transmission corridors when a state has "withheld approval [of a permit application] for more than one year." FERC interpreted this phrase to include a state's denial of a permit within this time frame.

The plaintiffs, two state utilities commissions and two community interest organizations, challenged: (1) FERC's Section 216 interpretation, (2) FERC's failure to prepare an EA or EIS before issuing its final rule for filing applications to site electric transmission facilities, (3) FERC's failure to consult with the Council on Environmental Quality (CEQ) before revising its NEPA regulations contained in the final rule for filing

applications, and (4) FERC's restriction, in its revised NEPA regulations, of the environmental impacts and project alternatives that permit applicants are required to evaluate.

In its February 18, 2009, decision, the court held that FERC cannot exercise siting jurisdiction if a state siting authority denies an application within a year after the application is filed. The court affirmed FERC's determination that it did not need to prepare an EA or EIS when issuing procedural regulations pertaining to Section 216 permit applications, but concluded that FERC violated CEQ's NEPA regulations by not consulting with CEQ before amending its (FERC's) NEPA regulations. The court vacated FERC's amendments to its NEPA regulations and remanded FERC to consult with CEQ. As a result of its decision to vacate FERC's NEPA regulations amendments, the court dismissed without prejudice the plaintiffs' challenge to the content of the NEPA regulations, declaring it not ripe for consideration and resolution. (*Piedmont Environmental Council v. FERC*; Case No.: 07-1651)

Supreme Court Declines To Review Tribes' Challenge to Artificial Snowmaking

The Supreme Court denied an American Indian tribe petition to review a decision by the U.S. Court of Appeals for the Ninth Circuit sitting *en banc* (the full court), leaving in place the *en banc* court's August 8, 2008, decision regarding the use of artificial snow made from treated sewage effluent at a northern Arizona ski resort located on U.S. Forest Service land. The *en banc* court upheld the district court's ruling in favor of the Forest Service for four NEPA claims challenging the adequacy of the related EIS with regard to (1) the range of reasonable alternatives, (2) response to a responsible opposing scientific viewpoint, (3) consideration of the impact of diverting wastewater on the regional aquifer, and (4) consideration of social and cultural impacts. Regarding a fifth NEPA claim that the Forest Service's EIS did not adequately assess the risks posed by possible human ingestion of artificial snow made from treated

sewage effluent, the *en banc* court ruled that it could not consider the claim due to procedural error by the plaintiffs.

The *en banc* court's decision reversed the March 2007 decision of the three-judge panel of the Court of Appeals for the Ninth Circuit that the Forest Service placed a "substantial burden" on the free exercise of religion, violated the Religious Freedom and Restoration Act, and did not fulfill its obligations under NEPA with regard to the fifth NEPA claim ([LLQR, September 2007, page 19](#)). For additional details regarding the *en banc* court's findings related to the Religious Freedom and Restoration Act, see the full opinion on the court's website at www.ca9.uscourts.gov/opinions by entering 08/07/2008 as date filed under "Advanced Search." (*Navajo Nation v. USDA Forest Service*; Case No.: 06-15371)



¹ Section 216 of the Federal Power Act was established by Section 1221 of the Energy Policy Act of 2005.

Training Opportunities

NEPA-related courses are listed in the Lessons Learned Quarterly Report for information only, without endorsement. Cost and schedule information are subject to change; check with the course provider.

- American Law Institute and American Bar Association
800-253-6397 (course reference code CR009)
www.ali-aba.org
Environmental Impact Assessment: NEPA and Related Requirements
Washington, DC: December 9-11
\$1,149 (\$949 webcast)
- Continuing Legal Education
800-873-7130
www.cle.com
NEPA Seminar
Denver, CO: December 3-4
\$695
Portland, OR: December 11
\$595
San Francisco, CA: January 21-22
\$795
- International Association for Public Participation
703-837-1197
iap2training@theperspectivesgroup.com
www.iap2.org
Planning for Effective Public Participation
San Diego, CA: September 16-17
Ann Arbor, MI: October 5-6
Orlando, FL: October 19-20
Charlotte, NC: November 2-3
\$700
Communications for Effective Public Participation
San Diego, CA: September 18
Ann Arbor, MI: October 7
Charlotte, NC: November 4
\$350
Outrage, Emotion, and Public Participation
San Diego, CA: September 18-19
\$850
- Nicholas School of the Environment and Earth Sciences, Duke University
919-613-8082
del@nicholas.duke.edu
www.env.duke.edu/del/continuing/courses.html
Accounting for Cumulative Effects in the NEPA Process
Durham, NC: September 16-18
\$875
Implementation of NEPA
Durham, NC: November 2-6
\$1,200
Certificate in the National Environmental Policy Act
Requires successful completion of one core and three elective Duke University NEPA short courses. Co-sponsored by the Council on Environmental Quality.
Fee: Included in course registration.
- Northwest Environmental Training Center
206-762-1976
info@nwetc.org
www.nwetc.org
NEPA: Writing the Perfect EA/FONSI or EIS
Santa Fe, NM: October 8-9
Atlanta, GA: October 21-22
Pasadena, CA: November 5-6
Denver, CO: December 3-4
\$495 (\$395 for Federal employees)
- The Shipley Group
888-270-2157 or 801-298-7800
shipley@shipleygroup.com
www.shipleygroup.com
Applying the NEPA Process and Writing Effective NEPA Documents
Park City, UT: September 15-18
San Francisco, CA: November 3-6
\$1,145 (GSA contract: \$1,055)
see website for details
Reviewing NEPA Documents and Managing NEPA Projects and Teams
Las Vegas, NV: September 28-October 2
\$1,385 (GSA contract: \$1,295) until 9/18/09
see website for details

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Training Opportunities

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Clear Writing for NEPA Specialists

Reno, NV: October 6-8
\$945 (GSA contract: \$855) until 9/26/09
see website for details

Overview of the NEPA Process and Cultural and Natural Resources Management

Park City, UT: October 20-22
\$945 (GSA contract: \$855) until 9/8/09
see website for details

NEPA Climate Change Analysis and NEPA Cumulative Effects Analysis and Documentation

Baltimore, MD: October 27-30
\$1,145 (GSA contract: \$1,055) until 9/15/09
see website for details

NEPA Certificate Program

Requires successful completion of four core and three elective courses offered by The Shipley Group.
\$5,450
Contact: Natural Resources and Environmental Policy Program, Utah State University; 435-797-0922; judy.kurtzman@usu.edu; www.cnr.usu.edu/html/students/grad-degrees/nepa/

- SWCA Environmental Consultants
800-828-7991
training@swca.com
www.swca.com/training

Advanced Topics in NEPA: Project Management

Pasadena, CA: October 8-9
\$695

Comprehensive NEPA

San Diego, CA: November 4-6
\$795

- US Institute for Environmental Conflict Resolution
(520) 901-8501
usiocr@ecr.gov
www.ecr.gov/training

Introduction to Managing Environmental Conflict

Washington, DC: September 15-16
\$995

Customized NEPA Training

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

Environmental Impact Training

Courses cover various NEPA topics (see website for details). Topics can be combined to meet the specific training needs of client.

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

NEPA Toolbox Training

A variety of courses custom-designed to meet specific needs and are conducted at the requestor's facility (see website for individual courses). Services are available through a GSA contract.

NEPA Distance Learning Curriculum

ETCI offers a Distance Learning Curriculum which covers selected NEPA and environmental impact assessment topics through modules that can be accessed via podcast.
No fee

- Environmental Planning Strategies, Inc.
563-332-6870
jleeeeps@mchsi.com
www.jlee-eps.com/workshops.php
Courses cover a variety of NEPA topics (see website for individual courses).

EAs and EISs Completed April 1 to June 30, 2009¹

EAs

Bonneville Power Administration

[DOE/EA-1636 \(5/6/09\)](#)²

[\[Revision sheet for final EA\]](#)

Albany-Burnt Woods and Santiam-Toledo Pole Replacement Project, Oregon

Cost: \$10,000

Time: 8 months

Office of Energy Efficiency and Renewable Energy

[DOE/EA-1662 \(4/8/09\)](#)

Energy Conservation Program: Energy Conservation Standards for Certain Consumer Products and for Certain Commercial and Industrial Equipment, Washington, DC

Cost: \$20,000

Time: 6 months

[DOE/EA-1664 \(6/26/09\)](#)

Energy Conservation Program: Energy Conservation Standards for Fluorescent Lamps and Incandescent Lamps, Washington, DC

Cost: \$50,000

Time: 5 months

Golden Field Office/Office of Energy Efficiency and Renewable Energy

[DOE/EA-1648 \(4/10/09\)](#)

White Earth Nation Wind Energy Project, Becker County, White Earth Indian Reservation, Minnesota

Cost: \$50,000

Time: 34 months

Office of Nuclear Energy

[DOE/EA-1607 \(6/24/09\)](#)

Disposition of DOE Excess Depleted Uranium, Natural Uranium, and Low Enriched-Uranium

Cost: \$158,000

Time: 19 months

Western Area Power Administration

[DOE/EA-1641 \(5/8/09\)](#)

Proposed Interconnection for the East Flagstaff Substation, Coconino County, Arizona

Cost: The cost for this EA was paid by the applicant; therefore, cost information does not apply to DOE.

Time: 7 months

[The U.S. Forest Service was the lead Federal agency. WAPA adopted this EA and issued a FONSI on 5/8/09.]

[DOE/EA-1644 \(6/17/09\)](#)

Killdeer to Mountain Transmission Project, North Dakota

Cost: The cost for this EA was paid by the applicant; therefore, cost information does not apply to DOE.

Time: 6 months

[DOE/EA-1672 \(6/25/09\)](#)

Basin Electric Power Cooperative Culbertson Combustion Turbine Generator Project, North Dakota

Cost: The cost for this EA was paid by the applicant; therefore, cost information does not apply to DOE.

Time: 16 months

EIS

Western Area Power Administration

[DOE/EIS-0377 \(74 FR 30570, 6/26/09\)](#)

(EPA Rating: EC-2)

Big Stone II Power Plant and Transmission Project, South Dakota

Cost: The cost for this EIS was paid by the applicant; therefore, cost information does not apply to DOE.

Time: 49 months

ENVIRONMENTAL PROTECTION AGENCY (EPA) RATING DEFINITIONS

Environmental Impact of the Action

LO – Lack of Objections

EC – Environmental Concerns

EO – Environmental Objections

EU – Environmentally Unsatisfactory

Adequacy of the EIS

Category 1 – Adequate

Category 2 – Insufficient Information

Category 3 – Inadequate

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

¹ As a new feature for online readers, blue text indicates a link to the document.

² The final EA includes the pre-approval draft EA and the revision sheet.

NEPA Document Cost and Time Facts

EA Cost and Completion Times

- For this quarter, the median cost for the preparation of 5 EAs for which cost data were applicable was \$50,000; the average cost was \$58,000.
- Cumulatively, for the 12 months that ended June 30, 2009, the median cost for the preparation of 22 EAs for which cost data were applicable was \$50,000; the average cost was \$87,000.
- For this quarter, the median completion time for 8 EAs was 8 months; the average was 13 months.
- Cumulatively, for the 12 months that ended June 30, 2009, the median completion time for 32 EAs was 7 months; the average was 14 months.

EIS Cost and Completion Times

- For this quarter, there were no EISs completed for which cost data were applicable.
- Cumulatively, for the 12 months that ended June 30, 2009, the median cost for the preparation of 6 EISs for which cost data were applicable was \$4 million; the average cost was \$5.4 million.
- For this quarter, the completion time for one EIS was 49 months.
- Cumulatively, for the 12 months that ended June 30, 2009, the median completion time for 8 EISs was 34 months; the average was 35 months.

Recent EIS-Related Milestones (June 1 to August 31, 2009)¹

Notices of Intent

Bonneville Power Administration

DOE/EIS-0421

Big Eddy-Knight Transmission Project, Wasco County, Oregon and Klickitat County, Washington
June 2009 ([74 FR 26679](#), 6/3/09)

DOE/EIS-0422

Central Ferry-Lower Monumental 500 kV Transmission Line Project, Garfield, Columbia and Walla Walla Counties, Washington
June 2009 ([74 FR 29205](#), 6/19/09)

DOE/EIS-0424

Klickitat Hatchery Program, Klickitat and Yakima Counties, Washington
July 2009 ([74 FR 34740](#), 7/17/09)

DOE/EIS-0425

Mid-Columbia Coho Restoration Project, Chelan and Okanogan Counties, Washington
July 2009 ([74 FR 38001](#), 7/30/09)

Office of Environmental Management

DOE/EIS-0423

Long-Term Management and Storage of Elemental Mercury
July 2009 ([74 FR 31723](#), 7/2/09)

[Extension of Scoping Period: [74 FR 36684](#), 7/24/09]

National Nuclear Security Administration

DOE/EIS-0426

Continued Operation of the Department of Energy/ National Nuclear Security Administration Nevada Test Site and Off-Site Locations in the State of Nevada

July 2009 ([74 FR 36691](#), 7/24/09)

Western Area Power Administration

DOE/EIS-0427

Interconnection of the Grapevine Canyon Wind Project, Coconino County, Arizona
July 2009 ([74 FR 36689](#), 7/24/09)

Extension of Scoping Period

Western Area Power Administration

DOE/EIS-0411

Construction, Operation, and Maintenance of the Proposed Transmission Agency of Northern California Transmission Project, California
June 2009 ([74 FR 30559](#), 6/26/09)

Notice of Cancellation

Office of Nuclear Energy

DOE/EIS-0396

Global Nuclear Energy Partnership Programmatic Environmental Impact Statement
June 2009 ([74 FR 31017](#), 6/29/09)

¹ As a new feature for online readers, blue text indicates a link to the document.

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Recent EIS-Related Milestones (continued from previous page)

Draft EIS

Western Area Power Administration

DOE/EIS-0398
Delta Mendota Canal California Aqueduct Intertie (DCI) Project, California
July 2009 ([74 FR 34754](#), 7/17/09)

Extension of Public Comment Period

Office of Environmental Management

DOE/EIS-0226-D (Revised)
Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center
June 2009 ([74 FR 28035](#), 6/12/09)
[Availability of EPA comments: [74 FR 29209](#), 6/19/09; EPA Rating, EC-1]

Records of Decision

Bonneville Power Administration

DOE/EIS-0183
Electrical Interconnection of the Golden Hills Wind Project, Oregon
August 2009 ([74 FR 42667](#), 8/24/09)

Office of Fossil Energy

DOE/EIS-0394
FutureGen Project
July 2009 ([74 FR 35174](#), 7/20/09)

National Nuclear Security Administration

DOE/EIS-0380
Site-wide Environmental Impact Statement for Continued Operation of Los Alamos National Laboratory, Los Alamos, New Mexico
July 2009 ([74 FR 33232](#), 7/10/09)

Western Area Power Administration

DOE/EIS-0377
Big Stone II Power Plant and Transmission Project, South Dakota
August 2009 ([74 FR 42667](#), 8/24/09)

Supplement Analyses

Bonneville Power Administration

Lyle Falls Fish Passage Project (DOE/EIS-0397)

DOE/EIS-0397/SA-001
Supplement Analysis for the Proposed Lyle Falls Fish Passage Project, Washington
(Decision: No further NEPA review required)
July 2009

Transmission System Vegetation Management Program

(DOE/EIS-0285)

DOE/EIS-0285/SA-396*
Vegetation Management along the Lancaster-Noxon Transmission Line Corridor, Montana
(Decision: No further NEPA review required)
March 2009

DOE/EIS-0285/SA-397*
Vegetation Management along the Noxon-Libby Transmission Line Corridor, Montana
(Decision: No further NEPA review required)
March 2009

DOE/EIS-0285/SA-398*
Vegetation Management along the Cardwell-Cowlitz No. 1 Transmission Line Corridor, Washington
(Decision: No further NEPA review required)
April 2009

DOE/EIS-0285/SA-399*
Vegetation Management along the Transmission Lines in Kittitas County, Washington
(Decision: No further NEPA review required)
May 2009

DOE/EIS-0285/SA-400
Vegetation Management along Dworshak Power House Transmission Line Corridor, Idaho
(Decision: No further NEPA review required)
June 2009

DOE/EIS-0285/SA-401
Vegetation Management along Taft-Bell Transmission Line Corridor, Montana and Idaho
(Decision: No further NEPA review required)
July 2009

DOE/EIS-0285/SA-402
Vegetation Management along South Tacoma, Cowlitz Transmission Line Corridor, Washington
(Decision: No further NEPA review required)
July 2009

DOE/EIS-0285/SA-403
Vegetation Management along Cowlitz to Chehalis-Covington Transmission Line Corridor, Washington
(Decision: No further NEPA review required)
July 2009

**Not previously reported in LLQR*

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 Worked

- *Meeting format.* The open house format of public scoping meetings aided in the collection of public concerns regarding the project.

Data Collection/Analysis

What Worked

- *Climate change analysis.* The climate change discussion was developed based on the work of the Intergovernmental Panel on Climate Change. The EIS provided background on climate change, potential impacts associated with global climate change, efforts to curb greenhouse gas emissions, the anticipated project emissions and associated carbon dioxide offsets, and scientific uncertainties related to project impact measurement.
- *Issue-focused EIS section.* We provided in-depth responses to comments regarding mercury emissions in the EIS by including a separate section known as the "mercury response paper."

Schedule

Factors that Facilitated Timely Completion of Documents

- *Project schedule.* The project schedule prompted the staff working on the EIS to increase their efforts to complete the NEPA process.
- *Scheduling.* Effective scheduling minimized disruptions.
- *Regular schedule updates.* The schedule was set by the contractor and updated several times to reflect a more reasonable timeline for completion in light of numerous issues (climate change, alternatives, mercury) and to coordinate with concurrent processes undertaken by state agencies.

- *One-on-one working relationships.* Controversial issues were managed most efficiently when agency team members with expertise in an issue area worked directly with the corresponding contractor.

Factors that Inhibited Timely Completion of Documents

- *Internal review times.* The time needed for internal reviews led to schedule delays. A large number of people needed to review the document at different stages throughout the EA process. While this facilitates a well done NEPA document, it does slow things down.
- *Uncertainties.* The evolving legal and scientific issues surrounding climate change and mercury emissions required more time to be spent on related sections of the EIS.
- *Lengthy, inefficient group meetings.* The EIS preparation contractor scheduled meetings in which all agency comments were addressed line-by-line and vetted by the entire DOE and contractor team, leaving no time for group discussion of critical areas of controversy. Most discussion issues could have easily been resolved by the contractor alone or by the contractor speaking individually with the DOE team member who made the comment.

Teamwork

Factors that Facilitated Effective Teamwork

- *Regular informal meetings.* Weekly meetings allowed discussion of progress and problems and the efficient allocation and completion of work. Moreover, small group meetings allowed an easier exchange of ideas with respect to potential issues.
- *Delineation of work.* The process worked well when DOE and contractors who were assigned to the same sections of the EIS worked together.

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

Factors that Inhibited Effective Teamwork

- *Large group meetings.* In large meetings, contractors who had little or no NEPA experience spent time arguing ideological points that did not aid in the efficient completion of the tasks at hand.

Process

Successful Aspects of the Public Participation Process

- *Public notification.* Distribution of informational letters to the public facilitated a better understanding of the process and the project specifics.
- *Site visits enhance project understanding.* Stakeholders were able to view the project locations from site visits and from maps which helped them see the overall picture and how the project would impact them.
- *Focus on process.* The public participation process was enhanced by focusing on the process and not the public reaction(s) to the project.
- *Response to comments.* Comment periods were extended and the Draft EIS was reissued in order to address stakeholder concerns.

Unsuccessful Aspects of the Public Participation Process

- *Length of comment period.* Several groups requested additional time to comment which lengthened the overall schedule.
- *Tribal communication.* Although Native American Tribes were contacted, numerous comments indicated that the tribes did not view this process as effective.

Usefulness

Agency Planning and Decisionmaking: What Worked

- *Agency consultation.* The EA process identified areas where endangered species were found.
- *Environmental impact evaluation.* The impact analyses aided in the decision of whether to grant the interconnection request.

Enhancement/Protection of the Environment

- *Habitat protected.* Critical habitat and other resources were protected through the EA process.
- *Environmental impacts minimized.* The EIS process encouraged the development of additional alternatives, which resulted in a proposed project that would use less water, emit less mercury, and would offset a portion of carbon dioxide emissions.

Other Issues

Guidance Needs Identified

- *Mercury and climate change guidance.* Because the science and legal issues surrounding climate change and mercury impacts are evolving, guidance is needed to show document preparers how to compile the analysis. The team essentially created the climate change methodology from scratch.

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, only one respondent rated the effectiveness of the NEPA process. The respondent rated the process as “4” and stated that the NEPA process was successful because it caused critical habitat areas to be avoided and the mitigation of impacts to other resources.