

Requested
Item 1



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

May 31, 1995

MEMORANDUM TO: Division Directors, Deputy Directors,
Branch Chiefs and Section Leaders, NMSS

FROM: John J. Linehan, Director
Program Management, Policy Development
and Analysis Staff, NMSS *J J Linehan*

SUBJECT: NMSS POLICY AND PROCEDURES LETTER 1-48, PROCEDURES
FOR PREPARING ENVIRONMENTAL ASSESSMENTS

On January 10, 1995, the subject NMSS Policy and Procedures Letter (P&P Letter) was issued to Division Directors through Section Leaders, NMSS. Since issuance of P&P Letter 1-48, the Office of Nuclear Regulatory Research has issued additional NRC procedures which relate specifically to preparation of Rulemaking Environmental Assessments. These procedures also require consultation with the States, and have been incorporated as a part of the attachment to the previous NMSS P&P Letter.

Accordingly, the attachment to NMSS P&P Letter 1-48 has been revised to include the original unchanged instructions on "Procedures for Preparing Environmental Assessments" (Attachment 1) and the new instructions on "Procedure for Consultation with the States During Preparation of Rulemaking Environmental Assessment Documents" (Attachment 2). The attachment to this memorandum replaces the previous attachment to P&P Letter 1-48 in its entirety. Please review this new information carefully and disseminate the information to appropriate staff. These new procedures are effective immediately and will remain in effect until further notice.

If you have any questions, please contact Donald Loosley, PMDA, at 415-7809.

Attachment:
As stated

A/4

NMSS POLICY AND PROCEDURES LETTER 1-48
Revision 1, May 1995

PROCEDURES FOR PREPARING ENVIRONMENTAL ASSESSMENTS

BACKGROUND:

NMSS staff members may be required to prepare Environmental Assessments under different circumstances. The attachments that follow deal with preparation of Environmental Assessments as directed by IMNS Policy and Guidance Directive FC 84-20 and Chapters V and VI of the Fuel Cycle Licensing Branch Manual (Attachment 1) and preparation of rulemaking Environmental Assessments (Attachment 2).

When preparing Environmental Assessments, the appropriate Attachment should be consulted to ensure that NRC policy is followed.

Attachments:
As stated

ATTACHMENT 1

PROCEDURES FOR PREPARING ENVIRONMENTAL ASSESSMENTS

BACKGROUND:

NMSS procedures for preparing Environmental Assessments (EAs) are currently contained in IMNS Policy and Guidance Directive FC 84-20 (Atch. 1) and in Chapters V and VI of the Fuel Cycle Licensing Branch Manual (Atch. 2). EAs prepared by the staff must meet the requirements of 10 CFR 51.30, and Part 51.30(a)(2) requires that a list of agencies or persons consulted be included in each EA.

In a staff requirements memorandum (SRM) dated March 9, 1994, the Commission directed the staff to report on the impact of adopting an Atomic Safety and Licensing Board recommendation that an EA include a brief summary of a consulted agency's views of the EA. The staff responded to the Commission in SECY-94-270, "Agency Policy Concerning Documentation of the Results of Consultation With Other Agencies or Persons on Environmental Assessments," dated November 2, 1994, assessing the impact and indicating its agreement with the Board's recommendation. In an SRM dated November 21, 1994, the Commission approved the staff's position and the issuance of guidance to implement this new policy.

In addition, in a letter dated April 2, 1993, (Atch. 3) the NRC committed to the Council on Environmental Quality (CEQ) that it would consult with the States on environmental issues before issuing an EA and that such contact would be documented in the EA.

PROCEDURES:

1. NMSS staff should follow the procedures in IMNS Policy and Guidance Directive FC 84-20 and in Chapters V and VI of the Fuel Cycle Licensing Branch Manual, as appropriate, when preparing EAs.
2. During preparation of an EA, the staff should consult with affected States on environmental issues and should document such contact in the EA. In addition, consultations with States and any agency or person should be summarized in the EA according to the following guidance. This guidance is not intended to change the existing requirements for consultation with other agencies or persons, the nature of such consultation, or the staff's resolution of any comments received. The staff should continue to make these determinations as in the past. This new procedure only requires that the results of any consultation be summarized in the EA or another publicly available document.
 - a. Contents of the EA

Each EA should contain the following information when consultation occurs:

- (1) the name of each State, agency (including contacted individual's name), or person consulted,
- (2) date of consultation(s),
- (3) purpose for the consultation,
- (4) brief summary of the views or comments expressed by the consulted party and the staff's resolution, and
- (5) reference to publicly available documents containing additional information, if applicable.

The discussion in the EA can be brief if consultation does not result in comments beyond general agreement. However, if significant comments are received, the summary in the EA should be more extensive. In general, the level of detail of the summaries should be comparable to the level of detail used to discuss public comments received under other regulatory activities such as rulemaking.

b. Purpose for the Consultation

The staff should briefly describe why it initiated the consultation. For example, the summary could state:

"The National Marine Fisheries Service was contacted on January X, 1995, to discuss the evaluation of the ability of short-nosed sturgeon to avoid capture after the proposed river water intake modification is made."

However, the staff may make a more general statement if it initiates the consultation to meet a programmatic requirement and not as a result of the issues involved. For example, if the staff is required by procedure to consult the designated State official before issuing an EA supporting a licensing action or exemption, the consultation could be summarized as follows:

"In accordance with Procedure NNN, the staff consulted with the State of _____ regarding the environmental impact of the proposed action."

c. Summary of Comments Received

(1) Minor Comments

If no significant comments are received during the consultation, the summary need only state, for example, that there was "agreement," "no objection," or "no comment." Additional information can be included but is not required.

(2) Significant Comments

If the staff receives extensive comments, it may choose to summarize details of the issues and their resolution in the EA or in a separate document referenced in the EA. If, because of the number or complexity of the comments a separate document is used, the document should be placed in the NRC Public Document Room (PDR) and local PDR to ensure public access unless release of the material is prohibited by regulations (e.g., because it is proprietary or safeguards information). Whenever possible, the summary should be included in documents already being prepared as part of the action to avoid creating additional documents. However, if a new document must be prepared, a memorandum to file or letter to the agency confirming agreements, with a copy to the PDR, would be sufficient.

If the staff prepares a separate document to summarize the comments received, the EA should still describe the general subjects of the comments and their resolution, and reference the document where more detail can be found.

Attachments: As stated (3)