

**POLICY ISSUE**  
**NOTATION VOTE**

**RESPONSE SHEET**

**TO:** Carrie M. Safford, Secretary

**FROM:** Chair Hanson

**SUBJECT:** SECY-24-0046: Implementation of the Fiscal Responsibility Act of 2023 National Environmental Policy Act Amendments

Approved  X  Disapproved       Abstain       Not Participating     

**COMMENTS:** Below       Attached  X  None     

**Entered in STAR**

Yes  X   
No     

\_\_\_\_\_  
Signature  
Christopher T. Hanson

\_\_\_\_\_  
Date 10/18/2024

## **Chair Hanson's Comments on SECY-24-0046: Implementation of the Fiscal Responsibility Act of 2023 National Environmental Policy Act Amendments**

The Fiscal Responsibility Act (FRA), passed in 2023, made several substantial changes to the National Environmental Policy Act (NEPA) primarily aimed at increasing efficiency through streamlining. While the NRC is complying with the FRA's immediately effective provisions, the staff has been evaluating our NEPA-implementing regulations at 10 CFR Part 51 and identifying areas that should be updated to better align with the FRA amendments. I appreciate the staff's thoughtful analysis and recommendations.

In SECY-24-0046, the staff has identified several policy issues for the Commission's consideration – 1) the scope of the proposed agency action and alternatives analysis, 2) the process for determining the appropriate level of NEPA review, 3) the use of applicant-prepared or project-sponsored environmental documents, 4) the determination of cooperating agency roles within NEPA reviews, 5) the application of programmatic NEPA document requirements to NRC's generic environmental reviews, and 6) several miscellaneous recommendations consistent with the directives in the FRA.

The staff proposes a rulemaking to address the first three topics. I support the staff's recommendation to develop a regulatory basis and initiate the rulemaking process to address those issues. I also agree with the staff that consideration of the Council on Environmental Quality (CEQ) Phase II rule should be done during development of the regulatory basis. While the agency is not bound to CEQ direction, it is nonetheless informative and instructive for the NRC to understand CEQ's perspectives on the FRA. Also important, the rulemaking process is transparent and will provide for robust public and stakeholder engagement.

The FRA revised existing provisions and added new roles within the NEPA process for lead, joint, participating, and cooperating agencies. The staff recommends a Commission Policy Statement to outline expectations for how the NRC would address these roles. However, I disagree that a Commission-level policy decision is needed to capture the agency's long-standing practice of coordinating with other partners on NEPA reviews. The staff has historically addressed these types of questions in NEPA reviews without direction from the Commission, and the FRA does not require a change significant enough to justify development of a new Commission policy statement. Instead of a policy statement, the staff should develop guidance that addresses the issues laid out in SECY-24-0046 (see pages 7-8 in Enclosure 4). The development of the guidance should include significant engagement with the public, with special emphasis on receiving feedback from organizations with whom we expect to most frequently work during NEPA reviews (e.g., Department of Energy, Department of Defense, U.S. Army Corps of Engineers, Tribes, state agencies). I approve the staff's updating the definition of a "cooperating agency" in this rulemaking to align with the FRA. The staff should also consider whether to include the definition of "lead," "joint," and "participating" agencies in Part 51.

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I agree with the staff's recommendation to continue current agency procedures for relying on generic environmental impact statements and codified environmental information in specific licensing actions while ensuring reevaluations are documented. I further approve the staff's recommendation to update existing guidance or develop new guidance to outline a process to reevaluate these and other environmental documents to ensure the analyses contained in those statements remain valid.

Lastly, the staff propose several other topics, including timeframes, bifurcated reviews, acceptance criteria, and pre-application considerations that they would like to explore as part of the regulatory basis to determine whether they are best addressed in guidance or rulemaking. These topics are entwined with the other considerations in the SECY paper; therefore, I approve the staff's recommendation to evaluate them in the regulatory basis.