INDUSRTY GUIDELINES FOR EFFECTIVE PRE-APPLICATION INTERACTIONS

309 NEPA Review

Environmental Protection Agency

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NEPA Documents for NPPs

- An EIS is required for any license issued by NRC to site, construct, or operate a new NPP (10 CFR 51.20(b)).
- EIS scope:
  - Construction permit
  - ESP
  - COL
  - LWA
- If a COL application references an existing ESP, NRC develops a Supplemental EIS to the Final EIS that was published for that ESP.
- For either an ESP or a COL, the applicant submits an environmental report to NRC, and NRC prepares the EIS.

EIS Review Process

- Section 102 of NEPA: All federal agencies can review EISs

- Section 309 of the Clean Air Act: EPA **must** review all EISs, and publish findings in the Federal Register

EPA Environmental Review Process

- EPA reviews and comments in writing on all Draft EISs officially filed with the Agency.
- EPA provides a rating of the EIS that summarizes EPA's level of concern:
  - Environmental impact
  - Adequacy of the EIS
- EPA meets with the lead agency to resolve significant issues, as necessary.

Specific Review Management Responsibilities

- HQ and Regional Environmental Review Coordinators
- Principle Reviewer
- Associate Reviewer

Pre EIS Review Activities

- Scoping
- Cooperating Agency

Important EPA Review Concerns

- Water quality
- Air quality
- Ground water/sole source aquifers
- Wetlands
- Hazardous waste issues
- Environmental Justice
- Cumulative Impacts

EPA Authorities Related to NNPs

- *Clean Air Act*:
  - Section 309: EPA reviews and comments on EISs for major federal actions.
  - Section 112: EPA lists HAPs and develops and enforces NESHAPs.
  - Section 502 (responsibility may be delegated to a state): Operating permit for nonradiological air emissions.
- *Clean Water Act*:
  - Section 402: EPA issues permits for discharges of pollutants, including heat and stormwater, under the National Pollutant Discharge Elimination System (NPDES)
    - Section 316(b): EPA also regulates cooling water *intake* structure location, design, construction, and capacity under the NPDES program
  - Section 404 (with the U.S. Army Corps of Engineers): EPA regulates dredging, filling, and wetlands impacts.
- *Safe Drinking Water Act*, Section 1424(e): Sole Source Aquifer Program
- *Atomic Energy Act*: Authority to issue generally applicable environmental radiation standards that other federal and state organizations must follow when developing requirements for their areas of radiation protection.

NNP Licensing and NEPA

- ***Pre-Construction Activities***
- NRC's authority limited to activities with a reasonable nexus to their regulatory oversight of radiological health / safety.
- Pre-construction activities could start before NRC issues a CP or COL, and **are outside of NRC's regulatory authority and NEPA compliance responsibility**.
- Includes borings for site exploration, site clearing, grading, drainage installation, excavation, support buildings, roads, railroad spurs, transmission lines, manufacturing the reactor itself, and others listed in final rule.

NNP Licensing and NEPA

- Limited Work Authorization (LWA)
- NRC may issue an LWA allowing an applicant to perform:
  - the driving of piles;
  - subsurface preparation;
  - placement of backfill, concrete, or permanent retaining walls within an excavation; or
  - installation of the foundation, including placement of concrete
- any of which are for a structure, system, or component of the facility for which either a construction permit or COL is required.
- An applicant may apply for an LWA as part of an application for a CP or COL.
- NRC will complete a Final EIS on the proposal before issuing the LWA (10 CFR 50.10 (e)).
- The LWA application and NEPA documentation may be in conjunction with the application and EIS for a construction permit or an ESP.

§309 Reviewers Guidance for New Nuclear Power Plant Environmental Impact Statements

September 2008

Office of Enforcement and Compliance
Office of Federal Activities
NEPA Compliance Division

Important NEPA Web Pages

- CEQ:
  - http://www.whitehouse.gov/ceq
- CEQ NEPAnet:
  - http://www.nepa.gov/nepa/nepanet.htm
- EPA NEPA Program:
  - http://www.epa.gov/compliance/nepa/index.html
- §309 Reviewers Guidance for New Nuclear Power Plant Environmental Impact Statements:
  - http://www.epa.gov/compliance/resources/policies/nepa/309-reviewers-guidance-for-new-nuclear-power-plant-EISs-pg.pdf