

# DOCUMENT COVER PAGE

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SUBJECT: NRR OFFICE LETTER NO. 906, REV. 2, "PROCEDURAL GUIDANCE FOR PREPARING ENVIRONMENTAL ASSESSMENTS AND THE TREATMENT OF ENVIRONMENTAL ISSUES"

ORIGINATOR: Claudia Craig

SECRETARY: Sue Wiens (415-1282)(MS 011E4)

DATE: September 16, 1998

## ●●● ROUTING LIST ●●●

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OFFICE OF NUCLEAR REACTOR REGULATION

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*Office Letter Transmittal*

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**TO:** All NRR Employees

**SUBJECT:** NRR OFFICE LETTER NO. 906, REVISION 2, "PROCEDURAL GUIDANCE FOR PREPARING ENVIRONMENTAL ASSESSMENTS AND CONSIDERING ENVIRONMENTAL ISSUES"

**PURPOSE:** Revised Office Letter No. 906 establishes procedures and provides guidance pertaining to the preparation of environmental assessments and the consideration of environmental issues for licensing actions. It supersedes Office Letter 906, Revision 1, dated September 27, 1996. Substantive revisions and editions are indicated in bold.

**DIVISION OF ORIGIN:** Division of Reactor Program Management

**CONTACT:** Claudia M. Craig, 415-1053

**DATE APPROVED:**

**AVAILABILITY:** Roberta Ingram, 415-1219

## **NRR OFFICE LETTER NO. 906, REVISION 2**

### **PROCEDURAL GUIDANCE FOR PREPARING ENVIRONMENTAL ASSESSMENTS AND CONSIDERING ENVIRONMENTAL ISSUES**

#### **OBJECTIVES**

This office letter is intended to (1) define the responsibilities of the Generic Issues and Environmental Projects Branch (PGEB) for ensuring that NRR is consistent in its implementation of NRC and other Federal environmental regulations, (2) define NRR staff responsibilities, and (3) provide guidance to NRR staff on the procedural requirements for demonstrating compliance with environmental statutes and regulations covering environmental issues for docketed facilities.

The office letter contains guidance for preparing environmental assessments (EAs) and for considering the environmental issues associated with the Coastal Zone Management Act of 1972 (CZMA), the Endangered Species Act of 1973 (ESA), the National Historical Preservation Act, as amended (NHPA), and the Executive Order related to environmental justice. These issues entail, in part, determining an action's impact on protected coastal zones, protected endangered species, and archaeological and historical sites, and considering the degree to which an action has an effect on minority populations and low-income populations. It should be noted that an environmental impact statement (EIS) addresses the same issues as an EA, but in a more detailed format. This office letter does not address the preparation of an EIS; an EIS will be prepared with technical support from PGEB staff. This office letter supersedes previous guidance on these subjects.

#### **RESPONSIBILITIES AND AUTHORITIES**

##### **PGEB**

PGEB is responsible for providing implementation guidance and technical support to the NRR staff for the resolution of environmental issues for docketed facilities. PGEB is also responsible for coordinating environmental issues with other NRC offices, for ensuring NRR meets its obligations under all Federal environmental regulations and the National Environmental Policy Act (NEPA), and for consistently and properly implementing the requirements of 10 CFR Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions," for docketed facilities.

##### **All NRR Employees**

Individual NRR staff members are responsible for implementing the procedural requirements of this office letter; the staff should consult with PGEB when reviewing environmental issues.

## **BASIC REQUIREMENTS**

In addition to NRC's regulatory responsibilities embodied in the traditional health and safety requirements of the Atomic Energy Act, NRC also has responsibilities that derive from the NEPA and from other environmental regulations (such as the ESA, the NHPA, and the CZMA) and from Presidential Executive Orders. The NRR staff should consider the environmental issues when performing license amendment activities including, but not limited to

- (1) increasing the authorized power level of commercial power reactors (power uprate up to 5 percent and extended power uprate up to 120 percent),
- (2) changing the license expiration date to recapture time between the construction permit and actual operation (construction recapture),
- (3) performing decommissioning activities under 10 CFR Part 50, and
- (4) revising Appendix B of a licensee's operating license (environmental protection plan).

Additionally, the staff should consider the environmental issues when processing license renewal applications and requests for exemptions from NRC regulations, and when conducting rulemaking. **The staff need not consider environmental issues when performing licensing and regulatory activities eligible for categorical exclusions under 10 CFR 51.22.**

The NRR staff is encouraged to seek assistance from PGEB early in dealing with environmental issues that are unique, particularly difficult, or unfamiliar. The NRR staff may request formal guidance in writing EAs or EISs from PGEB. When seeking concurrence, assistance, or safety evaluation input, the NRR staff should provide the PGEB staff a Technical Assignment Control (TAC) number because environmental reviews are fee recoverable under 10 CFR Part 170.

### **PGEB Requirements**

- (1) Review and concur on **plant-specific and generic EAs** prepared by the NRR staff for the activities listed above. PGEB will maintain typical treatments of environmental issues and provide input to standard wording used in addressing similar environmental issues.
- (2) Review and provide guidance and support to the NRR staff in the preparation of all EISs (draft, final, and supplements) for docketed facilities.
- (3) Participate in environmental rulemaking activities. PGEB will review proposed environmental legislation, statutes, regulations, and guidance for potential impact on NRR and will participate in Federal Government-wide meetings. PGEB will provide guidance to the NRR staff regarding the implementation of other applicable Federal statutes.
- (4) Review new and emerging environmental issues and provide support to the NRR staff in resolving environmental issues.
- (5) Review environmental documents submitted by other Federal and State agencies.

- (6) Review recovery plans for endangered species and prepare or direct the preparation of biological assessments (BAs) as required by the ESA.
- (7) Coordinate environmental issues with other NRC offices and Federal and State agencies.
- (9) Maintain and update this office letter.

#### General Staff Requirements for EAs

As previously discussed under "Basic Requirements", EAs must be written for certain licensing and rulemaking activities. Although most environmental reviews performed by NRC are EAs, it is important to understand the distinction between an EA and an EIS and when each is used.

NEPA requires that a detailed statement of the environmental impact of the proposed action and alternatives (an EIS) be prepared for "major Federal actions significantly affecting the quality of the human environment." The process used to determine whether an action will significantly affect (or impact) the environment is an EA. If the review documented in an EA shows that the proposed action will not have a significant impact on the environment, a finding of no significant impact (FONSI) is made in the conclusion of the EA and no EIS need be prepared. If, on the other hand, the environmental review reveals that the proposed action will, or has the potential to, significantly affect the environment, the EA must conclude that a more detailed review of the environmental effects (i.e., an EIS) should be prepared. In general, an EIS contains much more detail about the specific environmental impacts of the proposed action and alternatives, and requires extensive public participation, public comment, and coordination with other agencies. Normally, project managers (PMs) prepare EAs and are responsible for coordinating the preparation of EISs.

Upon receipt of a proposed action, the PM should determine whether an environmental review is needed and, if it is needed, the type that should be prepared. Section 51.22 of Title 10 of the Code of Federal Regulations (10 CFR 51.22) identifies categories of actions that are excluded from environmental reviews because it has been determined that certain categories do not individually or cumulatively have a significant effect on the human environment. If the PM determines that the proposed action is outside one of the excluded categories, the PM shall prepare the EA in accordance with the requirements in 10 CFR 51.30, unless significant environmental impacts may occur as a result of the action. If significant environmental impacts may occur, the PM should contact PGEB and an EIS will be prepared. Section 51.30 requires an EA to (1) identify the proposed action, (2) briefly discuss the need for the proposed action, (3) briefly discuss the alternative courses of action if the proposed action involves an unresolved conflict concerning alternative uses of resources, (4) describe the environmental impacts of the proposed action and any alternative courses of action noted in item (3) and (5) list agencies and persons consulted and identify sources used. **EAs should not address the safety details of the review, only the environmental impacts of the proposed action.** An EA should include a FONSI if the EA supports a conclusion that the proposed action will not have a significant effect on the quality of the human environment. If such a finding cannot be made, an EIS will have to be prepared. The preparation of the EIS should be coordinated with PGEB. Attachment 1 is a flow chart outlining the process. Attachment 2 contains detailed guidance on each step in the

preparation of an EA. Attachment 3 contains a sample (boilerplate) of the appropriate format and content of an EA.

Note that the sample is intended to be used as guidance and is not a substitute for an objective consideration of the impacts and conclusions. PMs must independently satisfy themselves that any boilerplate statements used are correctly applied to the specific action being reviewed.

#### General Requirements for Rulemaking Activities

When an EA is written in support of rulemaking activities, the initiating office implements additional procedures. Detailed guidance is provided in the NRC Regulations Handbook, NUREG/BR-0053.

In general, after the Federal Register notice (FRN) for the proposed rule is signed by the Commission Secretary or the Executive Director for Operations (EDO), and before the FRN is published, a generic cover letter with a copy of the draft EA and the FRN should be sent to the State Liaison Officer requesting the State's comments. As with an EA for a licensing action, the consultation must be documented in a brief summary in the EA, and must address the comments and staff response. A sample letter is included in the NUREG.

#### General Requirements for Environmental Justice

In February 1994, the President issued an Executive Order mandating that Federal agencies make "environmental justice" part of each agency's mission by addressing disproportionately high and adverse human health or environmental effects of Federal programs, policies, and activities on minority populations and on low-income populations. The Council on Environmental Quality developed guidelines on how to integrate environmental justice into the NEPA process. **The guidelines are contained in the document "Environmental Justice Guidance Under the National Environmental Policy Act," December 10, 1997. NRR developed a corresponding procedure (Attachment 4) for incorporating environmental justice into the licensing process.**

Environmental justice reviews will be performed for all actions requiring preparation of an EIS or a supplement to an EIS. An environmental justice review is not usually required for an EA in which a FONSI is made, unless warranted by special circumstances. These cases may include regulatory actions that involve a significant site modification with an identifiable impact on the environment or that have substantial public interest. **In these circumstances, the staff will inform NRR senior management and a decision will be made on a case-by-case basis as to whether the circumstances warrant an environmental justice review for an EA.**

#### Coastal Zone Management Act

The CZMA was promulgated to encourage and assist States and territories in developing management programs that preserve, protect, develop, and, where possible, restore the resources of the coastal zone. Activities of Federal agencies that are reasonably likely to affect coastal zones shall be consistent with the approved coastal management program (CMP) of the State or territory. The CZMA provisions apply to all Federal licenses and actions requiring

Federal approval (new plant licenses, license renewals, materials licenses, and major amendments to existing licenses) that affect the coastal zone in a State or territory with a federally approved CMP. Attachment 5 lists those States and territories with federally approved CMPs.

PMs should determine whether the State or territory has an approved CMP and whether their licensee is within the boundary of the CMP. If the plant is located within the CMP boundary, the PM should become familiar with the requirements of the CMP. Within the CMP, predetermined activities are listed that may affect the coastal zone. When the PM determines that a proposed licensing activity may affect coastal uses or resources, the PM should inform the licensee of the need to contact the government of the State or territory and to comply with the provisions of the CZMA. The licensee should certify its compliance to the State or territory. Attachment 6 is a draft model certification for license amendment applicants.

In notifying the licensee of the need to communicate with the State or territorial government, the PM should ascertain whether the proposed activity is listed in the CMP. If the activity has been listed in the CMP, the PM has an obligation to withhold approval of the application until the government of the State or territory has concurred. If the applicant seeks a license, permit, or license amendment for an activity affecting the coastal zone and that activity is not listed in the CMP, the State or territory has the responsibility of informing the NRC and the applicant (within 30 days after the CMP coordinator has been notified) that the activity requires review by the State or territorial government. Otherwise, the State or territory waives the right to review the unlisted activity. In either case, once the State or territory begins its review, it has 6 months to determine whether such activity is consistent with the CMP. If the State or territory concurs, NRC may issue approval of the application. If the State or territory objects to a consistency certification for a listed activity, NRC may not approve the activity unless the applicant appeals the objection to the Secretary of Commerce and the Secretary overrides the objection. Attachment 7 is a flow chart of CZMA activities.

### Endangered Species Act

The ESA was promulgated to ensure protection of endangered or threatened species and critical habitats. The ESA imposes two basic requirements on Federal agencies. First, the ESA requires each Federal agency to ensure that any action authorized, funded, or carried out by an agency is not likely to jeopardize the continued existence of any endangered species or threatened species, or result in the destruction or impairment of any critical habitat for such species. "Action" has been interpreted broadly and comprises licensing, rulemaking, and lesser regulatory actions that could jeopardize an endangered species. A Federal agency should act, if possible (where it has the legal authority), to prevent endangered species or their habitats from being threatened or destroyed.

Second, the ESA requires Federal agencies to fulfill the requirements of the act in consultation with, and with the assistance of, the Secretary of the Interior (for freshwater and terrestrial species through the Fish and Wildlife Service) or the Secretary of Commerce (for oceanic and coastal matters through the National Marine Fisheries Service); hereafter both are referred to as "the Service." If the Federal agency fails to consult with the Service, and the action results in the "taking" (harassment, harm, pursuit, hunting, shooting, wounding, killing, trapping, capture,

collection, or attempt to engage in such activities) of an endangered species or the impairment or destruction of a critical habitat, the Federal agency is in clear violation of the ESA. Five consultation processes can be used and are discussed briefly next.

### Early Consultation

The applicant can request that the Federal agency enter into early consultation with the Service. This may be done if the applicant believes one or more listed species or critical habitats may be affected by the proposed action. The agency initiates early consultation in writing. The process followed is the same as the one discussed under "Formal Consultation"; however, a preliminary biological opinion (BO) is issued. A preliminary BO does not constitute the authority to "take" listed species.

### Informal Consultation

Informal consultation, an optional process of discussions between the Service and the Federal agency preceding formal consultation, determines whether formal consultation or a conference is required.

### Conference

This process involves informal discussions between a Federal agency and the Service regarding the impact of an action on proposed species or proposed critical habitat and recommendations to minimize or avoid harm.

### Biological Assessment

A BA is initiated when a major activity takes place that may affect listed species or critical habitats. The Federal agency requests a list from the Service of endangered or threatened species and critical habitats or sends the Service a list of species and habitats that are being reviewed in the BA. Within 30 days of the request, the Service responds (provides the list or concurs on the list that was prepared by the Federal agency). If no species or habitats are affected, no further action is required. If only proposed species or habitats (not yet listed as an endangered or threatened species or habitat) are involved, the Federal agency must confer with the Service, but a BA is not required. If listed species or critical habitats are involved, the Federal agency must begin the BA within 90 days of the response. **(Although in most cases, the NRC designates the writing of the BA to the licensee.)** The BA may include the findings of onsite inspections, opinions of recognized experts, results of an information review, an analysis of the proposed actions, and alternatives. The BA must be submitted to the Service within 180 days of the response. The Service must respond to the BA within 30 days. If there are no listed species involved and the Service concurs, no formal consultation is required. If the BA concludes that the action is not likely to jeopardize the listed species or any critical habitat and the Service concurs, no conference is required. If the BA concludes that the action affects listed species or critical habitat, the Federal agency can initially request an informal consultation to determine whether the project can be modified so that the species or critical habitats are not adversely affected. Otherwise, formal consultation is required.

### Formal Consultation

Formal consultation is a process between the Service and the Federal agency that takes place after the BA has been submitted and the BA has determined that the action affects listed species or critical habitats. **Attachment 8 is a flow chart illustrating the formal ESA consultation process.** The Federal agency sends a written request for consultation to the Service. The written request must contain a description of the action, a description of the area, a description of the listed species, the effects of the action, an analysis of the cumulative effects, and a review of reports and other information. Within 90 days, the Service issues a BO. The BO contains a summary of the action, the effects, an opinion on whether the species is in jeopardy as a result of the action, alternatives, incidental "take" provisions, and conservation measures.

After the consultation is complete, the Federal agency must determine whether it has taken all necessary actions. Although the Federal agency is not legally bound to comply with Service opinions and can adopt measures that differ from the recommendations, the courts give substantial weight to Service opinions. **In general, the NRC then provides the BO, including the incidental "take" provisions and conservation measures, to the applicant or licensee for implementation.**

There are also provisions for reinitiation of consultation if the original assumptions of the BA change, and there is a provision for a citizen suit to challenge a Federal agency's action.

### National Historical Preservation Act

The NHPA was promulgated in 1966 and amended in 1992 to coordinate and support public and private efforts to identify, evaluate, and protect significant historic and archaeological resources. Section 106 of the NEPA directs Federal agencies to consider the effects of their undertakings on historic properties and to give the Advisory Council on Historic Preservation (the Council) an opportunity to review and comment on any Federal agency action that might harm historic property. **Attachment 9 is a flow chart illustrating the Section 106 process.** "Undertakings" denotes a broad range of Federal activities, including the issuance of NRC licenses, license amendments, and permits. "Historic property" is any property listed in or eligible for inclusion in the National Register of Historic Places (register). The NHPA evaluation may take place as part of the NEPA review.

As the first step in the process, the agency identifies the historic property that the undertaking may affect. The Federal agency should review information and consult with the State Historic Preservation Officer (SHPO). **In areas of Native American tribal land, the Native American tribal agencies may act as the SHPO.** If properties are identified and may be eligible for entry in the register but have not yet been listed in it, the agency should evaluate the site against criteria published by the National Park Service. The evaluation is carried out in consultation with the SHPO, and the agency may seek formal determinations. If the property has already been listed in the register, no further evaluation is necessary. The agency should assess the effect of the undertaking on the site that contains an historic property. The Federal agency should work with the SHPO. Three determinations may be made: no effect, no adverse effect, and adverse

effect. If an adverse effect determination is made, the agency should consult with the SHPO, the public, and the Council. Consultation will result in a memorandum of agreement (MOA) outlining measures agreed upon by the agency to reduce, avoid, or mitigate the adverse effect. The MOA is submitted to the Council and the Council replies in writing within 30 days.

**EFFECTIVE DATE**

This office letter is effective immediately.

Attachments:

1. Environmental Assessment Flow Chart
2. Environmental Assessment Preparation Guidance
3. **Format and Content of Environmental Assessment**
4. Environmental Justice Interim Procedure
5. List of States with Federally Approved Coastal Management Programs
6. Draft Model Certification
7. Coastal Zone Management Act Flow Chart
8. **Endangered Species Act Consultation Flow Chart**
9. **Section 106 Flow Chart**

cc w/attachments:

J. Callan, EDO  
H. Thompson, DEDR  
W. Travers, DEDE  
H. Miller, RI  
L. Reyes, RII  
A. Beach, RIII  
E. Merschhoff, RIV  
SECY  
OGC  
PUBLIC

effect. If an adverse effect is determined, the agency should consult with the SHPO, the public, and the Council. Consultation will result in a memorandum of agreement (MOA) outlining measures agreed upon by the agency to reduce, avoid, or mitigate the adverse effect. The MOA is submitted to the Council and the Council replies in writing within 30 days.

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**ATTACHMENT 1**

**ENVIRONMENTAL ASSESSMENT FLOW CHART**

**ATTACHMENT 2**  
**ENVIRONMENTAL ASSESSMENT PREPARATION GUIDANCE**

## DETAILED GUIDANCE FOR PREPARING ENVIRONMENTAL ASSESSMENTS

### Identification of the Proposed Action

This section should briefly describe the action proposed and reference the pertinent licensee application.

### The Need for the Proposed Action

Section 51.30(a)(1)(I) of Title 10 of the Code of Federal Regulations requires that an environmental assessment (EA) shall contain a brief discussion of the need for the proposed action. When writing this portion of the EA, the person preparing the EA should discuss the applicant's motivation for submitting the application to the NRC. For example, does the requested exemption or amendment provide some benefit to the applicant if granted? How would the applicant be affected if the application was not approved?

### Environmental Impacts

**The environmental impacts of the proposed action must be evaluated by the Commission in accordance with 10 CFR 51.30(a)(1)(iii). The impacts section should certify that the proposed action will not increase the probability of accidents or entail an undertaking involving historic sites. This section should also include an evaluation of radiological and non-radiological impacts.**

### Alternatives

The National Environmental Policy Act (NEPA) contains two separate requirements related to the consideration of alternatives. The first requires the consideration of alternatives in the preparation of an environmental impact statement (EIS). The second requires the consideration of alternatives to recommended courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources. Thus, the statute requires alternatives to be considered only if an EIS is prepared or if an agency action exists that involves unresolved conflicting uses of resources. The significance of the environmental impact of the action cannot be used to determine whether an agency has to consider alternatives.

Sections 51.30(a)(1)(ii) and (iii) require that an EA include alternatives to the proposed action and the environmental impact of the alternatives. NEPA requires NRC to consider alternatives in the preparation of all EAs whenever the following two conditions are present: (1) there is some identifiable environmental impact from the proposed action and (2) the objective of the proposed action can be achieved in one of two or more ways that will have differing impacts on the environment (unresolved conflict of available resources). The fact that the EA involves a finding of no significant impact (FONSI) does not automatically exempt the person preparing the EA from considering alternatives. As long as there is some identifiable impact on the

environment from the proposed action, the person preparing the EA should consider alternatives. For those actions involving a very small impact, it is reasonable to consider a very limited range of alternatives. In fact, in several decisions, the courts have stressed that the range of alternatives an agency must consider in an EA decreases as the environmental impact of the proposed action becomes less and less substantial. However, no court has held that an agency is excused from considering alternatives if the agency has made a FONSI, and, in fact, considering alternatives is independent of the question of environmental impact.

Nonsignificant impact does not equal no impact, so if an even less harmful alternative is feasible, it ought to be considered. If the environmental impact of a proposed action is zero, there is no need to consider alternatives because there is no use of natural resources associated with the action. In those cases involving no environmental impact at all, it is reasonable to avoid a discussion of alternatives, or at least limit the discussion of alternatives to consideration of the no-action alternative. If the "no-action" alternative is the only alternative examined, the alternatives section may contain wording similar to the following:

As an alternative to the proposed action, the staff considered denying the proposed action (i.e., this is the "no-action alternative"). Denial of the application would not change current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

#### Conflicts Concerning Alternative Use of Resources

In accordance with Section 102(2)(E) of NEPA, agencies must consider alternative courses of action if the proposed action involves an unresolved conflict on how available resources will be used under the proposed action. This consideration will take place when the objective of the proposed action can be achieved in one of two or more ways that will have differing impacts on the environment even if a FONSI has been made. OGC has provided the following guidance to the staff. Almost all EAs prepared by NRC are expected to involve an "unresolved resource conflict," as this term has been interpreted by the courts.

#### Requirements for Consultation With States and Other Government Agencies

Section 51.30(a)(2) requires the EA to list agencies and persons consulted and to identify the sources used. The person preparing the EA must consult with the affected State before the EA is issued and must solicit comments on the environmental impact and any other comments the State may have. Additionally, the person preparing the EA is responsible for ensuring that other appropriate agencies are contacted if an action may involve some impact on the natural or physical environment. The consultation must be documented in a brief summary in the EA and should contain (1) the name of the agency or person contacted (consulted with), (2) the date and purpose of the consultation, (3) a brief summary of the views or comments expressed and the staff's resolution, and (4) references to publicly available documents containing additional information, as applicable.

The person preparing the EA should briefly describe why the consultation was initiated. For example, if the National Marine Fisheries Service was contacted on July 25, 1995, to discuss a specific issue involving short-nosed sturgeon, the summary could make the following statement:

The National Marine Fisheries Service was contacted on July 25, 1995, to discuss the evaluation of the ability of short-nosed sturgeon to avoid capture after the proposed modification of the river water intake.

If the consultation was made to meet strictly a programmatic requirement and not a specific issue, the consultation with the State could be summarized as follows:

In accordance with its stated policy, on [insert date], the staff consulted with the [insert name of State] State official, [insert name of official] of the [insert name of agency], regarding the environmental impact of the proposed action. The State official had [choose one - comments or no comments].

If comments are received from the State or agency, the comments should be summarized in the EA. Minor comments could be characterized as "general agreement" or "no objection" by the State or agency. More extensive comments require the person preparing the EA to summarize the details of the issues and the resolution of the comments in the EA or to place them in a separate document and reference them in the EA. Resolution of the comments should be placed in the NRC Public Document Room (PDR) and the local PDR to ensure public access.

Before issuing the EA for an exemption to the regulations, the person preparing the EA should also contact the State government to solicit comments on the environmental impact of the proposed action. Although notifying the State is not required by 10 CFR 50.91, it is required by the NEPA. This requirement may be met by sending a copy of the incoming exemption request to the State. If the State has a comment, the person preparing the EA should resolve and document the comments in the EA, as previously discussed.

**ATTACHMENT 3**

**FORMAT AND CONTENT OF THE ENVIRONMENTAL ASSESSMENT**

APPROPRIATE FORMAT AND CONTENT OF AN ENVIRONMENTAL ASSESSMENT

(Addressee)

SUBJECT: (Plant name) - (TAC NO. MOOOOO)

Dear \_\_\_\_\_:

Enclosed is a copy of the Environmental Assessment and Finding of No Significant Impact related to your application for [amendment/exemption] dated \_\_\_\_\_, as supplemented on \_\_\_\_\_. The proposed [amendment/exemption] would \_\_\_\_\_.

The assessment is being forwarded to the Office of the Federal Register for publication.

Sincerely,

\_\_\_\_\_, Project Manager or  
**Project Director**  
Project Directorate\_\_\_\_  
Division of Reactor Projects - \_\_\_\_  
Office of Nuclear Reactor Regulation

Docket No. \_\_\_\_

Enclosure: Environmental Assessment

cc w/encl: See next page

UNITED STATES NUCLEAR REGULATORY COMMISSION

(LICENSEE)

(DOCKET NO.)

(PLANT NAME)

ENVIRONMENTAL ASSESSMENT AND FINDING OF

NO SIGNIFICANT IMPACT

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an [amendment to/exemption from] Facility Operating License No. \_\_\_\_\_, issued to (name of licensee) , (the licensee), for operation of the (facility name) , located in \_\_\_\_\_.

ENVIRONMENTAL ASSESSMENT

Identification of the Proposed Action:

The proposed action would \_\_\_\_\_

The proposed action is in accordance with the licensee's application for [amendment/exemption] dated \_\_\_\_\_, as supplemented by letter dated \_\_\_\_\_.

The Need for the Proposed Action:

The proposed action \_\_\_\_\_

Environmental Impacts of the Proposed Action:

The Commission has completed its evaluation of the proposed action and

concludes that \_\_\_\_\_

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The **proposed action** will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or **public** radiation exposure. **Therefore**, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, **the proposed action does not involve any historic sites. [PREPARER PLEASE VERIFY THAT NO HISTORIC SITES ARE IMPACTED BY THE PROPOSED ACTION.]** It does not affect non-radiological plant effluents and has no other environmental impact. **Therefore**, there are no significant non-radiological environmental impacts associated with the proposed action.

**Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.**

Alternatives to the Proposed Action:

PREPARER, PLEASE NOTE

The following paragraph may be used when the "no-action" alternative is addressed in the EA.

Since the Commission has concluded **that there are no significant environmental impacts** associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action (**i.e., the "no-action" alternative**). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.



**ATTACHMENT 4**  
**ENVIRONMENTAL JUSTICE INTERIM PROCEDURE**

**ATTACHMENT 5**

**LIST OF STATES WITH FEDERALLY APPROVED COASTAL ZONE  
MANAGEMENT PROGRAMS**

STATES AND TERRITORIES WITH FEDERALLY APPROVED COASTAL ZONE  
MANAGEMENT PROGRAMS

Alabama	New Jersey
Alaska	New York
American Samoa	North Carolina
California	Northern Marinas
Connecticut	<b>Ohio</b>
Delaware	Oregon
Florida	Pennsylvania
<b>Georgia</b>	Puerto Rico
Guam	Rhode Island
Hawaii	San Francisco Bay Conservation and Development Commission
Louisiana	South Carolina
Maine	<b>Texas</b>
Maryland	Virginia
Massachusetts	Virgin Islands
Michigan	Washington
Mississippi	Wisconsin
New Hampshire	

STATES DEVELOPING COASTAL ZONE MANAGEMENT PROGRAMS

Indiana	Minnesota
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**ATTACHMENT 6**  
**DRAFT MODEL CERTIFICATION**

FEDERAL CONSISTENCY CERTIFICATION  
FOR FEDERAL PERMIT AND LICENSE APPLICANTS

The Coastal Zone Management Act of 1972 (CZMA) requires that any applicant for a Federal license or permit or authorization, certification, approval, or other form of permission, which any Federal agency is empowered to issue to an applicant to conduct an activity, inside or outside of the coastal zone, affecting any land or water use or natural resource of the coastal zone of that State, shall certify in the application to the approving Federal agency that the proposed activity complies with the enforceable policies of the State's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the State or its designated agency a copy of the certification, with all necessary information and data. See 16 U.S.C. 1456(c)(3)(A); 15 C.F.R. 930.51(a). At the earliest practicable time, the State agency shall notify the Federal agency and the applicant whether the State agency concurs or objects to a consistency certification. See 15 C.F.R. 930.63(a).

[Insert name of State] has an approved CZMA Program, which includes [insert the statutory provisions and regulations of the State's CZMA Program].

Consistency Certification:

[Insert name of applicant] has determined that the proposed [insert name of project] complies with the [insert name of State] approved coastal management program (CMP) and will be conducted in a manner consistent with such program.

Necessary Data and Information:

- (1) This section provides a detailed description of the proposed activity and its associated facilities. [Provide a copy of the Federal application and other materials pursuant to 15 CFR 930.58(a)(1), which will permit adequate assessment of probable coastal zone effects by the State.]
- (2) This section contains the necessary information and data required by the State's CMP as described in the State's CMP program document and subsequent approved amendments. [Provide information pursuant to 15 CFR 930.58(a)(2) and 930.56(b).]
- (3) This section contains a brief assessment relating the probable effects of the proposed [insert name of project] and its associated facilities on any land or water use or natural resource of the coastal zone to the relevant enforceable policies of the [insert name of State] CMP. [Contact the State coastal management agency to help determine relevant enforceable policies, briefly describe the relevant policies, and write a brief assessment of how the effects of the proposed activity relate to the relevant policies.]

- (4) This section contains a brief set of findings, derived from the assessment, that the proposed [insert name of project], its associated facilities, and their effects are all consistent with the enforceable policies of the [insert name of State] CMP. [Prepare a set of findings for each distinguishable aspect of the proposed activity-essentially a conclusion of fact based on the assessment.]

By this certification that the [insert name of project] is consistent with **the** [insert name of State] CMP, the State of [insert name of State] is notified that it has 6 months from receipt of this letter and accompanying information in which to concur with or object to [insert name of applicant] certification. However, pursuant to 15 CFR 930 63(b), if [insert name of State] has not issued a decision within 3 months following commencement of State agency review, it shall notify [insert name of applicant] and the Federal agency of the status of the matter and the basis for further delay. The State's concurrence, objection, or notification of review status shall be sent to [insert name of applicant contact].

ATTACHMENT 7

COASTAL ZONE MANAGEMENT ACT FLOW CHART

**ATTACHMENT 8**

**ENDANGERED SPECIES ACT CONSULTATION FLOW CHART**

**ATTACHMENT 9**  
**SECTION 106 FLOW CHART**

Note To: Claudia Craig  
From: John Thoma  
Subject: FINAL NRR PROCEDURE FOR ENVIRONMENTAL JUSTICE REVIEWS

I reviewed your October 19, 1998 NRR procedure for Environmental Justice reviews and have the following comments for consideration:

1. As far as I can tell the specific part of the procedures does follow the guidance established by the Council on Environmental Quality on December 10, 1998. However, in the recent appropriations bills, there was specific language concerning environmental justice (primarily aimed at EPA). Does the appropriations language have any impact on the NRR procedures? OGC should know the answer.
2. It is good that the procedure (page 3, 4<sup>th</sup> paragraph) addresses limited environmental justice reviews for amendments, particularly when an environmental justice review was not done for the original environmental impact statement. At a later date, you may want to include more specific guidance about the scope and effort of an environmental justice review on a major action such as a license renewal. As I understand it (and I could be wrong), you do an environmental justice review to determine the impacts of building or not building a facility. However, for license renewal, particularly for a power plant, the facility is already built and operational. Whatever environmental justice impacts it was going to have will have occurred. Does this change the type or focus of the questions for the environmental justice review? I am not saying that this set of procedures needs to be modified to address this issue now. However, the license renewal people should be facing this problem now.
3. There are several areas in the procedures where the guidance is very general and it would be helpful to either provide more specific guidance or at least give some additional general guidance or provide some reference examples, particularly to assist a new project manager or reviewer (and new could mean new to the NRC or new to the particular site). I recognize up-front that you may not have more specific guidance at this time for these areas. But you could include a general instruction to consult with OGC or the branch chief or Division Director or the NRC Environmental Justice Working Group or any other group you desire. The specific areas I located included:
  - a. Page 2, General Principles of EJ, third paragraph: This paragraph says to consider the impacts from other facilities in the area even if they are not subject to the discretion of the agency proposing the action. Once you decide to do an EJ review, the procedure calls for conducting a survey to determine the extent of "other facilities" to be considered. My question is, are the impacts of "other facilities" an input in deciding whether or not to do an EJ review? If so, how does the project manager or reviewer know what to consider at this initial stage when no survey has been conducted? The answer could be that you decide to conduct an EJ review based solely on the site specific information when you decide to do an EIS, EA, or FONSI. But once you decide to do an EJ, then it must consider the impacts of other facilities in the areas. If this second

interpretation is the way that you want the procedure to read, you will have to make the procedure clearer in this area (and that could be done with one or two sentences).

- b. Page 3, PROCEDURES, 1., second paragraph: The paragraph states "When the regulatory action is supported by an EA, the reviewer should recommend to management whether unusual circumstances warrant the consideration of potential EJ concerns in the EA. ...". This is very general guidance that puts a large amount of responsibility on the reviewer. You need to provide more specific guidance, a list of examples, specialized training, or at least instructions on who to discuss the issues with to define unusual circumstances. Unless you have specific EJ reviewers, this is not an area where the typical project manager or reviewer has expertise.
- c. Page 1, Scope, second paragraph: This paragraph states "However, under special circumstances, EJ reviews may be needed for actions in which an EA/FONSI is prepared ... . In these cases, the staff will inform NRR senior management ...". As in 3.b above, this action places the responsibility on staff to recognize special circumstances with no specific guidance provided.