



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

December 6, 2013

Mr. George Stafford  
New York State Department of State  
Counsel's Office  
One Commerce Plaza  
99 Washington Avenue  
Albany, NY 12231-0001

SUBJECT: CONSISTENCY OF THE INDIAN POINT NUCLEAR GENERATING UNIT NOS.  
2 AND 3, LICENSE RENEWAL APPLICATION, WITH NEW YORK STATE  
COASTAL MANAGEMENT PROGRAM

Dear Mr. Stafford,

By letter dated April 23, 2007, Entergy Nuclear Operations, Inc. (Entergy) submitted, pursuant to Title 10 of the *Code of Federal Regulations*, Parts 51 and 54, an application and associated environmental report for review by the U.S. Nuclear Regulatory Commission (NRC), to renew the operating licenses for Indian Point Units 2 and 3 (IP2 and IP3, respectively). The NRC staff documented its findings related to the environmental review of Entergy's license renewal application (LRA) in Supplement 38 to NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants," which was issued in December 2010. In addition, the NRC staff issued a supplement to the Final Supplemental Environmental Impact Statement in June 2013.

By letter dated July 24, 2012, Entergy submitted a supplement to its environmental report providing an updated status of its compliance with the Coastal Zone Management Act (CZMA). In its supplement to its environmental report, Entergy stated that IP2 and IP3 have already obtained the necessary consistency reviews from the State of New York and that no further review is required, pursuant to regulations promulgated by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration in 15 CFR 930.51. The regulations in 15 CFR 930.51 require, for the renewal or major amendment of a federal license or permit, that a review be conducted of the consistency of the proposed action with the State's coastal management program (CMP). The regulations further describe situations whereby the renewal of a Federal license or permit for an activity that has previously been reviewed for consistency with the State's CMP does not require a subsequent consistency determination unless the proposed action will cause an effect on any coastal use or resource substantially different than those previously reviewed by the State agency. The regulations in 15 CFR 930.51(b)-(c) require a CMP consistency review in the following circumstances:

(b)(1) Renewals and major amendments of federal license or permit activities not previously reviewed by the State agency;

(b)(2) Renewals and major amendments of federal license or permit activities previously reviewed by the State agency which are filed after and are subject to management program changes not in existence at the time of original State agency review; and

(b)(3) Renewals and major amendments of federal license or permit activities previously reviewed by the State agency which will cause an effect on any coastal use or resource substantially different than those originally reviewed by the State agency.

(c) The term "major amendment" of a federal license or permit activity means any subsequent federal approval that the applicant is required to obtain for modification to the previously reviewed and approved activity and where the activity permitted by issuance of the subsequent approval will affect any coastal use or resource, or, in the case of a major amendment subject to § 930.51(b)(3), affect any coastal use or resource in a way that is substantially different than the description or understanding of effects at the time of the original activity.

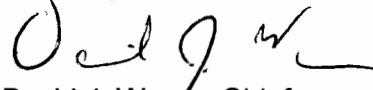
Paragraph 930.51(e) states as follows:

(e) The determination of substantially different coastal effects under paragraphs (b)(3) and (c) of this section is made on a case-by-case basis by the Federal agency after consulting with the State agency, and applicant. The Federal agency shall give considerable weight to the opinion of the State agency. The terms "major amendment," "renewals" and "substantially different" shall be construed broadly to ensure that the State agency has the opportunity to review activities and coastal effects not previously reviewed.

In accordance with its responsibilities under the National Environmental Policy Act of 1969 (NEPA) and the CZMA, the NRC staff is reviewing the information contained in Entergy's LRA and environmental report supplement. In addition, the NRC staff is seeking input from the State of New York Department of State (NYS DOS) pertaining to the State of New York's Coastal Zone Management Plan, in accordance with 15 CFR 930.51. Enclosed are several questions related to these topics. Responses by NYSDOS will be helpful to the NRC staff in our review of Entergy's supplement to its environmental report. We would be pleased to discuss the enclosed request with you, and suggest that a telephone conference call be arranged at your earliest convenience to facilitate our consultations regarding this matter.

If you have any questions, please contact Michelle Moser, Environmental Scientist, at 301-415-6509, or via e-mail at [michelle.moser@nrc.gov](mailto:michelle.moser@nrc.gov).

Sincerely,



David J. Wrofla, Chief  
Environmental Review and Guidance  
Update Branch  
Division of License Renewal

Docket Nos. 50-247 and 50-286

Enclosure:  
As stated

cc w/encl: Listserv

(b)(3) Renewals and major amendments of federal license or permit activities previously reviewed by the State agency which will cause an effect on any coastal use or resource substantially different than those originally reviewed by the State agency.

(c) The term "major amendment" of a federal license or permit activity means any subsequent federal approval that the applicant is required to obtain for modification to the previously reviewed and approved activity and where the activity permitted by issuance of the subsequent approval will affect any coastal use or resource, or, in the case of a major amendment subject to § 930.51(b)(3), affect any coastal use or resource in a way that is substantially different than the description or understanding of effects at the time of the original activity.

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*/RA/*  
David J. Wrona, Chief  
Environmental Review and Guidance  
Update Branch  
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Docket Nos. 50-247 and 50-286

Enclosure: As stated

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OFFICE	PM:DLR/RERB	LA:DLR/RPB1	PM:DLR/RERB	PM:DLR/RPB2	OGC	BC:DLR/RERB
NAME	RChazell	YEdmonds	MMoser	LJames	STurk	DWrona
DATE	10/09/13	11/26/2013	10/9/2013	10/24/2013	11/12/13	11/5/2013

**INDIAN POINT NUCLEAR GENERATING UNIT NOS. 2 AND 3,  
LICENSE RENEWAL APPLICATION**

**REQUEST FOR RESPONSES BY THE NEW YORK STATE DEPARTMENT OF STATE  
REGARDING THE STATE OF NEW YORK'S COASTAL ZONE MANAGEMENT PROGRAM**

In accordance with the Coastal Zone Management Act (CZMA) and regulations promulgated by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration in 15 CFR 930.51, the U.S. Nuclear Regulatory Commission (NRC) staff requests that the New York State Department of State (NYSDOS) provide its responses to the following questions pertaining to the application by Entergy Nuclear Operations, Inc. (Entergy) to the NRC for license renewal of Indian Point Nuclear Generating Units 2 and 3 (IP2 and IP3). Responses by the NYSDOS will assist the NRC in fulfilling its statutory responsibilities under the CZMA and the National Environmental Policy Act of 1969 (NEPA).

1. The State of New York's Coastal Zone Management Program (CMP) indicates that NYSDOS is the designated coastal management agency of New York State (CMP Part II, § II-4 at 2 (1982)) and, as such, is responsible for administering the New York CMP, as well as coordinating activities essential to its implementation. Further, the CMP states that NYSDOS will evaluate the consistency determinations made by State agencies and, when appropriate, advise the State agencies on the consistency of such actions with the coastal policies (CMP Part II, § II-4 at 3 (1982)). Please describe the process by which NYSDOS evaluates the consistency determinations made by State agencies. Specifically, please describe how a consistency determination is made, NYSDOS's role in making a determination, and how NYSDOS advises State agencies on the consistency of actions with the New York State CMP. Please describe how NYSDOS documents such coordination with State agencies.
  
2. On July 24, 2012, Entergy submitted a supplement to its application for renewal of the IP2 and IP3 operating licenses. In its supplement, Entergy reevaluated the status of its compliance with the CZMA. In its reevaluation, Entergy concluded that IP2 and IP3 have already obtained the necessary consistency reviews from the State of New York and that license renewal will not result in coastal effects that are substantially different than the effects previously reviewed by NYSDOS and/or other State agencies with jurisdiction under State law to make those determinations. Entergy based this conclusion, in part, on the assessment of coastal effects evaluated in the following four New York State documents:
  - New York Power Authority's (NYPA) environmental review (including the State Environmental Quality Review Act (SEQRA) negative declaration, Federal consistency certification, and State coastal assessment, if any) on the proposed sale of NYPA's IP3 to Entergy (March 31, 2000).
  
  - New York State Department of Environmental Conservation's (NYSDEC) Coastal Assessment (February 11, 2000) completed as a part of the State Pollutant Discharge Elimination System (SPDES) permit renewal application for IP2 and IP3 (March 2, 2000).

ENCLOSURE

- New York Public Service Commission's (NYPSC) Final Supplemental Environmental Impact Statement (FSEIS), on the transfer of IP1 and IP2 from Consolidated Edison to Entergy (August 17, 2001).
- NYSDEC's Final Environmental Impact Statement (FEIS) concerning applications to renew the SPDES permits for Hudson River power plants, including IP2 and IP3 (June 25, 2003).

For each of the four environmental reviews listed above, please indicate, separately, whether NYSDOS considers a consistency review to have been conducted by NYSDOS and/or another NYS office or agency. For each review, please state (a) which office or agency conducted that review, (b) whether that office or agency was authorized to conduct such review (including the statutory or regulatory bases for such authority), (c) the scope of the review (including both the activities reviewed and the resources affected by those activities), (d) whether NYSDOS evaluated the consistency determination made by the other State office or agency, and (e) whether NYSDOS provided comments or advice (or declined to provide comments or advice) to that office or agency on the consistency of such actions with the State's CMP. If NYSDOS considers that a consistency review was not conducted for any of the four matters listed above, please describe why a consistency review was not necessary or was not conducted for that particular action.

3. The State of New York's CMP states that, "Generally, [NYSDOS] will evaluate major actions proposed in the Coastal Area of the State by Federal agencies or by entities requiring Federal permits and determine the consistency of those actions with the Program's policies" (CMP Part II, § II-4 at 3 (1982)). Please describe the circumstances, if any, in which NYSDOS would not perform a consistency evaluation for a Federal action that may affect New York State's coastal zone. Additionally, please describe how a consistency evaluation for a Federal action would differ from an evaluation performed for a State action. For the four reviews cited by Entergy, please describe whether each review would be sufficient for a consistency review for a Federal action and, if deficient, how that review is deficient. Please cite any applicable regulations, guidance, or other relevant documents.
4. CZMA regulations in 15 CFR 930.51 describe situations whereby the renewal of a Federal license or permit for an activity that has previously been reviewed for consistency with the State's coastal management program does not require a subsequent consistency determination unless the proposed action will cause an effect on any coastal use or resource substantially different than those previously reviewed by the State agency.
  - a. Please describe your understanding of the applicability of 15 CFR 930.51(b), (c) and (e) to the license renewal application for IP2 and IP3.
  - b. Please state if you believe there were any substantial changes in the coastal environment or substantial changes to the New York CMP since 2000. If so, please describe those changes.
5. Is the Department aware of any other examples where a consistency review by a State agency was not required, or not conducted, because a review had been conducted previously and the proposed activity would not affect any coastal use or resource in a way that was substantially different than the description or understanding of effects at the time of the original review, as described 15 CFR 930.51? If so, please describe the circumstances of that (those) situation(s).

6. Please describe whether NYSDOS concurs with Section 9.3 of Entergy's Environmental Report, as revised (Enclosure 1 to NL-12-107), in which Entergy states it "now believes that the New York Coastal Zone Management Plan also exempts both plants from further consistency review."