

From: [Valerie Grussing](#)
To: [RulemakingComments Resource](#)
Cc: [Christopher Regan](#); [Stacey Imboden](#)
Subject: [External_Sender] NATHPO Comments on NRC GEIS
Date: Wednesday, December 18, 2024 3:20:11 PM
Attachments: NATHPO Comment Letter_NRC Proposed Rule on Draft GEIS for New Nuclear Reactors.pdf

Dear Ms. Safford,

The National Association of Tribal Historic Preservation Officers (NATHPO) has the attached comments regarding the U.S. Nuclear Regulatory Commission's (NRC) proposed rule to codify the generic findings of the NRC's draft Generic Environmental Impact Statement for Licensing of New Nuclear Reactors (NR GEIS).

Thank you for considering our comments on the draft NR GEIS.

Sincerely,
Valerie J. Grussing, PhD
Executive Director
252.531.7540 (cell)
202.628.8476 (office)
nathpo.org



**NATIONAL ASSOCIATION
OF TRIBAL HISTORIC
PRESERVATION OFFICERS**

P.O. BOX 19189
WASHINGTON, D.C. 20036-9189
(202) 628-8476
INFO@NATHPO.ORG
WWW.NATHPO.ORG

December 18, 2024

Carrie M. Safford
Secretary
U.S. Nuclear Regulatory Commission,
Washington, DC 20555

Dear Ms. Safford,

The National Association of Tribal Historic Preservation Officers (NATHPO) has the following comments regarding the U.S. Nuclear Regulatory Commission's (NRC) proposed rule to codify the generic findings of the NRC's draft Generic Environmental Impact Statement for Licensing of New Nuclear Reactors (NR GEIS).

NATHPO is the only national organization devoted to supporting Tribal historic preservation programs. Founded in 1998, NATHPO is a 501(c)(3) non-profit membership association of Tribal government officials who implement federal and Tribal preservation laws. NATHPO empowers Tribal preservation leaders protecting culturally important places that perpetuate Native identity, resilience, and cultural endurance. Connections to cultural heritage sustain the health and vitality of Native peoples.

Our organization greatly appreciates NRC's commitment to upholding its trust responsibility to Tribal Nations and its commitment to the nation-to-nation relationship between the federal government and Tribal Nations.

While NATHPO recognizes the value of finding efficiencies, we are always concerned about any proposed rule, like this one, which is explicitly intended to "streamline" the environmental review process. Far too often "streamlining" becomes a euphemism for speeding through the process and circumventing Tribal consultation. While Tribal Nations have no desire to unnecessarily delay a new nuclear reactor, or any other project, they also do not want to engage in a truncated consultation process based on the project applicant's timeline.

Beyond our overall objection to streamlining, NATHPO has a specific concern about the categorization of issues in the NR GEIS by resource area that was presented during the listening session. In the categorization of issues there is an artificial line drawn between Historic and Cultural issues and many other issues, such as "Land Use," "Visual Impacts," and "Surface Water." For Tribal Nations the land, the viewshed, and the surface water are cultural resources and the NRC's proposal to separate them is problematic.

This concern about a narrow definition of historic and cultural resources would fall under both subject one and subject three of NRC's "Specific Requests" for Comment.

- Subject one asked for comments on NRC's Plant Parameter Envelope and Site Parameter Envelope values and assumptions. NRC makes a false assumption about what is a cultural resource when it separates that issue area from land, viewshed, surface water, and other issue areas.
- Subject three asked for comments on the "categorization of the issues." Many of the issues, such as land use and viewshed, are included in "Category 1" issues that would have a "small impact," while "Historic and Cultural" are included in "Category 2" issues that would have an "undetermined impact." For Tribal Nations, the landscape, viewshed, surface water, and other areas are cultural resources and should also be included in "Category 2," because it cannot be determined, from a cultural standpoint, what impact building a nuclear power plant will have on them.

PROTECTING NATIVE PLACES

Besides the requested changes in categorization of issues, as the NR GEIS moves forward, NATHPO would strongly urge the following additions and clarifications outlined below. Namely, regarding the use of Indigenous Knowledge, application of the Native American Graves Protection and Repatriation Act (NAGPRA) to inadvertent discoveries, and compensation for work performed by Tribal Nations.

We ask that the NR GEIS be amended to include language unequivocally stating Indigenous Knowledge is a valid and self-supporting means for evaluating the impacts construction of new nuclear reactors will have on cultural resources and places. Such language would be consistent with the Advisory Council on Historic Preservation's policy on Indigenous Knowledge, and all Program Comments, NPAs, and Memoranda of Agreement should include this language.

NATHPO strongly recommends the inclusion of language saying, "The recipient shall be responsible for compliance with the requirements of NAGPRA (25 U.S.C. §§ 3001-3013) and its implementing regulations (43 CFR Part 10) for all Native American human remains or cultural items in its possession or control." This needs to be explicitly stated because receipt of Federal funds triggers NAGPRA's repatriation requirements for all Native American human remains and cultural items in the possession or control of the receiving institution, not just ones identified by the funded project.

We also urge language be added to the NR GEIS clearly stating when NRC or the recipients of NRC funds or permits request Tribal Nations' engage in work related to determining impacts of new nuclear power plants on Tribal Nations' cultural resources and sacred places, Tribal Nations be compensated for this work. Financial support for Tribal Nations work is particularly important because it is both time consuming and emotionally difficult work.

While this letter is specifically about the NR GEIS, that proposal does not exist in a vacuum. We would be remiss if I did not note the federal government's chronic underfunding of THPOs is both a violation of the federal government's trust responsibility to Tribal Nations and abrogation of its environmental justice commitments. We also urge the Administration to propose budgets and Congress to pass appropriations bills that reflect the important role that THPOs play in protecting the places that tell the stories of Tribal Nations. In Fiscal Year 2025, THPOs are receiving on average \$104,000 from the Historic Preservation Fund (HPF). NATHPO strongly supports a reauthorization of the HPF that would require that:

- THPOs receive a minimum of 20 percent of the HPF each year, and;
- the National Park Service reviews if THPO funding is keeping pace with the annual increase in the number of THPOs and adjusts the funding to reflect that increase.

NATHPO respects the effort that went into the drafting of the NR GEIS. We recognize NRC wants to make sure Tribal Nations, who have often borne the environmental burden of development, are treated fairly. That said, when it comes to Tribal Nations' relationship with the federal government, the details matter. Moving forward, we strongly urge the NRC to pay attention to those details.

Thank you for considering our comments on the draft NR GEIS.

Sincerely,



Valerie J. Grussing, PhD
Executive Director