NEPA

National Environmental Policy Act

LESSONS LEARNED

U.S. DEPARTMENT OF ENERGY QUARTERLY REPORT

June 3, 2013; Issue No. 75 Second Quarter FY 2013

Coordination and Substitution: Effective Options for Integrating NEPA and NHPA Section 106

The Council on Environmental Quality (CEQ) and the Advisory Council on Historic Preservation (ACHP) jointly issued a handbook in early March aimed at improving the integration of the Section 106 consultation process under the National Historic Preservation Act (NHPA) and NEPA review. *NEPA and NHPA: A Handbook for Integrating NEPA and Section 106* anticipates that benefits will include maximizing staff resources, avoiding duplication of effort, facilitating coordinated public participation, and making better informed decisions.

The handbook describes the options of "coordination" and "substitution" that federal agencies can use to help align their independent statutory obligations under NEPA and NHPA. "We encourage . . . agencies to use the handbook's roadmaps for coordination and substitution wherever appropriate to ensure timely and well informed decisions," said Nancy H. Sutley, CEQ Chair, and Milford Wayne Donaldson, ACHP Chair, in a letter to heads of federal departments and agencies announcing the release of the handbook.

B Reactor at Hanford, the world's first, full-scale nuclear reactor, is among the DOE properties listed (or eligible for listing) in the National Register of Historic Places.

The concepts of coordination and integration are found in the CEQ NEPA regulations (40 CFR Parts 1500–1508) and ACHP Section 106 regulations (36 CFR Part 800). The NEPA regulations encourage agencies to "integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts" (40 CFR 1502.1). The Section 106 regulations encourage agencies to coordinate compliance with any steps taken to meet NEPA requirements (36 CFR 800.8(a)). Substitution authorizes agencies to use the procedures and documentation required for an environmental assessment (EA) and finding of no significant impact (FONSI) or an environmental impact statement (EIS) and record of decision (ROD) to comply with Section 106 "in lieu of" the procedures in the ACHP regulations (36 CFR 800.8(c)).

Many Similarities, Some Differences

Regulatory procedures for both NEPA and Section 106 require agencies to gather information on the potential effects of the proposed action on cultural resources and historic properties and consider alternatives that may avoid or minimize the potential adverse effects, and both emphasize the importance of initiating the process early and involving the public. "Distinctions exist . . . in terms of the types, scope, and geographical area of environmental review procedures, the nature of public engagement and tribal consultation, information requirements, procedures for developing alternatives, documentation, and timing," notes the handbook. The relationship between these laws is partly illustrated in the handbook's side-by-side comparison of related terms from the two sets of regulations (e.g., cultural resources (NEPA) and historic properties (Section 106)).

(continued on page 4)

Inside *Lessons Learned*

Welcome to the 75th quarterly report on lessons learned in the NEPA process. This issue includes articles on recent guidance by the Council on Environmental Quality and Advisory Council on Historic Preservation to promote better integration of NEPA and Section 106 reviews and on the Federal Highway Administration's *Every Day Counts* initiative to better integrate planning and NEPA. Efforts such as these to improve NEPA implementation are indicative of what we strive for at DOE every day – better NEPA review, better decisions. Thank you for your continued support of the Lessons Learned program. As always, we welcome your suggestions for improvement.

Sutley Testifies on Importance of NEPA 3
Every Day Counts at FHWA 6
Guide for Public-Private Projects 8
Earth Day at DOE 9
GAO: Consider Climate Change Risks..... 10
NAEP 2012 NEPA Report 12
NAEP 2014 Conference Announcement..... 13
NAEP Environmental Awards..... 14
CEQ IT Working Group..... 15
NEPA-CEQA Handbook in Preparation 15
Transitions..... 16
Cost and Time Facts..... 16
EAs and EISs Completed This Quarter..... 17
Questionnaire Results 18

Carol Borgstrom
Director
Office of NEPA Policy and Compliance

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Be Part of Lessons Learned

We Welcome Your Contributions to *LLQR*

Send suggestions, comments, and draft articles – especially case studies on successful NEPA practices – by August 1, 2013, to Yardena Mansoor at yardena.mansoor@hq.doe.gov.

Quarterly Questionnaires Due August 1, 2013

For NEPA documents completed April 1 through June 30, 2013, NEPA Document Managers and NEPA Compliance Officers should submit a Lessons Learned Questionnaire as soon as possible after document completion, but not later than August 1. Other document preparation team members are encouraged to submit a questionnaire, too. Contact Vivian Bowie at vivian.bowie@hq.doe.gov for more information.

LLQR Online

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

ACHP Extension of Programmatic Agreements Streamlines NEPA for Certain EERE Projects

The Advisory Council on Historic Preservation (ACHP) has extended until December 31, 2020, the duration of 44 programmatic agreements (PAs) that are based on a DOE prototype PA for three Office of Energy Efficiency and Renewable Energy grant programs – Energy Efficiency and Conservation Block Grant, State Energy Program, and Weatherization Assistance Program. (See *LLQR*, March 2010, page 21.) In explaining the extension, the ACHP noted that the prototype PA "established review efficiencies" that helped to "expedite the weatherization efforts of the homes of many low income individuals across the country, as well as assisted communities in funding energy efficiency, renewable energy, and weatherization projects for public buildings such as schools and courthouses."

"The prototype PA identifies categories of routine undertakings with limited potential to affect historic properties and exempts them from further Section 106 review," said Robin Sweeney, Director of the Environmental Oversight Office at DOE's National Renewable Energy Laboratory. "DOE has utilized the PAs to help streamline NEPA reviews for these three programs and focus agency resources on undertakings that may result in an adverse effect on historic properties."

CEQ Chair Testifies on the Importance of NEPA

"Today, we take for granted that the public has a right to participate in Federal decisions regarding the environment, energy and natural resources," said Nancy H. Sutley, Chair of the Council on Environmental Quality (CEQ) in recent Congressional testimony, "but in fact it was in NEPA that Congress and the President clearly established this right."

Speaking before the House of Representatives Committee on Natural Resources Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs on April 18, 2013, regarding the President's Fiscal Year 2014 budget request for CEQ, Chair Sutley stressed the importance of NEPA in producing better decisions. She also emphasized CEQ's efforts to improve the performance of the federal government by increasing the efficiency and effectiveness of the NEPA process.

CEQ Chair Nancy H. Sutley testified about CEQ's work to improve NEPA implementation.

NEPA Enhances Decisionmaking

Chair Sutley explained that "NEPA democratized the Federal decisionmaking process by formally including environmental considerations and public input into Federal decisions. Today, it is NEPA that ensures the ability of the public, communities, State and local governments and industry to have a seat at the table when Federal agencies make decisions that potentially impact our communities and the environment."

At its heart, NEPA recognizes that citizens and communities, local and State governments, Indian tribes, and businesses all have a vital interest in government actions—and more often than not, their unique knowledge of risks, consequences, and possible alternatives can produce better decisions.

– CEQ Chair Nancy H. Sutley

"We believe that better agency collaboration and coordination, combined with good guidance to implement existing authorities and missions in an efficient manner, leads to better outcomes for those doing business with the Federal government and communities affected by Federal decisions, as well as a healthier environment and savings for the taxpayer," Chair Sutley said.

To illustrate CEQ's efforts, she referred to CEQ's NEPA Pilot Program and the 2012 CEQ guidance on preparing efficient and timely environmental reviews under NEPA. (See *LLQR* June 2011, page 11; December 2011, page 11; March 2012, page 7; and June 2012, page 7.)

What CEQ Has Learned

Chair Sutley pointed to the fact that only a small fraction of projects or decisions require an EIS. "In the case of the 275,000 projects funded under the Recovery Act, only four-tenths of a percent required a full EIS. Ninety-six percent of projects used categorical exclusions," she said. She explained that commonly "delays in project implementation are inaccurately attributed to NEPA process delays when other factors are relevant." She cited challenges securing project funding, local opposition to a project, project complexity, changes in project scope, and requests by state or local officials as contributors to delays.

"Following this year's State of the Union, the President announced a goal of time savings of 50% in the Federal permitting and review process for major infrastructure projects by institutionalizing best practices and increasing collaboration with local stakeholders," noted Chair Sutley. She said that CEQ's "work on modernizing infrastructure permitting can serve as a model for maintaining the integrity of NEPA while finding efficiencies across the Federal government." She summarized what CEQ has learned from its recent work to improve infrastructure permitting processes. Time and money can be saved, she said, by:

- Bringing agencies, project applicants and stakeholders to the table at the beginning of the process
- Establishing mutually agreed-to project milestones and target schedules – not arbitrary deadlines – for complex or significant projects
- Concurrent, coordinated, and collaborative reviews across federal agencies and with states, Indian tribes and local government – rather than isolated and sequential reviews, and
- Using information technology, like dashboards that make timelines and milestones public on the Internet, along with key project information and status. LL

NEPA and NHPA Handbook

(continued from page 1)

The handbook provides helpful tips for coordinating Section 106 reviews with each level of NEPA review – categorical exclusion (CX), EA, and EIS. "Coordinating the Section 106 and NEPA reviews is most effective when the responsible parties begin them simultaneously so that each process will fully inform the other." Also, the handbook suggests that agencies plan public involvement to satisfy both NEPA and Section 106 requirements.

Categorical Exclusions: "Synchronizing NEPA and Section 106 reviews can allow potential adverse effects to be avoided, minimized, or mitigated and documented so that a [CX] can be applied." The handbook notes that the majority of federal actions reviewed under NEPA qualify for a CX, and adds that, "Because Section 106 is an independent statutory requirement, compliance with NEPA through a [CX] does not satisfy" an agency's Section 106 obligations. When considering a CX determination, the handbook explains that the Section 106 process "can identify those circumstances in which the adverse effects to historic properties, individually or in combination with other potential effects, constitute 'extraordinary circumstances' such that application of a [CX] is not appropriate and additional NEPA analysis is required."

Environmental Assessments: When preparing an EA, the handbook advises that the agency use the Section 106 adverse effect criteria in evaluating and describing effects on historic properties and that the agency explain the relationship of those Section 106 criteria to the NEPA criteria for determining the significance of impacts. "The resolution of adverse effects to historic properties through the Section 106 process is a factor to consider in determining whether, for NEPA purposes, there are potentially significant effects that require preparation of an EIS," advises the handbook. However, an adverse effect identified in the Section 106 process does not necessarily mean an agency cannot support a FONSI.

In assessing the impacts to historic properties, one approach identified in the handbook "is to consider the importance of the resource as its 'context' and the severity of the proposed impacts as the action's 'intensity.'" "Federal agencies should clearly define the specific characteristics that make a property eligible for the National Register [of Historic Places] to determine whether an action might alter, directly or indirectly, those qualifying characteristics."

NEPA and NHPA require Federal officials to "stop, look, and listen" before making decisions that impact historic properties and the human environment.

– NEPA and NHPA handbook

Environmental Impact Statements: An agency should begin coordinating NEPA and Section 106 reviews when developing the purpose and need statement for an EIS. If an agency will use the EIS process to comply with Section 106, it should state that in the notice of intent and "utilize scoping to partially fulfill the Section 106 public notification and consultation requirements." The agency should "include any information obtained from the Section 106 consultation in the draft EIS sections on affected environment and impacts," subject to NHPA confidentiality provisions. Further, the handbook recommends that the agency consider timing and scope of specialized studies (such as historic resource surveys) required by Section 106 at each step in the process.

The handbook explains that it is "important for agencies to consider ways to avoid affecting historic properties before assessing potential mitigation measures to resolve adverse effects. If the proposed undertaking would have an adverse effect on a historic property and that effect cannot

(continued on page 5)

Tips for Integrating NEPA and Section 106 Reviews

- Begin integration of NEPA and Section 106 processes early—the earlier it begins, the better it works.
- Educate stakeholders on the benefits of integrating through coordination or substitution.
- Develop comprehensive planning schedules and tracking mechanisms to keep the processes synchronized.
- Develop comprehensive communication plans that meet agency outreach and consultation requirements to maximize opportunities for public and consulting party involvement and minimize duplication of effort by agency staff. Plans should specify whether the agency will use coordination or substitution.
- Use NEPA documents to facilitate Section 106 consultation, and use Section 106 to inform the development and selection of alternatives in NEPA documents.
- Develop an integrated strategy to accomplish specialized studies to provide information and analysis needed under NEPA and Section 106.

NEPA and NHPA Handbook

(continued from page 4)

be avoided, then the agency can focus its consultation on the development of specific mitigation measures for that historic property." The handbook recommends that the final EIS or ROD include any signed memorandum of agreement (MOA) or programmatic agreement (PA) that records how to resolve identified adverse effects. (See related article, page 2.)

Early consideration and coordination of the EIS and Section 106 process will help . . . avoid duplication of effort, and lessen the risk that issues raised late in the process will require development of additional alternatives specifically to address historic property concerns.

– NEPA and NHPA handbook

Using NEPA To Comply with Section 106

Substitution allows agencies to use the procedures and documentation required for an EA and FONSI or an EIS and ROD to comply with Section 106, but, as explained in the handbook, substitution is not appropriate for a categorically excluded action. The handbook identifies attributes of a project that may be a good candidate for the substitution approach, including active involvement by the federal agency and whether substitution would enhance opportunities to resolve adverse effects on historic properties. The handbook also describes situations where substitution might not work as well as coordination. For example, "it may be more efficient to fulfill the requirements of Section 106 in a concurrent but parallel manner" where a project involves "complicated impacts on many different types of resources, but Section 106 issues appear to be minor and straightforward."

The handbook provides a checklist, based on the Section 106 regulations (36 CFR 800.8(c)), to help ensure proper completion of the substitution process. The handbook reminds agencies of the importance of early involvement, for example, by notifying the ACHP and State and Tribal Historic Preservation Officers of an agency's intent to use the NEPA process for Section 106 purposes. Agencies must share information with consulting parties and the public at appropriate stages during the process and provide opportunities to comment. "Providing the public the opportunity to review NEPA documents without an opportunity to provide comments will typically not be sufficient to satisfy Section 106 public involvement requirements," the handbook states.

When the Section 106 process can be concluded with a finding of "no historic properties affected" or that there are no adverse effects, the agency must clearly state that finding in the final EA or EIS. For situations where there are adverse effects to historic properties and an agency is preparing an EA, the FONSI should make it clear that the adverse effects have been resolved and an MOA, PA, or formal ACHP comment process was concluded. The handbook cautions that use of a mitigated FONSI does not replace the Section 106 requirement to conclude the process with an MOA, PA, or ACHP comment.

When preparing an EIS, if an agency determines that there would be adverse effects to historic properties, the agency must document the resolution of these effects by:

- Incorporating a description of the agency's binding commitment to mitigation measures in the ROD (if the measures were proposed in the EIS and available for consulting parties' review and opportunity to object),
- Executing an MOA or PA, or
- Receiving ACHP formal comments and responding to them.

The handbook cautions that agencies "must include sufficient time for the opportunity for review and the possibility of an objection" under Section 106 when developing the comprehensive schedule that considers NEPA and Section 106 milestones. (If there is an objection under Section 106, the agency shall refer it to ACHP for its opinion, which the ACHP has 30 days to provide.) "Agencies planning to publish a [ROD] 30 days after publication of the final EIS should note that the opportunity for review and objection must occur prior to publication of the final EIS," explains the handbook.

The handbook concludes with a description of emergency procedures under NEPA and Section 106 and a discussion of the timing of decisions. The handbook advises agencies to "avoid issuing NEPA documents that present a final agency decision before they have completed their Section 106 process because the Section 106 process may result in a finding that requires the NEPA document to be revised or supplemented."

"Going forward, the NEPA and Section 106 review processes should never be considered in isolation or as sequential environmental reviews that never intersect and operate under different schedules and requirements. The current paradigm . . . advanced by CEQ and the ACHP envision[s] these reviews occurring simultaneously, continually exchanging information, and allowing determinations and recommendations in one to inform the other." LL

"Every Day Counts" for Federal Highway Projects

The Federal Highway Administration (FHWA) is "accelerating innovation" to shorten project delivery, enhance roadway safety, and protect the environment through a multidimensional campaign called *Every Day Counts*. An important focus of this initiative is better integration of project planning with NEPA review.

Linking planning and environmental considerations can lead to a seamless decisionmaking process that reduces duplication of work and costs and produces more informed and faster project-level decisions. It also promotes transparent planning practices and better coordination among stakeholders.

– Every Day Counts 2 Summit Report (2013)

"One of Federal Highway's goals is to institutionalize efficiencies," said Horst Greczmiel, Associate Director for NEPA Oversight at the Council on Environmental Quality (CEQ). Mr. Greczmiel recently hosted a presentation on *Every Day Counts* for federal agency NEPA contacts. "The lessons that FHWA is learning through this initiative could benefit other federal agencies," he said.

Every Day Counts, started in 2009, aims to shorten project delivery time, in part by ensuring that NEPA review does not cause delay, and accelerate the deployment of innovative technologies. "We're establishing a culture of innovation," explained Bill Ostrum, Environmental Protection Specialist at FHWA, "by encouraging project planners and environmental reviewers to remain open to new ideas and technologies, and incorporate them into standard practice."

FHWA, in partnership with the American Association of State Highway and Transportation Officials (AASHTO), conducts online "Innovation Summits" to implement *Every Day Counts*. Innovation Summits are designed to build leadership support for innovation among federal and state transportation agency managers, and provide workshops for project planners and NEPA practitioners to improve their NEPA document preparation skills.

NEPA Performance Is Central to Changes

Several components of *Every Day Counts* seek to improve the quality and timeliness of NEPA reviews.

An example is a questionnaire now in wide use by transportation agencies across the country. The questionnaire records information on the status of the proposal, planning assumptions, analytical approaches, related planning studies, environmentally sensitive resources, potential alternatives, controversial issues, and other topics to "ease the transition" from planning to NEPA analysis. This planning information may be gathered with the involvement of the public and interested state, local, tribal, and federal agencies, and it evolves during the NEPA process. "This can lead to less duplication of effort and more informed project-level decisions," FHWA explains on its website.

Another component, implementing quality environmental documentation, builds on longstanding agency efforts to improve EIS readability and effectiveness. It is founded on the principal recommendations of an earlier work group of FHWA, AASHTO, and the American Council of Engineering Companies:

- "Tell the story of the project so that the reader can easily understand the purpose and need for the project, how each alternative would meet the project goals, and the strengths and weaknesses associated with each alternative."
- "Keep the document as brief as possible, using clear, concise writing; an easy-to-use format; effective graphics and visual elements; and discussion of issues and impacts in proportion to their significance."
- "Ensure that the document meets all legal requirements in a way that is easy to follow for regulators and technical reviewers."

(See the work group report and *LLQR*, December 2006, page 10.)

Producing higher quality, less cumbersome documents increases efficiency and effectiveness by reducing the amount of work and resources required to produce the documents. It also makes them more accessible to the stakeholders who read them.

– Every Day Counts 2 Summit Report (2013)

Early Legal Review Yields Benefits

The component on enhancing legal sufficiency points out typical causes of EIS deficiencies (e.g., overly broad or narrow purpose and need, inappropriate alternatives, insufficient consideration of public or agency comments) and identifies measures for avoiding them. FHWA's environmental attorneys offer opportunities for early and ongoing consultation, and then commit to reducing the timeframe for their legal sufficiency review of the final document – from the current 30 days to 15 days.

(continued on page 7)

Every Day Counts

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The benefits of early legal involvement, according to FHWA, include minimizing iterative review and rewriting, reducing overall review time, allowing conflict resolution and corrective actions when the project schedule can best accommodate them, and reducing litigation risk.

"Relationships matter" is the theme of the *Every Day Counts* component on expanding the use of programmatic agreements with regulating or permitting authorities to establish processes for consultation, document review, and compliance with other federal laws during the NEPA process. FHWA has collaborated with AASHTO's Center for Environmental Excellence to update a national programmatic agreement library and tool kit.

Another component provides technical assistance teams to address problems in ongoing EIS projects, especially those for which a record of decision has not been issued by 60 months after a notice of intent. Teams of subject matter experts, assembled by the FHWA Resource Center based in five offices across the country, provide specialized NEPA planning assistance, facilitate interagency coordination, and provide training. FHWA reports that technical assistance teams have helped with 21 projects in 11 states, including by rescoping and combining projects.

The Department of Transportation
Federal Highway Administration

INNOVATOR

Accelerating Innovation for the American Driving Experience

FS | Issue 20 | May/June 2012

Vermont Sets Stainless Standard for Bridges

One goal of the Highways for LIFE initiative is to move innovations into standard practice. Now, that's happening in Vermont, thanks in part to a 2009 Highways for LIFE demonstration project. In March, the Vermont Agency of Transportation made stainless steel reinforcing standard.

Continued on page 2

for bridge superstructures on high-traffic pavements, replacing epoxy-coated steel.

"I won't say that this now standard is only a result of that demonstration bridge, but that was definitely included in our thinking," said Wayne Symons, structures design engineer for the Vermont agency. "We saw that 2009 project ended up proving that we can get stainless steel, and we believe it's very cost-effective."

In the demonstration project, the agency replaced a $2.84 million bridge that carries U.S. Highway 2 over the Winooski River in East Montpelier. It was designed as a very-low-maintenance bridge. The superstructure has five weathering steel girders (no paint), with a bare concrete deck of high-performance concrete (no membrane or overlay) and stainless steel.

Vermont now specifies three levels of superstructure reinforcing for bridges. For Levels 1 and 2, which include nonpaved roads or nearly not on the National Highway System, epoxy-coated reinforcing bars are permitted. Level 3, where stainless steel reinforcement is required,

Continued on page 3

Great news: stainless steel rebar to reinforce a bridge superstructure on a Highways for LIFE project in Vermont.

All-Weather Pavement Marking System Gets Work Zone Test

A pavement marking system designed to make it easier for drivers to navigate work zones when it's dark and rainy got its first real-world test on construction projects under the Federal Highway Administration's Technology Partnerships Program.

Traditional pavement markings can be hard to see in inclement weather, making it tricky for drivers to find their way through unfamiliar work zones. The idea behind the Stripe All-Weather Paint for work zones, developed by 3M of St. Paul, Minn., is to make driving lanes more visible, enhancing safety for both motorists and construction workers.

The company used a grant from the Technology Partnerships Program to refine the pavement marking system and evaluate it in cooperation with highway agencies. The program, part of FHWA's Highways for Life initiative to accelerate use of highway innovations, offers competitive grants to industry to develop prototype technologies with potential to improve highway safety or quality or reduce congestion.

The all-weather pavement marking system combines high-build waterborne paint and glass beads that provide good

Continued on page 4

The all-weather paint system combines typical glass beads with optical elements made of a ceramic core permanently bonded to high-refractive-index beads that provide retroreflectivity under wet conditions.

Inside This Issue:

Vermont Sets Stainless Standard for Bridges
All-Weather Pavement Marking System Gets Work Zone Test
Innovative Ways: Construction Time and Same Mistrust on D.C. Bridge Project
States Apply Preservation Strategies to Make Bridges Last
Innovation in Action
Innovative Transitions Chug Years From Lane Closures
Calendar

Other components of *Every Day Counts* raise awareness of existing regulatory flexibility, provide guidance on design activities allowable during the NEPA process, promote mitigation banking, and encourage improved coordination with utilities.

Accelerating Technology Deployment

Through *Every Day Counts*, FHWA encourages deployment of innovative technologies to improve project quality, reduce project cost and time, and enhance environmental values.

One of the innovative technologies focuses on bridges, but the principle can be generalized: many construction tasks need not be performed sequentially at onsite work zones. An old structure can be demolished, for example, while elements for the new structure are built offsite and brought to the project location ready to install. This can reduce the need for heavy equipment at the project site and allow onsite activities to be scheduled to avoid disrupting sensitive seasons for plant and animal life.

Is *Every Day Counts* working to shorten NEPA review and project delivery times? FHWA notes that many ongoing EISs started before this initiative and that data collection is still underway. A positive indicator so far, Mr. Ostrum notes, is that the initiative is improving project review and increasing the agency's commitment to "urgency" in project implementation.

FHWA's *Every Day Counts* website facilitates agency dissemination of information and participant sharing of lessons learned. It contains podcasts of Innovation Summit webinars, pages on each of the NEPA-planning integration approaches and each of the innovative technologies, a transportation community forum, periodicals (including *Innovator*) to share lessons learned and other information, and a YouTube channel. FHWA also maintains a NEPA website, which provides requirements, policies, and guidance; case studies and document examples; and status tracking of active NEPA reviews. For more information, contact Mr. Ostrum at william.f.ostrum@dot.gov.

New Guide Promotes Mutual Understanding In Public-Private Renewable Energy Projects

When federal agencies and the private sector work together to develop energy projects, a successful outcome is more likely if each party understands the goals, responsibilities, and constraints of the other. This is illustrated in the *Large-Scale Renewable Energy Guide* issued in March by DOE's Federal Energy Management Program (FEMP) to help agency personnel "navigate the complexities" of such public-private sector efforts at federal facilities.

The guide "is intended to provide a general resource that will begin to develop the Federal employee's awareness and understanding of the project developer's operating environment and the private sector's awareness and understanding of the Federal environment." The guide, developed by FEMP in collaboration with DOE's National Renewable Energy Laboratory (NREL), is "organized to match Federal processes with typical phases of commercial project development."

Best practices and recommendations in the guide regarding the alignment and sequencing of private sector and federal processes, including NEPA, and the importance of mutual understanding among parties, are consistent with key principles in the Secretary's June 12, 2012, memorandum on *Improved Decision Making through the Integration of Program and Project Management with National Environmental Policy Act Compliance*.

Overcoming the Language Barrier

Effective communication among involved parties is essential. As noted in the guide, "Establishing a working relationship between Federal agencies and private developers is complicated by the fact that the language of each is very different, even unrecognizable, from the other." Not only is it helpful to develop a "common language," but also a "common process" in which the actions of the two parties are "synchronized."

The guide presents parallel timelines for a federal agency, developer, and financier that show the stages of project development, approval, and implementation. NEPA compliance is one component of this process. As the guide states, "Compliance with NEPA is a Federal responsibility."

"The Federal agency always manages the NEPA process and issues decisions. The developer may pay costs for preparing the NEPA review, will provide at least some of the data needed for the analysis (e.g., information about the proposed project), and may have other roles depending on the circumstances. The project developer does not, however, control the process . . . . The heart of the NEPA process is the exploration and evaluation of a range of reasonable alternatives for agency decision making," states the guide.

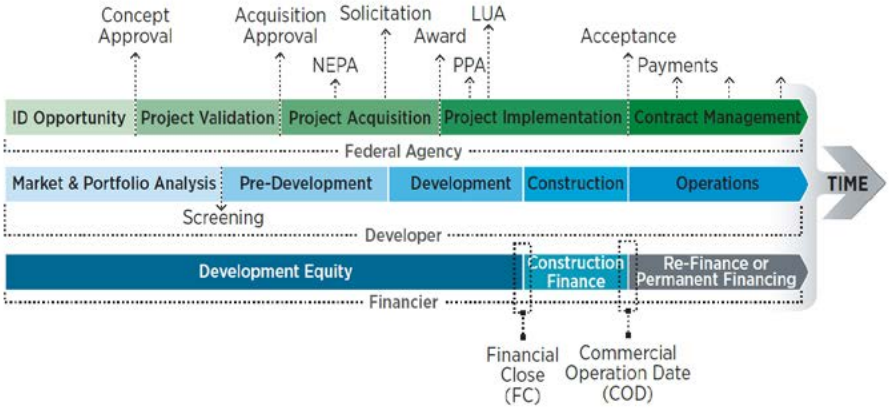
Coordination May Reduce Time, Cost, Risk

The guide acknowledges that NEPA "can be an expensive and time-consuming process. Compliance with NEPA is a Federal obligation that cannot be delegated to private parties and should be integrated into the project planning process to ensure that planning and decisions reflect environmental considerations so that delays can be avoided later in the process. Agencies should develop meaningful and expeditious timelines for environmental reviews and should work in close consultation with developers to gather data efficiently and cost effectively."

The NEPA process adds an element of "risk" to project development by adding time, uncertainty, and expense, acknowledges the guide. Moreover, key project parameters may change during the NEPA review.

The guide concludes that success "depends on the ability of agencies and the private sector to recognize each other as essential to reaching a common goal. Neither party will be successful if the requirements of each are not met and constraints are not overcome."

For further information on the *Large-Scale Renewable Energy Guide: Developing Renewable Energy Projects Larger Than 10 MWs at Federal Facilities*, contact Anne Crawley or Boyan Kovacic, FEMP, at anne.crawley@ee.doe.gov or boyan.kovacic@ee.doe.gov.



FEMP's guide illustrates the similarities of process and differences in language among federal agencies and private parties. [LUA = Land Use Agreement, PPA = Power Purchase Agreement]

Our Earth Day Is *Every* Day

The Office of NEPA Policy and Compliance joined other DOE Headquarters offices and green exhibitors in a week-long celebration of the 43rd Earth Day, promoting the theme of *Changing Behavior to Reduce DOE's Carbon Footprint*.

The first three days of activities included tours of DOE workplace electric vehicle charging stations and nearby Smithsonian gardens, environmental films, and alternative fuel vehicle displays. The final day at the Forrestal Building was an outdoor event that coincided with *Take Our Daughters and Sons to Work Day*. Family-friendly festivities included interactive exhibits of energy efficient consumer products, an environmental photo contest display, a bike advocates presentation, electronics recycling, children's planting and face painting activities, live music, and a farmers market.

At the NEPA Office display table, Denise Freeman and John Jediny answered questions about NEPA requirements and guidance. They also provided an interactive Geographic Information System (GIS) demonstration that allowed Earth Day visitors to put on the hat of a NEPA practitioner by analyzing a particular area (such as their residence) with over 230 layers of GIS data. GIS data is commonly used in the NEPA process to help identify the relationship between a proposed action and environmental resources that could be affected. GIS can assist in determining whether there are any extraordinary circumstances, preparing maps and graphics to illustrate the results of analysis, and communicating complex information to the public and decisionmakers (*LLQR*, September 2012, page 9).

GAO Reports Highlight Need for Agencies To Consider Climate Change Risks in Planning

Two recent Government Accountability Office (GAO) reports highlight the risks that climate change presents to government infrastructure projects and identify the need to consider climate change risks in project planning and in managing federal assets. Although the reports do not provide guidance on how to conduct NEPA reviews, they identify issues that could have implications for DOE projects and NEPA reviews.

"Climate change is a complex, crosscutting issue that poses risks to many environmental and economic systems—including agriculture, infrastructure, ecosystems, and human health—and presents a significant financial risk to the federal government," according to the first of the two GAO reports, *High-Risk Series: An Update* (GAO-13-283, February 2013; High-Risk Report).

In the second report, GAO states, "Extreme weather events and climate change pose risks to physical infrastructure . . . essential to the economic well-being of the United States" (*Climate Change: Future Federal Adaptation Efforts Could Support Local Infrastructure Decision Makers*, GAO-13-242, April 2013; Climate and Infrastructure Report).

High-Risk Report Includes Climate Change

GAO updates the High-Risk Report every two years to guide efforts to improve government performance and reduce waste and risks. The High-Risk Report lists federal programs and operations at "high risk" for waste, fraud, abuse, and mismanagement or needing broad-based transformation. Included among the 30 high-risk areas, for the first time, are two that focus on climate change: "Limiting the Federal Government's Fiscal Exposure by Better Managing Climate Change Risk" and "Mitigating Gaps in Weather Satellite Data."

In explaining its reasons for addressing climate change in the High-Risk Report, GAO cites conclusions of authoritative scientific sources, including the United States Global Change Research Program (USGCRP) and National Research Council (NRC), the principal operating agency of the National Academy of Sciences and the National Academy of Engineering. For example, GAO cites NRC's conclusion that, "although the exact details cannot be predicted with certainty, there is a clear scientific understanding that climate change poses serious risks to human society . . . ." GAO also cites USGCRP's conclusion that "the impacts and costliness of weather disasters – resulting from floods, drought, and other events such as tropical cyclones – will increase in significance as what are considered 'rare' events become more common and intense due to climate change."

Climate change impacts will result in increased fiscal exposure for the federal government in many areas, GAO concludes. The federal government owns and operates hundreds of thousands of buildings and facilities that could be affected by a changing climate, GAO states.

. . . And Emphasizes Adaptation

GAO recognizes that there are limits on the effectiveness of merely reducing greenhouse gas (GHG) emissions because, according to NRC and USCRP, GHGs "already in the atmosphere will continue altering the climate system for many decades . . . ." Therefore, GAO's recommendations focus on coordinating government efforts to address climate change risks through adaptation.

GAO defines climate change adaptation as "adjustments to natural or human systems in response to actual or expected climate change," and provides examples of how to protect infrastructure, such as raising river or coastal dikes to protect infrastructure from sea level rise, building higher bridges, and increasing the capacity of stormwater systems. The High-Risk Report emphasizes that the "federal government invests billions of dollars annually in infrastructure . . . facing increasing risks from climate change," and points to climate change adaptation as "a risk management strategy."

> ***While implementing adaptive measures may be costly, there is a growing recognition that the cost of inaction may be greater.***
>
> *– GAO High-Risk Report*

Climate and Infrastructure Report

In the Climate and Infrastructure Report, GAO examines impacts of climate change on infrastructure (roads, bridges, wastewater systems, and National Aeronautics and Space Administration facilities); the extent to which climate change is incorporated into infrastructure planning; factors that enabled some decisionmakers to implement adaptive measures; and federal efforts to address local adaptation needs.

GAO found that decisionmakers have not systematically considered climate change in infrastructure planning for several reasons, including the challenges they face in obtaining climate-related information relevant to their decisionmaking process. "Decision makers often struggle to identify which information among the vast number of climate change studies available is relevant, according to

(continued on page 11)

GAO Reports on Climate Change Risks

(continued from page 10)

NRC studies and [GAO] interviews with federal agencies and other stakeholders," the report states.

"Future federal efforts could better meet the needs of local infrastructure decision makers," the report concludes. To that end, GAO recommends the designation of a federal entity within the Executive Office of the President to work with agencies to identify the best available climate change information for local infrastructure decisionmakers. Such an entity could be helpful to NEPA practitioners because providing decisionmakers with high-quality environmental information is consistent with fundamental NEPA principles.

The report also explains that "guidance specifying how certain types of federal infrastructure investments should account for climate change when meeting the requirements of . . . NEPA" could help local decisionmakers consider climate change concerns relevant to infrastructure projects. The GAO reports do not specify how federal agencies should incorporate the impacts of climate change on infrastructure projects into their NEPA documents.

CEQ Guidance Pending

The Climate and Infrastructure Report notes that on February 18, 2010, CEQ issued draft guidance on how federal agencies can consider the effects of climate change in the NEPA process. The report explains the relevant scope of the CEQ draft guidance: "CEQ's draft NEPA guidance states that climate change effects should be considered in the analysis of projects that are designed for long-term utility and located in areas that are considered vulnerable to specific effects of climate change (e.g., increasing sea level or ecological change) within the project's time frame. . . . Given the length of time involved in present sea level projections, such considerations typically would not be relevant to an action with only short-term considerations. The guidance further states that this is not intended as a new component of NEPA analysis but rather as a potentially important factor to be considered within the existing NEPA framework."

GAO recommends that CEQ "finalize guidance on how federal agencies can consider the effects of climate change in their evaluations of proposed actions under the National Environmental Policy Act . . . ." "Without finalized guidance from CEQ, it is unclear how, if at all, agencies are to consistently consider climate change in the NEPA process, creating the potential for inconsistent consideration of the effects of climate change in the NEPA process across the federal government," the report states.

DOE NEPA Practice

In addition to discussing GHG emissions and potential climate change impacts resulting (in part) from DOE proposals, some DOE NEPA documents discuss the impact of climate change on the proposed projects. They do so, explicitly or implicitly, in several ways. For example, some DOE NEPA documents include accident risk analyses that consider potentially severe natural phenomena, such as high winds, floods, or fires. Conservative assumptions in such accident risk analyses account for potentially more frequent and intense natural events, as forecast by USGCRP.

In addition, in NEPA reviews for waste disposal facilities, DOE has explicitly included analyses of waste disposal impacts based on assumed climate changes in the future; some documents use conservative hydrologic parameters to account for potential wetter future climate conditions. Some DOE NEPA documents also consider design and location alternatives to avoid or otherwise mitigate the potential that climate change may magnify potential adverse impacts of proposals on a range of resource areas (e.g., water availability issues associated with power generation and other water-consuming proposals). All of these approaches have allowed DOE to consider the adaptation planning and climate risk management issues that the GAO reports raise. LL

NAEP Issues Annual NEPA Report 2012

The National Association of Environmental Professionals (NAEP), in its Annual NEPA Report 2012, reviews NEPA developments of the past year: requirements and guidance, NEPA document statistics, outcomes of NEPA litigation, and changes in agency NEPA procedures. Additional sections provide commentary by NAEP members.

Efforts initiated in the previous year to streamline the NEPA process continued, NAEP notes. "As NEPA practitioners we welcome efforts to improve the process while ensuring the integrity of decision-making and sound environmental analysis," said Ron Lamb, co-chair of NAEP's NEPA Practice, the working group that prepared the report. "We also urge caution not to lose sight of what we expect from the NEPA process – good decision-making and agency disclosure."

Requirements and Guidance

NAEP's 2012 report summarizes five recent NEPA initiatives by the Council on Environmental Quality (CEQ) and the U.S. Environmental Protection Agency (EPA), Office of Federal Activities.

- *Improving the Process for Preparing Efficient and Timely Environmental Reviews under the National Environmental Policy Act* (CEQ; March 7, 2012). (See *LLQR*, June 2012, page 7.)
- *Memorandum on Environmental Collaboration and Conflict Resolution* (CEQ and Office of Management and Budget; September 7, 2012). (See *LLQR*, December 2012, page 5.)
- NEPA Pilot Projects (ongoing). NAEP is leading Best Practice Principles for Environmental Assessments (EAs), one of the five pilot projects selected by CEQ to demonstrate innovative approaches to completing environmental reviews more efficiently and effectively. NAEP's NEPA Practice working group gathered federal agency recommendations for preparing timely and cost-effective EAs, and CEQ plans to seek public comment on the draft report of survey results. (See *LLQR*, December 2011, page 11.)
- *Addressing Children's Health through Reviews Conducted Pursuant to the National Environmental Policy Act and Section 309 of the Clean Air Act* (EPA Office of Federal Activities and Office of Children's Health Protection; August 14, 2012). This memorandum, which implements Executive Order 13045, recommends that an analysis of a proposal's potential impacts on children be included in an EIS if disproportionate impacts on children are reasonably foreseeable.
- EIS Filing. EPA created an online system for filing EISs and issued guidance on the process (August 24, 2012). (See *LLQR*, September 2012, page 6.)

Legislative Developments Involving NEPA

Two commentaries in the 2012 report describe NEPA provisions in recent legislation. One commentary surveys 61 pieces of legislation introduced in the 112th Congress that included provisions to alter some aspect of NEPA implementation or amend NEPA itself.

The other commentary focuses on NEPA provisions in the 2012 transportation act, *Moving Ahead for Progress in the 21st Century* (MAP-21). This act declares that it is in the national interest to expedite project delivery, and calls for earlier coordination between planning and regulatory agencies, integration of the planning and environmental review processes, and broader use of programmatic approaches to environmental review. It establishes a framework for setting decisionmaking deadlines and a process for issue resolution and referral, and it directs Department of Transportation agencies to undertake rulemakings that would expand the applicability of categorical exclusions in specified ways.

Metrics

The 2012 report characterizes basic statistics – lead agency, EPA ratings, and completion times – for EISs with a notice of availability of a draft or final EIS published in calendar year (CY) 2012.

- Lead Agency: In CY 2012, 31 federal agencies completed 197 EISs for which time data are applicable. Some 86 percent of the EISs were prepared by the Departments of Agriculture, Defense, Transportation, and the Interior.
- EPA Ratings: Of 193 proposed projects rated, 63 (33 percent) received a Lack of Objections rating, 120 (62 percent) were rated Environmental Concerns, and 9 (5 percent) received an Environmental Objections rating. One project was rated Environmentally Unsatisfactory. EPA considered 74 draft EISs reviewed (38 percent) to be adequate, 117 (60 percent) to have insufficient information, and 3 (2 percent) to be inadequate.

(continued on page 13)

NAEP Annual Report

(continued from page 12)

- EIS Completion Times: Completion times for all agencies as a group increased in 2012 from historic norms. NAEP (like DOE) measures EIS completion times from Federal Register publication of the notice of intent to the EPA notice of availability of the final EIS, with completion times for adopted EISs not counted. The average completion time for the 197 EISs was 55 months (range 7.5 months to 20 years). NAEP data show that DOE EISs were completed about 15 months faster on average than those for the group. The average completion time for the six DOE EISs was 40 months (range 18 months to 82 months).
- The average completion time of 55 months for all agency EISs exceeded the previously recorded highest annual average of 50 months in 2008.
- Fewer EISs (7 EISs, or 3 percent) were completed in less than one year than in past years. The previous lowest less-than-one-year completion rate was 4.1 percent in 2009, and the average less-than-one-year completion rate over the past 15 years was 8.3 percent. Similarly, fewer EISs were completed in less than 2 years.
- Most of the observed increase in the EIS completion times for all agencies as a group is attributable to an increase in the time to prepare draft EISs. NAEP data indicate that this duration has been increasing over several years.

Litigation Outcomes

The NAEP report notes that in 2012 the U.S. Courts of Appeals issued 28 decisions involving federal agency NEPA implementation, and that the government prevailed in 24 of these cases (86 percent), including all 3 DOE cases (*Tri-Valley CARES v. Department of Energy*, 671 F.3d 1113 (9th Cir. 2012); *Alcoa, Inc. v. Bonneville Power Administration*, 698 F.3d 774 (9th Cir. 2012); and *Los Alamos Study Group v. U.S. Department of Energy*, 692 F.3d 1057 (10th Cir. 2012)).

NAEP identified some "themes" among these cases, including scope of the analysis and level of detail, scientific integrity and treatment of dissenting views, and requirements for environmental assessments. An appendix to the NAEP report provides details on each case and summarizes the major NEPA-related holdings.

Issued in April 2013, the full report is available to NAEP members. A synopsis of the report and the complete reports for 2009–2011 are posted on CEQ's NEPA.gov website, under NEPA Non-Governmental Organizations. Inquiries regarding the 2012 NAEP report may be addressed to naep@naep.org.

Call for NAEP 2014 Conference Abstracts and Environmental Award Nominations

The National Association of Environmental Professionals (NAEP) seeks abstracts for individual speakers, panels, and posters at its 39th annual conference, to be held April 7–10, 2014, in St. Petersburg, Florida. The conference, under the banner of *Changing Tides & Shifting Sands*, will cover NEPA and related subjects and is open to environmental professionals in all levels of government, academia, and the private sector. The call for papers is available on the NAEP website, www.naep.org. Presentation abstracts are due by September 30, 2013.

NAEP also invites nominations for its annual Environmental Excellence Awards, which recognize outstanding NEPA achievements and exceptional performance in environmental management, stewardship, education, and other categories. The nominator and nominee need not be members of NAEP, and nominations may include projects or programs recognized by others. The nomination form is available on the NAEP website. Award nominations are due by August 16, 2013.

NAEP Presents 2013 Environmental Awards

The National Association of Environmental Professionals (NAEP) and the California Association of Environmental Professionals jointly held their annual conference in Los Angeles this year on the theme *Walk the Talk*. The NEPA presentations at the April conference focused on achieving the goals of NEPA and the California Environmental Quality Act (CEQA). Some of these achievements were recognized by NAEP in its 2013 Environmental Excellence Awards.

President's Award: Rapid Completion of America's Cup EA/EIR

When it was announced on December 31, 2010, that San Francisco would host the 34th America's Cup yacht races, the city and involved federal agencies had just 18 months to complete NEPA and CEQA reviews and issue necessary permits. The races involve federal lands and waters and accommodations for race crews and hundreds of thousands of spectators.

The National Park Service and U.S. Coast Guard, in cooperation with the U.S. Army Corps of Engineers and the Presidio Trust, prepared an EA while the San Francisco Planning Department prepared an environmental impact report (EIR) under CEQA. The EA evaluated alternative race areas, viewing areas, and race-related development. It considered potential impacts related to greenhouse gas emissions, visitor experience, and maritime navigation and safety.

NAEP presented the President's Award to the San Francisco Planning Department, Port of San Francisco, America's Cup Event Authority, Environmental Science Associates, Orion Environmental Associates, National Park Service, U.S. Coast Guard, U.S. Army Corps of Engineers, and Presidio Trust.

NEPA Excellence: State Route 11 and the Otay Mesa East Port of Entry

A team of local, state, and federal agencies developed a proposal for a new border crossing between San Diego and Tijuana, Mexico. Its objectives are to increase inspection capacities for vehicles and pedestrians, reduce wait times, minimize impacts to the aquatic environment, accommodate bicycles, and support international border-related agreements.

The project team used a two-tiered integrated CEQA/NEPA process. Tier I addressed the proposal within a programmatic EIS/EIR that identified a preferred location for the state road and border crossing that would minimize impacts to biological resources. The Tier I EIS/EIR allowed project proponents to secure a Presidential permit for the border crossing from the Department of State and "eliminated the need to undertake detailed project design for more than one highway corridor and port of entry site," said NAEP.

The team then prepared a Tier II project-level EIS/EIR on three alternative designs within the selected corridor, with multiple interchange options. Interagency meetings, bi-national coordination, and bilingual community outreach continued throughout the project.

NAEP presented the NEPA Excellence Award to HELIX Environmental Planning, Caltrans District 11, Federal Highway Administration, U.S. Customs and Border Patrol, General Services Administration, San Diego Association of Governments, and AECOM.

Environmental Stewardship: San Joaquin River Restoration Program

The EIS/EIR for the San Joaquin River Restoration Program is the culmination of years of collaboration among federal, state, and local agencies, and private interests. The restoration program will restore spring-run Chinook salmon, a federally- and state-listed threatened species, to a 153-mile-long reach of the San Joaquin River in California's Central Valley, and benefit other fish, vegetation, and wildlife species. The restoration program is designed to minimize water supply impacts.

NAEP presented the Environmental Stewardship Award to the U.S. Bureau of Reclamation, California Department of Water Resources, and MWH Americas.

Best Available Environmental Technology: Sunrise Powerlink Monitoring and Compliance

The *EIS/EIR for San Diego Gas & Electric Company's Sunrise Powerlink Project* outlined a mitigation and monitoring program that the Bureau of Land Management incorporated in its record of decision as a condition for approval. During project construction, state-of-the-art electronic environmental monitoring and compliance tools – including GPS and GIS applications, and web-based communication – were used to integrate office and field activities. The tools were available across the entire project team, including contractor and regulatory agency staff, to provide timely project information and support informed decisionmaking.

NAEP presented the Best Available Environmental Technology Award to San Diego Gas & Electric Company.

CEQ Working Group Exploring Open Source Software

Recognizing a potential to cut NEPA costs, the Council on Environmental Quality's (CEQ's) Information Technology Working Group (ITWG) has formed an Open Source and Free Software Subgroup to explore the use of open source and free software in the NEPA process. The new subgroup complements the work of other ITWG subgroups addressing NEPA metrics, categorical exclusions, and use of geographic information systems (GIS).

Open source software is often developed in an open and collaborative manner and is publically available under a license that grants users the rights to study, use, modify, and distribute the software for free. This contrasts with proprietary or closed source software, which generally requires usage fees and restricts modification or redistribution.

The goal of the Open Source and Free Software Subgroup is to encourage NEPA staff working with IT experts to make better use of available resources by increasing awareness of specific software solutions applicable to the NEPA process. The Subgroup is developing a list of available open source and free software in the several categories, including communication and collaboration, document management, data analysis, comment response, GIS, and website content management.

The Subgroup plans to address the legal and practical considerations, including potential impediments associated with federal acquisition and cyber security requirements.

The Subgroup already has identified software applications in many of these categories and plans to seek agency participants in pilot demonstrations.

Other ITWG Activities

The ITWG subgroup on NEPA metrics is evaluating results of a survey of agencies to learn of their current or planned use of IT tools to track NEPA reviews, including what milestones are tracked and how completion time metrics are measured. The categorical exclusion subgroup is examining a potential online tool for making and tracking categorical exclusion determinations. The GIS subgroup plans to convene after the other subgroups have completed their work.

The ITWG is comprised of members from more than a dozen federal agencies and encourages increased use of information technology to improve NEPA implementation and expedite federal permitting and review processes for infrastructure projects (*LLQR*, March 2013, page 9). DOE's representatives on the ITWG are John Jediny and Eric Cohen, Office of NEPA Policy and Compliance. John Jediny is leading the Open Source and Free Software Subgroup. For further information or to express interest in participating in a pilot demonstration project, contact john.jediny@hq.doe.gov.

NEPA-CEQA Handbook in Preparation

Recognizing that a joint review process under NEPA and the California Environmental Quality Act (CEQA) could avoid redundancy and improve efficiency, CEQ, in collaboration with the California Governor's Office of Planning and Research (OPR), issued a draft handbook on integrating NEPA and CEQA for a 45-day public review and comment period in early March.

"The handbook provides practitioners with an overview of NEPA and CEQA as well as suggestions for developing a single environmental review process that can meet the requirements of both statutes," said CEQ in announcing the draft handbook. CEQ has posted public comments received on the draft NEPA-CEQA handbook on the Submitted Comments page of its website.

Transitions

NEPA Compliance Officers: NNSA Production Office

The former Pantex and Y-12 Site Offices were combined in 2012 into the NNSA (National Nuclear Security Administration) Production Office (NPO), which is responsible for contract management and oversight of the Pantex Plant in Amarillo, Texas, and the Y-12 National Security Complex in Oak Ridge, Tennessee. Jim Barrows, the Pantex Site Office NEPA Compliance Officer (NCO) since 2007, will continue as the primary NCO for the new organization. He can be reached at james.barrows@npo.doe.gov or 806-477-7467.

NPO has also designated three experienced "alternate NCOs" to act in his absence:

- Ken Hoar, Assistant Manager for Environment, Safety, Health & Quality, can be reached at kenneth.hoar@npo.doe.gov or 806-477-7158.
- Susan Dyer Morris, Deputy Assistant Manager for Environment, Safety, Health & Quality can be reached at susan.morris@npo.doe.gov or 865-576-3545.
- Craig Snider, Deputy Assistant Manager for Environment, Safety, Health & Quality, can be reached at craig.snider@npo.doe.gov or 806-477-5906.

Pamela Gorman, the Y-12 Site Office NCO since 2007, is now working as an environmental engineer in the Uranium Processing Facility Project Office.

NEPA Document Cost and Time Facts[1]

EA Cost and Completion Times

- For this quarter, the costs for the preparation of 2 EAs for which cost data were applicable were $20,000 and $72,000.
- Cumulatively, for the 12 months that ended March 31, 2013, the median cost for the preparation of 12 EAs for which cost data were applicable was $94,000; the average was $170,000.
- For this quarter, the average and median completion times for 3 EAs for which time data were applicable were 10 months.
- Cumulatively, for the 12 months that ended March 31, 2013, the median completion time for 16 EAs for which time data were applicable was 11 months; the average was 13 months.

EIS Cost and Completion Times

- For this quarter, the cost for the preparation of 1 EIS for which cost data were applicable was $8,000,000.
- Cumulatively, for the 12 months that ended March 31, 2013, the median cost for the preparation of 3 EISs for which cost data were applicable was $8,000,000; the average was $31,000,000.
- For this quarter, the completion times for 2 EISs for which time data were applicable were 20 and 43 months.
- Cumulatively, for the 12 months that ended March 31, 2013, the median completion time for 8 EISs for which time data were applicable was 37 months; the average was 40 months.

[1] *For EAs, completion time is measured from EA determination to final EA issuance; for EISs, completion time is measured from the* Federal Register *notice of intent to the EPA notice of availability of the final EIS.*

EAs and EISs Completed January 1 to March 31, 2013

EAs[1]

Brookhaven Site Office/Office of Science
DOE/EA-1928 (3/6/13)
White-Tailed Deer Management at Brookhaven National Laboratory, Upton, New York
Cost: $20,000
Time: 10 months

Golden Field Office/Office of Energy Efficiency and Renewable Energy
DOE/EA-1792-S1 (3/21/13)
Deepwater Offshore Floating Wind Turbine Testing and Demonstration Project, Castine, Maine
Cost: $72,000
Time: 11 months

DOE/EA-1923 (1/15/13)
Green Energy School Wind Project, Saipan, Commonwealth of the Northern Mariana Islands
EA was prepared in-house; therefore, cost is not reported.
Time: 10 months

DOE/EA-1944 (1/17/13)
Brady Hot Springs Well 15-12 Hydro-Stimulation, Nevada
EA was adopted; therefore cost and time data are not applicable. [The Department of the Interior, Bureau of Land Management was the lead agency; DOE was a cooperating agency.]

EISs

Office of Fossil Energy/ National Energy Technology Laboratory
DOE/EIS-0473 (78 FR 15011, 3/8/13)
(Draft EIS EPA Rating: LO)
W.A. Parish Post-Combustion CO_2 Capture and Sequestration Project (PCCS), Fort Bend County, Texas
The cost for this EIS was paid by the applicant; therefore, cost information does not apply to DOE.
Time: 20 months

National Nuclear Security Administration/ Nevada Field Office
DOE/EIS-0426 (78 FR 12309, 2/22/13)
(Draft EIS EPA Rating: EC-2)
Site-Wide Environmental Impact Statement for the Continued Operation of the Department of Energy/ National Nuclear Security Administration Nevada National Security Site and Off-Site Locations, Nevada
Cost: $8,000,000
Time: 43 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] *EA and finding of no significant impact (FONSI) issuance dates are the same unless otherwise indicated.*

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

- *Considering worker and public sentiment*. A comprehensive process to assess worker and public sentiment was utilized at the beginning of the NEPA process to identify potential issues.
- *Technical presentations*. DOE and applicant staff gave presentations to the lead agency to facilitate better understanding of the technical aspects of the proposed action.
- *Standard procedures*. No problems were encountered while following standard EA scoping procedures.

What Didn't Work

- *Defining scope*. Defining the scope of the EIS took a long time.

Data Collection/Analysis

What Worked

- *Good worker input*. Worker input included a survey of approximately 2,800 employees and associates, brown bag seminar participation, and presentations/interaction with advisory groups.
- *Use of data from similar EAs*. This EA utilized analyses included in similar EAs prepared by local, state, and federal agencies.
- *Use of previous resource data*. Resource areas to be analyzed in detail were reduced to only sub-surface resources because a previous EA provided useful data on surface conditions in the project area.

Schedule

Factors that Facilitated Timely Completion of Documents

- *Good document manager*. The document manager was effective in addressing issues in a timely manner.
- *Good communication*. Maintaining good communication and having expeditious reviews of the EA facilitated timely completion of the document.

Factors that Inhibited Timely Completion of Documents

- *Changed approach for NEPA documentation*. Instead of adopting another agency's EA, which was our normal practice, it was decided that we would write our own EA. This process took a little longer than anticipated.
- *Personnel schedules*. The project schedule spanned two holidays and the end of the calendar year. Because many persons were taking time off, special attention to personnel schedules became more important than it would have been under normal conditions.
- *Level of NEPA review uncertain*. Initially, the level of NEPA review needed for the project was uncertain. Project plans were in place well before a final decision regarding the level of NEPA review; therefore, completion of the NEPA process was on the critical path.

Teamwork

Factors that Facilitated Effective Teamwork

- *Close teamwork*. Because the EA was written entirely in-house, and fewer parties were involved, teamwork and the scheduling of tasks/reviews were more efficient.
- *Pre-NEPA meetings*. Meetings between the lead agency and DOE before starting the NEPA process helped to create a cooperative relationship and define clear roles and responsibilities based on expertise.
- *Previous working relationships*. The lead agency NEPA Document Manager personally knew and had previously worked with some of the DOE EA team members.
- *DOE expertise*. DOE defined its expertise to the lead agency early on. Often DOE is viewed as only the

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

funding agency; however, the lead agency's NEPA team was able to benefit from DOE's expertise during the preparation of the EA.

Factors that Didn't Facilitate Effective Teamwork

- *Unexplained delays*. The EIS process was sometimes delayed during field office review with no explanation of any problems/issues being addressed to account for delay.

Process

Successful Aspects of the Public Participation Process

- *Good tribal and state interaction*. Good tribal and state relationships facilitated the preparation of a quality EIS.

Usefulness

Agency Planning and Decisionmaking: What Worked

- *Flexible approach*. The selection of a multi-faceted preferred alternative provided management with a flexible approach for addressing its needs.
- *Comprehensive review*. The NEPA process provided comprehensive analyses of the entire site instead of just specific projects.

Agency Planning and Decisionmaking: What Didn't Work

- *Evaluation done before NEPA*. The location and technical aspects of the project were well defined prior to the beginning of the NEPA analysis.

Enhancement/Protection of the Environment

- *Reduced impacts*. The environment was largely protected as a result of this EA process, which facilitated effective siting of the proposed project as well as helped select measures to reduce potential impacts.

Other Issues

Guidance Needs Identified

- *Adoption vs. preparation of NEPA document*. We sought guidance on how to determine whether adoption of a NEPA document or preparation of our own NEPA document was most effective.

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 decision making.

For the past quarter, in which 2 EA and 1 EIS questionnaire responses were received, 2 respondents rated the NEPA process as "effective;" 1 rated the process as "1."

- A respondent who rated the process as "4" stated that the NEPA process facilitated meaningful interaction among DOE, tribal organizations, and the state.
- A respondent who rated the process as "4" stated that the NEPA process allowed for the selection of a flexible approach for managing a long-term problem.
- A respondent who rated the process as "1" stated that the NEPA process was far from an important planning tool for this project.