

POLICY ISSUE
NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Chairman Hanson
SUBJECT: SECY-21-0001: Rulemaking Plan - Transforming the
NRC's Environmental Review Process

Approved Disapproved Abstain Not Participating

COMMENTS: Below Attached None

Entered in STARS

Yes

No

Signature

Christopher T. Hanson

Date

03/30/2022

Chairman Hanson's comments on SECY-21-0001: Rulemaking Plan - Transforming the NRC's Environmental Review Process

I appreciate staff's effort to develop a rule which enhances flexibilities of the environmental review process. I also want to take this opportunity to recognize other recent efforts to transform environmental reviews in the agency. Not only did the staff recently create the Environmental Center of Expertise (EnvCOE), but they have also created the EnvCOE Toolbox and handbook to share knowledge and increase consistency in National Environmental Policy Act (NEPA) reviews within the agency. Additionally, the staff initiated a separate rulemaking to revise the NRC regulations on categorical exclusion for licensing, regulatory, and administrative actions that individually or cumulatively do not have a significant effect on the human environment. All those efforts, and some of the ideas presented in this paper, will help to transform NEPA reviews without negatively affecting public participation. Although I do not support the staff's recommended rulemaking, I approve Option 2, with the following considerations.

Items included in the 2020 Council on Environmental Quality's (CEQ's) final rule

The staff indicated that in the 2020 CEQ final rule there are several changes that merit further consideration as potential revisions to 10 CFR Part 51. The staff also indicated that although the current Administration has announced a comprehensive reconsideration of the rule, the changes still merit further consideration. After evaluating the proposed changes, I disagree with several of the recommendations outlined below:

- We should not codify in our regulations a firm schedule and a page limit. Selecting an arbitrary page number could affect the staff's ability to document its technical basis. The staff should however, revise guidance to streamline the content of NEPA documents with the goal of improving readability and eliminating redundancy. Although we should continue to have scheduling goals and timeliness metrics, the schedule should not be set in stone. This is especially important to preserve meaningful public participation, which is a key factor in the environmental review process.
- In my opinion, the cumulative impact analysis is one of the most important areas NRC considers in an EIS. In 1997, CEQ wrote the following in a 25th anniversary report: "Perhaps the most significant environmental impacts result from the combination of existing stresses on the environment with the individually minor, but cumulatively major, effects of multiple actions over time." I agree and therefore do not support deleting the definition or striking references to cumulative impacts.
- The NRC must not allow applicants to prepare their own environmental assessment (EA) or environmental impact statement (EIS). This could affect our independence as a regulator. We would not ask licensees to prepare their own Safety Evaluation Report; therefore, it is not appropriate to ask licensees to do their own EA or EIS. Licensees can continue submitting their Environmental Report, and we should continue documenting our regulatory findings in an EA or EIS.

I do, however, support exploring the following ideas:

- Staff spends a significant amount of time and resources analyzing reasonable alternatives in an EIS. Many of the alternatives go beyond NRC's jurisdiction or the applicant's intent. Therefore, I agree with the staff's recommendation of exploring this idea further. The staff should conduct an evaluation of NRC's process for selecting the reasonable alternatives that will be analyzed in detail in the EIS. The evaluation should include a cost-benefit analysis. The staff should continue monitoring CEQ's ongoing efforts to revise its regulations and consider how these changes impact the NRC's obligations under NEPA. The staff should provide the results of the evaluation and any recommendations to the Commission for consideration.
- Administrative changes related to document distribution, indexing, electronic notification, reducing redundancy, and improving readability should be considered as part of one of the other ongoing rulemaking efforts for 10 CFR Part 51 (e.g., Categorical Exclusion rulemaking).

Categories of licensing actions that require preparation of an EIS or supplemental EIS

The staff has determined that preparation of an EA may be sufficient to meet NEPA requirements for some categories and subcategories of licensing applications presently falling within the scope of 10 CFR 51.20(b). While this might be true for some advanced reactors, it is premature to pursue this change.

The process for developing an EIS provides meaningful opportunities for public participation. Considering we are in the early stages of new and advanced reactor design development, and potential impacts are still unknown at this point, an EIS can provide the agency with the comprehensive information it needs as part of these initial reviews. If, after completing several environmental reviews for advanced reactors, the staff determines that most result in a finding of no significant impact to the environment, then the staff should present options to the Commission to explore the idea further. If appropriate, at that time, one option could be a rulemaking to allow for the use of an EA to satisfy NEPA in advanced reactor applications as long as certain criteria are met.