

SECOND MEMORANDUM OF UNDERSTANDING
REGARDING IMPLEMENTATION OF CERTAIN
NUCLEAR REGULATORY COMMISSION
AND
ENVIRONMENTAL PROTECTION AGENCY
RESPONSIBILITIES UNDER THE
FEDERAL WATER POLLUTION CONTROL ACT
(FWPCA)
AND THE
NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

Second Memorandum of Understanding

Regarding Implementation of Certain

NRC and EPA Responsibilities

Prior to the enactment of Public Law 92-500, the Federal Water Pollution Control Act Amendments of 1972 (FWPCA), the Atomic Energy Commission (AEC) had regulatory authority pursuant to the National Environmental Policy Act of 1969 (NEPA), in consideration of the environmental impact of the discharge of pollutants and other factors, to impose limitations on the discharge of pollutants from nuclear power plants and other facilities or activities requiring an AEC license or permit, as a condition of such license or permit.

The FWPCA now requires the Environmental Protection Agency (EPA) to establish (for use in permits for the discharge of pollutants to navigable waters of the United States from point sources as defined in the FWPCA, such as nuclear power plants, etc.) effluent limitations for all pollutants. The FWPCA (Section 511) provides that nothing under NEPA shall be deemed to authorize any Federal agency to review any effluent limitation or other requirement established pursuant to the FWPCA, or to impose, as a condition of any license or permit, any effluent limitation other than any such limitation established pursuant to the FWPCA.

Pursuant to the authority of the FWPCA, EPA requires applicants for discharge permits to submit information required by EPA in order to establish effluent limitations in permits. Pursuant to the authority of NEPA, NRC may require applicants for licenses or permits to submit information required by NRC in order to evaluate and consider the environmental impacts of any actions it may take. Consequently, the informational needs imposed by the two agencies may be similar in the area of impacts on water quality and biota.

The NEPA requires that all Federal agencies prepare detailed environmental statements on proposed major Federal actions which can significantly affect the quality of the human environment. A principal objective of NEPA is to require the Agency to consider in its decision-making process the environmental impacts of each proposed major action and the available alternative actions. Both EPA and NRC have responsibilities pursuant to NEPA regarding the issuance of licenses or permits for nuclear power plants and certain other facilities.

The purpose of the memorandum is to clarify the respective roles of EPA and NRC in the decision-making processes concerning nuclear power plants and other facilities requiring an NRC license or permit.)

Requirements under the FWPCA which affect actions of NRC include: (1) the requirement under Section 401 of the FWPCA for a state certification to be received by NRC prior to the issuance of a license or permit to conduct any activity which may result in any discharges into navigable waters; (2) the requirement under Section 301 of the FWPCA that a Section 402 National Pollutant Discharge Elimination System (NPDES) permit be issued for the discharge of any pollutant; (3) the possibility that variances from Section 301 or 306 thermal effluent limitations may be granted under Section 316(a); (4) the requirement under Section 316(b) that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact; and (5) the provisions of Section 511 as discussed above. Recognizing (1) NRC's and the applicant's need for early evaluation of impacts on water quality and biota that may arise from nuclear power plants, and certain other activities requiring an NRC license or permit which are subject to the requirements of 10 CFR 51.5(a); (2) EPA's and NRC's desire to reach such evaluations consistent with the requirements of the FWPCA and NEPA, and (3) the need for minimizing duplication of effort, EPA and NRC agree that pursuant to their statutory authorities:

1. NRC will exercise its responsibility and authority under NEPA as modified by Section 511 of the FWPCA in accordance with the statement of policy set forth in Appendix A hereto. The Memorandum of Understanding Regarding Implementation of Certain Complementary Responsibilities Under the FWPCA and dated January 15, 19 and 22, 1973 (38 FR 2713) is hereby rescinded.
2. Paragraphs 3 through 14 of this Memorandum of Understanding shall apply to requirements for the control and consideration of impacts on water quality and biota associated with the licensing and regulation, including early site approval 1/, of the following plants or facilities:

 - a. nuclear power and test facilities,
 - b. nuclear fuel reprocessing facilities,
 - c. uranium isotope enrichment facilities,
 - d. nuclear fuel fabrication plants,

1/ See 10 CFR Part 2, Appendix A, Paragraph I(c)

- e. uranium hexafluoride conversion plants,
 - f. uranium milling plants, and
 - g. nuclear waste treatment and storage plants.
3. NRC and EPA will work together to identify and consolidate the environmental information needed for early evaluations related to impacts on water quality and biota under the FWPCA with the objective that the scope, form and timeliness of the information to be submitted by the applicant satisfy the requirements of both Agencies. This will include information needed for issuance of State water quality certifications pursuant to Section 401 and NPDES permits pursuant to Section 402, (including where applicable Section 316(b) considerations regarding best technology available as applied to cooling water intake structures and Section 316(a) determinations regarding the granting of alternative effluent limitations for the thermal component of discharges) and information needed to evaluate the environmental impact of the facility based on compliance with FWPCA requirements.
4. Where a facility specified in Section 2 of this Memorandum is a "new source" (as defined under Section 306 of the FWPCA) and EPA is the permit issuing authority, EPA has a responsibility to comply with Section 102(2)(C) of NEPA. EPA and NRC intend that a single environmental impact statement will be prepared for the facility, and that NRC will be the lead agency for preparation of such a statement as provided in Section 1500.7(b) of the CEQ guidelines for Preparation of Environmental Impact Statements (August 1, 1973).
- (a) EPA will participate in the preparation of the water quality and related sections of the draft statement prepared by NRC staff. EPA may provide assistance to the NRC staff in areas (other than water quality) where EPA has jurisdiction or expertise.
 - (b) During the draft statement comment period, EPA will review and comment pursuant to Section 309 of the Clean Air Act, as amended, and Section 1500.7(b) of the CEQ Guidelines for Preparation of Environmental Impact Statements (August 1, 1973) on the draft environmental impact statement prepared by NRC staff. EPA will participate with NRC in the review of comments on the draft EIS and in the preparation of the final EIS.

- (c) Where there are areas of disagreement that cannot be resolved prior to issuance of the final statement, both NRC's and EPA's views shall be accurately set forth in the final statement.
 - (d) It is expected that where EPA does not agree with any of the discussions, analyses and conclusions of the NRC staff as set forth in the final environmental impact statement, EPA may petition for leave to intervene pursuant to 10 CFR § 2.714 in any proceeding pending before an NRC atomic safety and licensing board on the license or permit application at issue in order to have its opposing views considered further on their merits by NRC.
 - (e) In any hearing held by EPA pursuant to 40 CFR § 125.36 regarding the issuance of a permit under Section 402, only those NEPA issues concerning matters within EPA's regulatory jurisdiction will be considered, and those NEPA issues outside of EPA's regulatory jurisdiction will be resolved in the NRC impact statement and, if necessary, hearing process.
5. NRC will take the lead in communicating to the applicant those minimum NRC and EPA requirements for information to facilitate their respective environmental evaluations. Requests for additional information, as needed in specific situations, may be directed to the applicant by EPA. Such requests will be coordinated with NRC to the maximum extent practicable in order to avoid duplication of effort.
 6. EPA and NRC will meet, as appropriate, at an early time prior to and/or during the environmental review process for each facility or plant specified in Section 2 of this Memorandum to discuss potential impacts on water quality and biota.
 7. EPA will exercise its best efforts to evaluate the levels of discharges and impacts on water quality and biota pursuant to Sections 402 and 316(a), as appropriate, and complete cooling water intake structure evaluations pursuant to Section 316(b) as far as possible in advance of the planned date of issuance by NRC of the final environmental impact statement for the construction permit or operating license for each nuclear power reactor. EPA also will exercise its best efforts to make such evaluations as far as possible in advance of the planned date of issuance of the final environmental impact statement for any other plant or facility specified in Section 2 of this Memorandum, or issuance of early site approvals associated with nuclear power and other facilities.

Further, where possible, EPA's comments on NRC's draft environmental impact statement for each such facility or plant will reflect such evaluations. EPA will, if necessary, undertake to revise existing NPDES regulations in order to establish a procedure for issuance to the applicant (copy to NRC), where appropriate in light of the substantive requirements of Section 402, of a complete Section 402 permit as soon as possible prior to the planned date of authorization by the NRC of any commencement of construction 2/ or issuance by NRC of a license, or early site approval, whichever is applicable.

Such permits will contain appropriate terms and conditions for all discharges of pollutants expected during the life of the permit (five years maximum) and terms and conditions with regard to cooling water intake structures and Section 316(a) determinations concerning thermal discharges. Additional permit terms and conditions for discharges not contemplated during the life of the permit (such as certain chemical and other releases not expected until operation startup) may be derived from applicable State water quality standards and applicable new source performance standards contained in 40 C.F.R., Chapter I, Subchapter N. Permits may be reissued, or modified as appropriate, and any re-issued or modified permit, to be effective at the commencement of actual discharge as provided above may require additional limitations and controls based on data gathered during the initial permit or may require additional Section 316(a) and (b) studies for the purpose of confirming conclusions reached from previous predictive studies. Applications for permit reissuance as provided above will be evaluated by EPA in light of a policy to assure to the maximum extent possible that subsequent considerations regarding impacts on water quality and biota will not result in the need for significant changes in plant design or in the costs and benefits of the operation of the facility subsequent to the completion of NRC's environmental review 3/

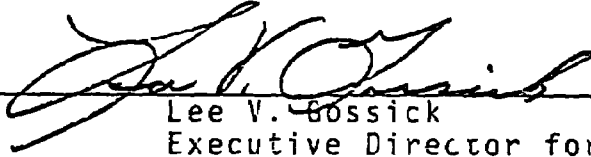
2/ The term "commencement of construction" means commencement of construction as defined in 10 CFR § 30.4(w), 40.4(n), 50.10(c) or 70.4(s), as applicable.

3/ A facility which has been given § 316(a) alternative effluent limitations is not entitled to the 10-year grace period (or applicable amortization period) provided for in § 306(d) for new sources or in 316(c) for modified sources.

8. EPA will work closely with NRC in connection with NRC's efforts with State and regional authorities to assure that water quality certifications pursuant to Section 401 for the facilities specified in Section 2 that require such certification are issued in advance of the planned date of issuance of NRC staff's final environmental impact statement for the facility. Where needed EPA also will work closely with NRC in connection with NRC's efforts with State and regional authorities to assure that discharge permits pursuant to Section 402 for facilities specified in Section 2 are issued as soon as possible prior to the planned date of authorization by NRC of any commencement of construction or issuance by NRC of a license, or early site approval, whichever is applicable.
9. It is the view of the parties that the States which have approved NPDES permit programs have authority to establish a procedure similar to the early permit issuance procedure discussed in Paragraph 7 hereof. Both EPA and NRC strongly encourage States which have such authority to institute an early issuance procedure relevant at least to thermal discharge and intake structure determinations and other discharges anticipated during the life of the permit and to cooperate with EPA and NRC in implementing this procedure.
10. EPA and NRC will maintain close contact on water quality and related matters during the entire environmental review, including:
 - (1) open interagency communications, and mutual cooperation and coordination on all relevant water quality matters;
 - (2) a status meeting, where appropriate, after completion of the public comment period on NRC staff's draft environmental impact statement; and
 - (3) notification to the other Agency, by the Agency first becoming aware of the situation, at any point during the environmental review or subsequent thereto, of any significant new considerations that develop, e.g., a major change in plant design or the identification of significant considerations regarding impacts on water quality or biota that were not previously evaluated as may result from a major change in plant design.

11. EPA and NRC will consider the feasibility of holding combined or concurrent hearings on EPA's Section 402 permits and NRC's construction permits, or other actions, on a case-by-case basis. If there are areas involving impact on water quality or biota where there are significant differences of opinion between NRC and EPA, every reasonable attempt will be made to identify and resolve these differences prior to the planned date of issuance of NRC's final environmental statement.
12. The principal NRC contact under this Memorandum of Understanding shall be the Assistant Director for Environmental Projects. The principal EPA contact under this Memorandum of Understanding shall be the Assistant Administrator for Enforcement, and/or the Regional Administrator or his designee as appropriate.
13. Nothing in this Memorandum of Understanding is intended to restrict the statutory authority of either Agency. The Memorandum of Understanding regarding NRC-Licensed Facilities and dated August 21 and 27, 1973 (38 FR 24936) shall remain in effect in accordance with its terms.
14. This Memorandum of Understanding shall take effect on December 17, 1975, after the signing by authorized representatives of the respective Agencies and approval by the Council on Environmental Quality. The Memorandum shall apply to all pending and future applications for licenses or permits covered by paragraphs 1 and 2 except that, with respect to applications for licenses or permits for facilities and plants docketed prior to the effective date of this Memorandum, Paragraphs 2 through 14 shall only be applied to the maximum extent practicable. This Memorandum of Understanding and Appendix A hereto supersede the Memorandum of Understanding Regarding Implementation of Certain Complementary Responsibilities Under the FWPCA and dated January 15, 19 and 22, 1973 (38 FR 2713) and associated Interim Policy Statement (38 FR 2679).

FOR THE UNITED STATES NUCLEAR REGULATORY COMMISSION




Lee V. Gossick
Executive Director for Operations

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



Stanley W. Legro
Assistant Administrator for Enforcement

APPROVED BY THE COUNCIL ON ENVIRONMENTAL QUALITY FOR
THE COUNCIL



Gary Widman
General Counsel

APPENDIX A

POLICY STATEMENT ON IMPLEMENTATION OF SECTION 511 OF THE FEDERAL WATER POLLUTION CONTROL ACT (FWPCA)

1. Applicability.

This statement and Paragraph 1 of the Memorandum shall apply to all licensing proceedings subject to 10 CFR Part 51, involving facilities or activities which may result in the discharge of a pollutant into the navigable waters, as defined in Section 502(12)(A) of the FWPCA.

2. Definition of Terms. As used in this statement:

a. Limitations or other requirements promulgated or imposed pursuant to the FWPCA means effluent limitations or other requirements promulgated or imposed pursuant to Sections 208(e), 301, 302, 303(e), 304(b), 306, 307, 316, 318, 401, 402, 403, or 404 of the FWPCA. It also includes (1) water quality standards continued in effect or promulgated pursuant to Sections 303(a), 303(b), or 303(c) of the FWPCA; (2) maximum daily loads for pollutants and maximum daily thermal loads, promulgated pursuant to Section 303(d) of the FWPCA; and (3) limitations or other requirements of State law under authority preserved by Section 510 of the FWPCA, but only if and to the extent that such limitations or other requirements covered by this Paragraph (a)(3) are imposed and set forth in a certification pursuant to Section 401(d) of the FWPCA, or are imposed as a condition in the license pursuant to Section 401(a)(2) of the FWPCA, or are imposed and set forth as a condition in a permit issued pursuant to Section 402 of the FWPCA. It does not include effluent limitations or other requirements regarding source, byproduct, or special nuclear materials, which are subject to regulation by the Nuclear Regulatory Commission (NRC) pursuant to the Atomic Energy Act of 1954, as amended, or limitations or other requirements promulgated or imposed pursuant to other Federal law.

b. Pollutant discharge system means equipment or mode of operation designed or intended for the control of the discharge of pollutants, as that last phrase is defined in Section 502(12) of the FWPCA. It does not include equipment or mode of operation designed or intended for the control of source, byproduct or special nuclear materials, which are subject to regulation by NRC pursuant to the Atomic Energy Act of 1954, as amended.

c. Cooling water intake structure location, design, construction and capacity means cooling water intake structure location, design, construction and capacity within the meaning of Section 316(b) of the FWPCA.

3. Authority to Impose Requirements or Limitations Pursuant to National Environmental Policy Act of 1969 (NEPA).

Except as provided in Paragraph 7, if and to the extent that there are applicable limitations or other requirements promulgated or imposed pursuant to the FWPCA, different limitations or requirements will not be imposed by NRC pursuant to NEPA as a condition to any permit or license, provided however, that limitations or other requirements of State law, under authority preserved by Section 510 of the FWPCA which (1) are imposed and set forth in a certification pursuant to Section 401(d) of the FWPCA, or imposed as a condition in the license pursuant to Section 401(a)(2) of the FWPCA, or imposed and set forth as a condition in a permit issued pursuant to Section 402 of the FWPCA, and (2) address matters different from the matters addressed by other limitations or other requirements promulgated or imposed pursuant to the FWPCA, shall be regarded as only minimum limitations or requirements and NRC shall retain any authority under NEPA to impose more stringent limitations or requirements.

4. Alternatives.

a. Neither alternative cooling water intake structure location, design, construction, and capacity, nor alternative pollutant discharge systems will be considered by NRC pursuant to NEPA (1) if and to the extent that conditions imposed as a part of the license or permit for the facility or activity pursuant to Section 401(d) or Section 401(a)(2) of the FWPCA require that a particular alternative be adopted, or (2) if and to the extent that a permit or determination with a condition requiring the adoption of a particular alternative has been issued for the facility or activity pursuant to Sections 208(b)(2)(C)(ii) and 303(e)(3)(B), 318, 402 or 404 of the FWPCA.

b. Alternative pollutant discharge systems will not be considered by NRC pursuant to NEPA where effluent limitations have been imposed on the facility or activity under Sections 301(c) or 302 of the FWPCA.

c. Neither alternative sites, facilities or activities, nor alternative systems will be considered by NRC pursuant to NEPA if and to the extent that a determination made with respect to the facility or activity under Sections 208(b)(2)(C)(ii) and 303(e)(3)(B) of the FWPCA requires as a condition that a particular site, facility or activity, or system be adopted.

d. NRC will not require adoption of an alternative pursuant to NEPA in order to minimize impacts on water quality and biota that are subject to limitations or other requirements promulgated or imposed pursuant to the FWPCA.

5. Cost-Benefit Balances.

In evaluating the costs and benefits of a proposed action pursuant to NEPA, NRC will evaluate impacts on water quality and biota notwithstanding that such impacts are subject to limitations or other requirements promulgated or imposed pursuant to the FWPCA.

6. Certifications.

A certification issued pursuant to Section 21(b) of the FWPCA in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 will be accepted as satisfying the certification requirements of FWPCA Section 401(a) with respect to NRC licensing actions after that date subject to Section 401(a) if the certification otherwise remains in effect.

7. More Stringent Requirements - Transition Period.

The NRC may include limitations or requirements in the license or permit that are more stringent than limitations or requirements promulgated or imposed pursuant to the FWPCA where such limitations or requirements are proposed by the license or permit applicant in a licensing proceeding in which the applicant's license or permit application at issue and environmental report had been filed prior to enactment of the FWPCA.

8. Effect of Section 316(a).

Whenever there are limitations or other requirements promulgated or imposed pursuant to the FWPCA with respect to discharges of heated effluent but a request pursuant to Section 316(a) has been or may be filed and no limitations pursuant to Section 316(a) have yet been imposed, the other limitations or other requirements respecting discharges of

heated effluent shall be regarded as expressing only the most stringent limitations or other requirements that might be promulgated or imposed pursuant to the FWPCA in implementing Paragraph 3.

9. Effect on Part 51.

To the extent that there is a conflict between any of the provisions of this statement of policy and the provisions of 10 CFR Part 51, the provisions of this statement shall govern.

July 21, 1976 (Wednesday)

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| VII. | Summary of Previous Discussion | 9.00 am |
| | A. Brief Opportunity For Questions | |
| VIII. | New Source NPDES EIS Regulations - Dr. William Rosenberg, Mr. Peter Cook and Mr. Ned Cronin | 9:30 am |
| | A. Outline of Regulations and Relationship with NEPA | |
| | B. Policy Issues | |
| | C. Conditioning of NPDES Permits | |
| | D. Impact on State Program | |
| | E. Contractual Mechanism for Preparing EIS s | |
| | Break For Lunch | 12:15 pm |
| IX. | NRC/EPA Memorandum of Understanding - Mr. Bennett Harless, Ms. Rebecca Hanmer and Mr. William Jordan | 1:30 pm |
| | A. Background, Objective, Content | |
| | B. Implementation | |
| | C. NRC/EPA/State Memoranda | |
| X. | Ongoing Efforts on Other EPA/Federal Agency Memoranda of Understanding - Ms. Rebecca Hanmer | 3:00 pm |
| XI. | Summary | 3:30 pm |
| | Adjournment | |

Environmental Projects Personnel

Heater 7/12/76

ADEP PROJECT INSTRUCTION NO. 76-

IMPLEMENTATION OF THE SECOND NRC/EPA MEMORANDUM OF UNDERSTANDING UNDER
THE FEDERAL WATER POLLUTION CONTROL ACT

This is to clarify the separate and joint Nuclear Regulatory Commission and Environmental Protection Agency responsibilities regarding implementation of the Second NRC/EPA Memorandum of Understanding (Enclosure 1) under the Federal Water Pollution Control Act Amendments of 1972 (FWPCA).

The understanding is that NRC will act as the "Lead Agency" in preparing environmental statements for nuclear power plants and certain other activities specified in the Memorandum. This will obviate the need for EPA to prepare separate environmental statements for such facilities. EPA will exercise its best efforts to issue complete Section 402 discharge permits as far as possible in advance of the planned date of authorization by NRC of any commencement of construction or issuance by NRC of any license or early site approval, whichever is applicable. See Section 7 of Enclosure 1.

The following are the principal actions which will be required of both agency staffs to implement the Second Memorandum of Understanding:

- 1) NRC shall inform EPA and state environmental authorities as soon as it becomes aware of the plans of any applicant to construct a nuclear power plant or other facility covered by the Memorandum.

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early notification preferably two years before the ^{Acceptance} is necessary in order for EPA and/or the state to work with applicant in developing an acceptable program to monitor water aspects of the proposed site which will be significant in giving the impacts of the construction and operation of the on water quality and aquatic biota. EPA's soon to be issued and 316(b) Technical Manuals will provide substantial guidance monitoring that will be required for an exemption under 316(a) for the thermal component of discharges ^{that which} and ~~what~~ will for an adequate showing under Section 316(b) that the structure meets the best technology available.

will designate a project officer to work with NRC on applications in each region. The project officer will be given specific authority to coordinate EPA's review with NRC as necessary to insure that the goals of the Memorandum are met in a timely fashion without impacting NRC's environmental review schedule. Enclosure 2 listing of the regional ^{contacts} ~~project officers~~ with their addresses and phone numbers. ^{The regional contacts will supply the name of the project officer for each case.} Notify the applicant of EPA's data requirements on water quality and biota. Where a 316(a) exemption will be required, up to 24 months of data will usually be required prior to submission of the Environmental Report (ER) to NRC and EPA for review. We anticipate that EPA will ^{to the extent possible} invoke the best technology requirement on a sliding scale basis in order to

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accommodate those plants currently in the planning stage or under review by NRC and for which there is insufficient time to gather a full 18 to 24 months of data.

- 4) The NRC project manager shall notify the applicant of the advisability of obtaining a Section 401 water quality certificate from the appropriate state before the issuance of the Draft Environmental Statement (DES).
- 5) The NRC project manager shall request the applicant to submit copies of the ER to the EPA project officer and to the state water quality permitting agency (Enclosure 3) at the same time the ER is submitted to NRC for the Acceptance Review. The EPA project officer shall transmit to NRC any specific questions or comments EPA may have on the ER within 20 days after receipt of the ER *by EPA.*
- 6) NRC will take the lead in communications with the applicant. This does not preclude the EPA project officer from requesting additional information in specific situations; however, the project officer shall *informally* coordinate these requests with the project manager in order to avoid duplication of effort. *Copies of any correspondence with the applicant shall be provided to the sister agency.*
- 7) The NRC project manager shall inform EPA's project officer of, and afford him the opportunity to take part in, all site visits, laboratory team conferences, and meetings with consultants, utility representatives and parties to NRC proceedings which have a bearing on water quality or related issues.

recognizing that EPA has the final authority over issuance of the Section 402 permit including Section 316(a) and 316(b) determinations. If any water quality issues remain unresolved, both positions will be stated in the DES.

reach an understanding with

- 8) The project manager shall ~~summarize for~~ ^{regarding} the EPA project officer ~~NRC's understanding of~~ the major areas of concern with regard to water quality, as developed in discussions between NRC and EPA personnel during the site visit. Subsequently, the project manager and project officer shall keep each other currently informed of any differences in their positions on water quality and related matters and of any new information which becomes available. Consultations or conferences between NRC and EPA technical staffs will be arranged to resolve any differences which may arise, EPA may ~~provide~~ ^{comment or} assistance to the NRC staff in areas other than water quality where EPA has jurisdiction or expertise.

- 9) The NRC project manager shall apprise ~~EPA of NRC's schedule for~~ ^{The EPA project officer of} the anticipated schedule and shall provide the project officer with a copy of the ~~the environmental review of each application~~ ^{approved schedule} in order that EPA may be aware of the date when its input to the DES on water quality issues is required. ~~If any water quality issues remain unresolved, out on a case-by-case basis between the NRC project manager and EPA's project officer.~~ ^{The scope of EPA's input will need to be worked out on a case-by-case basis between the NRC project manager and EPA's project officer.} both positions will be stated in the DES.

- 10) During the draft statement comment period, EPA shall review and comment pursuant to Section 309 of the Clean Air Act, as amended, and Section 1500.9(b) of the CEQ Guidelines for Preparation of Environmental Impact Statements (August 1, 1973) on the Draft Environmental Statement prepared by NRC staff. ~~and such review and comment shall be accurately reflected and set forth in the Final Environmental Statement prepared by the NRC staff together with the latter's response, where appropriate.~~ ^{# 11) The 309 review and}

→ EPA will participate with NRC in the review of comments and, as appropriate, in the preparation of the final environmental statement.

5.

12) ~~12~~ The NRC Project Manager shall provide the EPA Project Officer with copies of all comments received ^{from others} on draft statements as soon as possible after they are received. EPA need not ~~concur~~ ^{agree with} in all of the discussions and conclusions in the NRC environmental impact statement regarding these comments. Where there are areas of disagreement that cannot be resolved prior to issuance of the final statement, opposing views provided by EPA shall be accurately set forth in the statement.

13) ~~13~~ Where EPA does not agree with NRC's discussions and conclusions in the Final Environmental Statement, EPA may petition for leave to intervene pursuant to 10 CFR 2.714 in any proceeding pending before an NRC Atomic Safety and Licensing Board on the license or permit application at issue, in order to have its opposing views considered further on their merits.

Enclosure 4 is a graphical illustration of the major milestones involved in a typical environmental review at the construction permit stage.

The Memorandum provides for several other NRC/EPA cooperative efforts on a case-by-case basis. There are:

- a) NRC and EPA will consider ~~the feasibility of~~ holding combined or concurrent hearings on EPA's Section 402 discharge permits and NRC's construction permits or other actions.

b) EPA will work closely with NRC in connection with NRC's efforts with state and regional authorities to ^{assure}~~assure~~ that water quality certifications under Section 401 are issued ^{as far as possible in advance of}~~prior~~ to NRC's final environmental impact statement.

c) EPA will work closely with NRC in connection with NRC's work with EPA permitting states to assure that Section 402 discharge permits are issued as far as possible in advance of authorization by NRC of any commencement of construction or issuance by NRC of any license or early site approval.

~~In addition, NRC and EPA agreed to work together to identify and consolidate the environmental information needed for early evaluations of the impacts on water quality and biota associated with nuclear power plants and other facilities covered by the memorandum. NRC's efforts in this regard are essentially complete and the guidance will be published for comment in the form of draft EPA 316(a) and 316(b) Technical Manuals.~~

Voss A. Moore, Assistant Director
for Environmental Projects
Division of Site Safety and
Environmental Analysis

Enclosures:

- 1) Second NRC/EPA Memorandum of Understanding
- 2) List of EPA Project Officers
- 3) Water quality officials in EPA permitting States
- 4) Graphical illustration of major milestones in a typical environmental review

ENCLOSURE 1

ENVIRONMENTAL REVIEW SCHEDULES FOR
CP APPLICATIONS WITH NO ANNOUNCED CONSTRUCTION DELAYS

7/13/76

<u>Milestone</u>	<u>Event</u>	<u>Milestone Completion</u>	
		<u>Cumulative Calendar Days</u>	<u>Cumulative Calendar Weeks</u>
02	Receipt	--	--
	<u>Acceptance Review</u>		
02-3	ER/LWA Acceptance Review Zero	0	0
02-6	Acceptance Review (Input)	18	3
29-75	Letter to Applicant on Acceptance Review	30	4
02-10	Site Visit Agenda to Applicant	30	4
	<u>Environmental Review</u>		
02-8	Docket Date	0	0
29-85	Site Visit*	6	1
30	Formal Staff Questions to Applicant	13	2
31	Applicant's Formal Response	35	5
33	TR DES Input	56	8
34	PDES Prelim DES	71	10
34-92	ELD & EP Management Review	84	12
34-93	ELD Section Chief	86	12
-	Final Editing and Production	100	14
34-95	DES Printed and Issued	109	15
35	NRC Federal Register Notice Published	109	15
35-0	CEQ Federal Register Notice Published	116	16
35-54	Staff Comments DES	139	20
-	Complete Changes to CH 1-10	163	23
35-7	Comment Period Ends	161	23
36-55	Complete ELD Review of CH 1-10	179	25
36-5	Staff & Applicant Response	192	27
36	Complete S&C and CH 11	199	28
36-9	Staff Review	213	30
36-92	ELD & EP Management Review	220	31
36-93	ELD Section Chief	222	31
-	EPM Final Editing and Production	236	33
36-95	Issue FES	245	35
42**	ASLB Decision	405-318 *	58
-**	LWA issued	407 320	58

- * Site visit may be conducted prior to docketing. - Informal question submitted before formal Que
- ** Schedule shown for contested proceeding (five month duration); if the case proves to be uncontested, prepare a schedule change request reflecting a 83 day hearing process. If there is no LWA these milestones are not applicable.

