

August 19, 2008

MEMORANDUM TO: James F. McDermott, Director
Office of Human Resources

Michael F. Weber, Director
Office of Nuclear Material Safety
and Safeguards

Michael R. Johnson, Director
Office of New Reactors

Eric J. Leeds, Director
Office of Nuclear Reactor Regulation

Karen D. Cyr, Director
Office of the General Counsel

FROM: Charles L. Miller, Director */RA George Pangburn for/*
Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: EFFORT TO TRAIN THE U.S. NUCLEAR REGULATORY COMMISSION
STAFF ON THE NATIONAL ENVIRONMENTAL POLICY ACT

In times of increasing workloads and flat budgets, it is important that the U.S. Nuclear Regulatory Commission (NRC) efficiently and effectively utilize available resources and techniques to achieve success in environmental reviews throughout the agency. By using a contract with Duke University, co-sponsored with The Council on Environmental Quality, to present courses near the NRC Headquarters in The National Environmental Policy Act (NEPA), the offices achieved success in training a large number of staff in NEPA in a timely and cost-effective manner. In addition, this training is positioning our staff to complete the Duke University graduate level Professional Certificate in NEPA. Please see Enclosure 1 for a detailed White Paper explaining this initiative.

Although FSME had the lead for the contract, it could not have been accomplished without the financial commitment and support from your offices. We are prepared to continue leading the NRC effort for a new umbrella contract with Duke University to present additional NEPA classes for the NRC offices near the NRC Headquarters over the next five years (i.e., Fiscal Year (FY) 2009 – FY 2013). Please see Enclosure 2 for the table of single and combination courses that Duke University will be able to provide to our staff under the new umbrella contact. However, we are soliciting your continued support and agreement to participate fully in the program.

CONTACT: Harry D. Felsher, DWMEP/FSME
301-415-6559

Our plan is for each class to be provided to as many as thirty students and we want to continue to promote a reasonable and workable number of slots in the classes for all of the major offices in order to maximize our collective NEPA expertise. Under this new umbrella contract, the NRC must commit the funds for each course when the course is ordered. For FY 2009, we request that you provide those funds to FSME early in the fiscal year. For future fiscal years, we request that you incorporate this request into your budget formulation process, dedicate those funds to this effort, and provide those funds to FSME early in the fiscal year. In addition, we want any feedback that you have concerning this effort to train the NRC staff in NEPA in an efficient, effective, and timely manner.

It is noteworthy that the FY 2007 – FY 2008 contract with Duke University was successful in training the ~120 NRC staff from FSME, NMSS, NRO, NRR, and OGC on the “NRC Customized Implementation of NEPA,” which saved the NRC ~\$198,000 by having the four sessions of the class near the NRC Headquarters. The new umbrella contract with Duke University is expected to contain ~600 slots (i.e., 4 classes x 30 slots/class x 5 years) with some NRC staff taking multiple slots. This will train NRC students in multiple NRC Customized DEL Program NEPA classes over the next five years. This is expected to save the NRC ~\$1,275,000 over those five years due to tuition discount, no travel costs, and no per-diem costs.

Therefore, we request that your office provides us a response by September 15, 2008, with your continued support, resolution to provide appropriate funds in a timely manner, and any feedback on this effort based on results to date.

After the new contract is finalized in the near term, we will have continuing dialogue with you regarding the financial resources needed in each fiscal year, which is based on the number of students each office has in each class.

Enclosures:

1. White Paper on Effort to Train the NRC Staff on NEPA
2. Table of Single and Combination Courses

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2. Table of Single and Combination Courses

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OFFICE	DWMEP	DWMEP: D	Tech Ed	FSME
NAME	HFelsher	LCamper	PTressler	CMiller (G.Pangburn for)
DATE	08/04/08	08/04/08	08 /07/08	08/19/08

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White Paper on Effort to Train the U.S. Nuclear Regulatory Commission Staff on The National Environmental Policy Act

PURPOSE

To inform you of the importance of the ongoing efforts to have Duke University, co-sponsored by The Council on Environmental Quality (CEQ), provide training courses on The National Environmental Policy Act (NEPA) to the U.S. Nuclear Regulatory Commission (NRC) staff in all major program offices.

BACKGROUND

The NRC performs environmental reviews under NEPA for reactors and materials licensees, applicants, and facilities and sites undergoing decommissioning. This also includes the areas of fuel cycle facilities, spent fuel transportation casks, and waste sites, such as Yucca Mountain. The recent nuclear renaissance along with many new NRC employees that will be involved in environmental activities have dramatically increased the need for training in NEPA reviews.

Duke University, co-sponsored by the CEQ, through the Duke Environmental Leadership (DEL) Program provides a graduate level Professional Certificate in NEPA. This program is designed for professionals seeking essential skills in the understanding and implementation of NEPA. To complete the Certificate, a student is first required to take the cornerstone "Implementation of the National Environmental Policy Act" course. The elective courses for the Certificate fall into two required groups. For the first group of courses, a student is required to take two of the following four courses: (1) "Socioeconomic Impact Analysis under NEPA", (2) "Accounting for Cumulative Effects in the NEPA Process", (3) "Tribal Consultation," and (4) "Preparing and Documenting Environmental Impact Analyses." For the second group of courses, a student is required to take one of the following three courses: (1) "Scoping, Public Involvement and Environmental Justice," (2) "Current and Emerging Issues in Environmental Policy," and (3) "The Law of NEPA". In the future, DEL may develop and offer additional courses and plans to customize certain of their courses to maximize the NRC needs and experience. In order for a student to receive the Certificate, in addition to taking courses, the student is required to write a capstone paper that is an original, research-based culminating exercise related to NEPA theory or practice.

The CEQ coordinates federal environmental efforts and works closely with agencies and other White House offices for development of environmental policy and initiatives. These courses are specifically designed for mid-level and senior project managers who work to streamline the environmental permitting process for federal facilities and federal regulatory activities; and to prepare and review environmental assessments, environmental impact statements, and other NEPA analyses. These courses provide the necessary tools to address the environmental effects of agency actions and to ensure that environmental impact analyses are substantively and procedurally accurate. Instruction aids students in determining the proper level of documentation to fully record and disclose to the public the results of environmental analysis.

Congress established CEQ within the Executive Office of the President as part of NEPA implementation and additional responsibilities were provided by the Environmental Quality Improvement Act of 1970. In enacting NEPA, Congress recognized that nearly all federal activities affect the environment in some way and mandated that before federal agencies make decisions, they must consider the effects of their actions on the quality of the human

environment. NEPA assigned CEQ the task of ensuring that federal agencies meet their obligations under NEPA. The challenge of harmonizing our economic, environmental and social aspirations has put NEPA at the forefront of our nation's efforts to protect the environment. CEQ reports annually to the President on the state of the environment, oversees federal agency implementation of the environmental impact assessment process, and acts as referee when agencies disagree over the adequacy of such assessments.

Additionally, both the Administrative Procedure Act and the U.S. Supreme Court hold that CEQ's regulations and interpretations of NEPA must be accorded deference. The U. S. Supreme Court has stated, "The Council on Environmental Quality, established by NEPA with authority to issue regulations interpreting it, has promulgated regulations to guide federal agencies in determining what actions are subject to that statutory requirement", 124 S. Ct. 2204. In short, there is simply no other federal agency that plays the same role as CEQ vis-à-vis NEPA.

While there are other entities besides Duke University who provide training on NEPA, CEQ only co-sponsors NEPA training with Duke University. CEQ does not co-sponsor the same or similar NEPA training program with any other entity. Due to the critical role that CEQ plays with respect to NEPA activities, Duke University's training courses are optimal for a federal regulatory agency seeking excellent credentials in the area of environmental reviews under NEPA. Thus, given the fact that CEQ does not co-sponsor a same or similar NEPA training program with any other entity, Duke University is the only known source presenting NEPA training courses co-sponsored by CEQ that can be used to fulfill the NRC staff's needs. Duke University will provide its courses at or near the NRC Headquarters and will modify them as requested to focus upon the NRC needs and experience.

WHAT HAS BEEN ACCOMPLISHED?

In early Calendar Year 2007, the NRC's Office of Federal and State Materials and Environmental Management Programs (FSME) and Office of the General Counsel (OGC) recognized that there was a need for large numbers of the NRC staff to become trained in NEPA. This was because of the expected increase in the NRC's licensing and associated hearing activities related to the nuclear renaissance throughout the entire nuclear fuel cycle (e.g., uranium milling, enrichment/fuel fabrication facilities, current reactors, new reactors, transportation of spent fuel, Yucca Mountain). The Office of Nuclear Material Safety and Safeguards (NMSS), Office of New Reactors (NRO), and Office of Nuclear Reactor Regulation (NRR) agreed to participate in an expansive program to train a large number of the NRC Project Managers.

Working with the NRC's Office of Administration/Division of Contracts (DC), FSME took the lead for the offices. In July 2007, a contract was finalized for three sessions of the "NRC Customized Implementation of NEPA" training course to be held near the NRC Headquarters in Fiscal Year (FY) 2007 – FY 2008 with an option for additional sessions. In December 2007, a fourth session was added in FY 2008. Each session was for ~30 students. Depending on the timeframe and needs of each office, the number of students per session for each office was different and each office was expected to pay ~\$1,000 for each student (normally, \$1,150) for a discount of ~13%. The three sessions occurred in September 2007, February 2008, and April 2008 while the fourth session is scheduled for September 2008. Thus, after the fourth session, ~120 NRC staff will have taken the "NRC Customized Implementation of NEPA" training course.

Given the large number of the NRC staff needing to take the DEL Program Cornerstone course, it was more cost-effective for the NRC to have the sessions near the NRC Headquarters to allow staff the opportunity to take the class without traveling to other locations, which saved the NRC money, time, and resources.

For example, the cost for one NRC staff to travel to Duke University for the DEL Program Cornerstone course for one week would have been: tuition of \$1,150, travel of ~\$600, and per diem of ~\$900, which is a total of ~\$2,650. For 120 students, the NRC cost would have been ~\$318,000. The cost for having the four sessions at or near the NRC Headquarters was \$120,000. Therefore, the NRC has already saved ~\$198,000. In addition, the NRC staff saved time by not having to travel to Duke University and the NRC staff was able to still be in contact with the office.

WHY IS THE DEL PROGRAM IMPORTANT?

The DEL Program NEPA classes are extremely important to FSME given resource constraints in FY 2008 and beyond. FSME is responsible for all the NRC environmental reviews, except for both current and new operating reactors as well as Yucca Mountain. This includes all the new and restart/expansion uranium recovery applications.

As of July 17, 2008, the NRC expects 20 new and 9 restart/expansion uranium recovery applications from FY 2007 – FY 2011. FSME has not received the budget to complete all those safety and environmental reviews in a two-year timeframe. Given the resource constraints and in order to complete the environmental reviews for In Situ Recovery (ISR) uranium recovery applications, FSME decided in FY 2007 to complete an ISR Generic Environmental Impact Statement (GEIS) in FY 2009 and then tier-off the ISR GEIS with either a site-specific environmental assessment or environmental impact statement. The Duke DEL Program will greatly aid in training the NRC staff to complete the extensive uranium recovery environmental workload.

Also, the DEL Program NEPA classes allows FSME to cross-train Decommissioning Project Managers (who are working themselves out-of-a-job because most reactors are filing for license extension rather than decommissioning) to perform environment reviews for the uranium recovery applications under the mentoring of FSME Environmental Review staff. The benefits of cross-training, mentoring, and knowledge management are well understood. Thus, the ISR GEIS and DEL Program NEPA classes are the best option to address the FSME substantive resource shortfalls.

The DEL Program NEPA classes are important to NMSS because the U.S. Department of Energy submitted a license application for the Yucca Mountain High-Level Waste Repository in FY 2008 and that requires an environmental review to meet NEPA. The classes are important to NRO because all the new reactors will require environmental reviews to meet NEPA. The classes are important to NRR because of the license extensions of current reactors require environmental reviews to meet NEPA. The classes are important to OGC because OGC will be involved in any hearings that arise that are associated with any of the licensing actions taken by FSME, NMSS, NRO, and NRR.

In addition, FSME, NMSS, NRO, NRR, and OGC need the DEL Program NEPA classes because there is a large number of the NRC staff that are new or will be working environmental reviews that have not worked on environmental reviews in the past.

WHAT WOULD HAPPEN WITHOUT THE NRC/DUKE ARRANGEMENT?

Without the DEL Program NEPA classes being taught near the NRC Headquarters, the total cost to the NRC would increase each year, starting from a baseline and increasing by 4% each year. The total cost includes the courses cost, travel cost, and per-diem cost. Assuming one single week-long course and three week-long combination courses per year (each course with 30 students), the total cost for those courses in each year would be approximately the following:

	Year 1	Year 2	Year 3	Year 4	Year 5
Courses	\$180,000	\$187,200	\$194,688	\$202,476	\$210,575
Travel	\$ 74,880	\$ 77,875	\$ 80,990	\$ 84,230	\$ 87,599
Per-Diem	\$112,320	\$116,813	\$121,486	\$126,345	\$131,399
TOTAL	\$367,200	\$381,888	\$397,164	\$413,051	\$429,573
Per Student Cost (Single Course)	\$2,760	\$2,870	\$2,985	\$3,104	\$3,228
Per Student Cost (Combination Course)	\$3,160	\$3,286	\$3,417	\$3,554	\$3,696

For five years, the total cost, including courses cost, travel cost, and per-diem cost to the NRC would be \$1,988,876. In addition, this would also take more time away from the NRC staff being able to perform their duties at the NRC Headquarters. For FSME, it would make it much more difficult to cross-train Decommissioning Project Managers to perform environmental reviews under the mentoring of FSME Environmental Review staff, which would severely impact the schedule for completing the licensing actions for the ~30 new or restart/expansion uranium recovery applications.

Given the increased environmental workload in the future for the entire nuclear fuel cycle, such as, uranium recovery, fuel cycle facilities, life extension of current nuclear power plants (NPPs), new applications for NPPs, and Yucca Mountain, it is imperative that the NRC arrange to have staff trained in NEPA in the most efficient and effective manner possible. Absent such training, the NRC may not be able to complete the environmental reviews necessary in a timely manner.

WITH THE NRC/DUKE ARRANGEMENT, WHAT IS EXPECTED TO BE ACCOMPLISHED?

In FY 2007 – FY 2008, the NRC contracted with Duke University to present four sessions of the NRC customized version of the Cornerstone “Implementation of NEPA” class. However, the NRC was always interested in having more than just the Cornerstone course provided by Duke University. As demonstrated by the success of the “NRC Customized Implementation of NEPA” course and after the FY 2008 Budget was passed, FSME worked with the Office of Administration/DC and took the lead in developing a new umbrella contract for Duke University DEL Program Customized NEPA courses for the NRC. This contract would include the possibility of not only the designated DEL Program courses, but also combinations of those courses. The contract would be for training in FY 2009 – FY 2013 with ~four classes per year with a discounted cost to the NRC. Each class would be for ~30 students. Depending on the timeframe and needs of each office, the number of students per class for each office would be

different. The amount of money that each office would pay for each student would depend on which class is being taught and how much that class cost.

Given the large number of the NRC staff to take the DEL Program classes, it would be more cost-effective for the NRC to have the classes near the NRC Headquarters to allow staff the opportunity to take the classes without traveling to other locations, which will save the NRC money, time, and resources.

With the DEL Program NEPA classes being taught near the NRC Headquarters with a discount of 15% for single courses and a discount of 30% for combination courses, the total cost to the NRC would increase each year, starting from a baseline and increasing by 4% each year. The total cost includes only the courses cost. Assuming one single week-long course and three week-long combination courses per year (each course with 30 students), the total cost for those courses in each year would be approximately the following:

	Year 1	Year 2	Year 3	Year 4	Year 5
Courses	\$131,400	\$136,656	\$142,122	\$147,807	\$153,719
Travel	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Per-Diem	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
TOTAL	\$131,400	\$136,656	\$142,122	\$147,807	\$153,719
Per Student Cost (Single Course)	\$1,020	\$1,061	\$1,103	\$1,147	\$1,193
Per Student Cost (Combination Course)	\$1,020	\$1,165	\$1,212	\$1,260	\$1,310

For five years, the total cost, including courses cost, travel cost, and per-diem cost to the NRC for the courses near the NRC Headquarters would be \$711,704. As shown above, the total cost, including courses, travel cost, and per-diem cost to the NRC for the courses at Duke University would be \$1,988,876. Thus, the NRC would save \$1,277,172 over five years for 20 classes, which is a significant savings. In addition, the NRC staff would save time by not having to travel to Duke University and the NRC staff would be able to still be in contact with the office.

The focus in the umbrella contract will be to give the combination courses in order to provide additional training to the ~120 NRC staff that has already completed the Cornerstone "Implementation of NEPA" class. In addition, the NRC would hold additional versions of the Cornerstone class or possibly, other non-combination DEL Program classes. Also, additional students will participate in the Program to gain an enhanced understanding of certain NEPA topical areas as needed for their work assignments and if they choose to, on their own, to attain the NEPA Certificate.

WHAT IS EXPECTED TO BE THE FUNDING MECHANISM?

Due to the lead time that both the NRC (to have an appropriate room available at the PDC) and Duke University (to fit an NRC class into the schedule) need to have, it is appropriate to have annual funding for all the training courses by each office early in that FY. This means that each office needs to budget for the training needs during the budget process and then the money needs to be committed early in the FY. This money should be dedicated to the DEL Program NEPA training rather than parceled out to individuals throughout the year through the normal office procedures for funding training.

SUMMARY

The FY 2007 – FY 2008 contract with Duke University was successful in training the ~120 NRC staff from FSME, NMSS, NRO, NRR, and OGC on the “NRC Customized Implementation of NEPA,” which saved the NRC ~\$198,000 by having the four sessions of the class near the NRC Headquarters. The new umbrella contract with Duke University is expected to be used to train ~600 cycled NRC students in multiple NRC Customized DEL Program NEPA classes over the next five years, which is expected to save the NRC ~\$1,275,000 over those five years. Optimally, the original ~120 students will cycle through the Program followed by training opportunities for additional students in the later classes. The classes will be used to train staff responsible for environmental reviews in FSME, NMSS, NRO, NRR, and OGC for new and current NRC licensed facilities throughout the entire nuclear fuel cycle.

Table of Single and Combination Courses

#	COURSE NAME	LENGTH (days)
1	Implementation of NEPA	4.5
2	Socioeconomical Impact Analysis Under NEPA	2.5
3	Accounting for Cumulative Effects in the NEPA Process	2.5
4	Tribal Consultation	2.5
5	Preparing and Documenting Environmental Impact Analyses	4.5
6	Scoping, Public Involvement, and Environmental Justice	2.5
7	Current and Emerging Issues in Environmental Policy	2.5
8	The Law and NEPA	2.5
9	Considering Greenhouse Gas Emissions and Climate Change Under NEPA	2.5
10	Using NEPA as a Framework for Collaboration	2.5
11	Combination of #2 and #6	2.5 each
12	Combination of #2 and #7	2.5 each
13	Combination of #2 and #8	2.5 each
14	Combination of #3 and #6	2.5 each
15	Combination of #3 and #7	2.5 each
16	Combination of #3 and #8	2.5 each
17	Combination of #4 and #6	2.5 each
18	Combination of #4 and #7	2.5 each
19	Combination of #4 and #8	2.5 each