

GUIDANCE FOR APPLICANT-PREPARED DRAFT ENVIRONMENTAL ASSESSMENTS FOR CERTAIN PROPOSED NATURAL GAS PROJECTS

The staff¹ of the Federal Energy Regulatory Commission (FERC or Commission) prepares environmental documents for all proposed natural gas projects in accordance with its regulations implementing the National Environmental Policy Act (NEPA) (18 CFR Part 380.12).² These documents include categorical exclusions, environmental assessments (EA), and environmental impact statements. Where an EA is determined to be the appropriate level of environmental analysis, there are three options for preparing the EA. The staff can prepare the EA without consultant assistance, work with a third-party consultant, or finalize a draft EA provided by the applicant. The latter option, known as an applicant-prepared draft EA (APDEA), is subject to prior approval from the staff and can only be used in conjunction with the pre-filing process. The following guidance has been developed to assist applicants and their environmental consultants with the preparation of an APDEA.

There are several benefits to using the APDEA approach. Many of the benefits are the same as those that result from the use of the pre-filing process, i.e., the early involvement of the staff, working with stakeholders to identify and resolve issues, and initiating the NEPA process prior to filing the application with the FERC. In addition, there can be time and cost savings associated with the applicant's use of its selected environmental consultant to prepare both the environmental resource reports and the APDEA.

The APDEA must be filed with the applicant's formal application to the Commission. During the pre-filing process, the staff will work with the applicant and its environmental consultant to ensure the APDEA meets our needs and standards, and addresses issues raised during the scoping process. After the filing of the application, the staff will verify that the data in the applicant's environmental resource reports support the APDEA and that any comments made previously by the staff have been addressed.

A key aspect to ensuring the success of the APDEA process is for the applicant to acknowledge and accept a realistic schedule. This discussion begins with the applicant's initial pre-filing consultation meeting and the staff's review of the draft pre-filing request letter. The applicant and the staff should agree on a schedule that includes dates for the submission of the draft resource reports and sections of the APDEA, and allows sufficient time for review and comment by both the staff and any cooperating agencies. The schedule should also take into account the time it will take the applicant to incorporate the staff's and cooperating agencies' comments.

Essentially, the APDEA should be a summary of the information provided in the environmental resource reports that accompany the application. The use of an APDEA does not affect the requirement for all resource reports to meet the minimum filing requirements established in the

¹ "Staff" refers to the staff of the Division of Gas—Environment and Engineering in the Office of Energy Projects.

² These regulations supplement the regulations of the Council on Environmental Quality, 40 CFR Parts 1500 through 1508.

Commission's regulations. The staff should be able to easily tie statements made in the APDEA directly to the supporting text, tables, and graphics in the resource reports. The APDEA should be organized into three technical sections: Proposed Action, Environmental Analysis, and Alternatives.

Applicants should consult with the staff regarding the format, content, level of analysis, and perspective appropriate for the APDEA. As an example, the analysis of alternatives is an area where guidance from the staff can ensure that relevant criteria are considered and that the conclusion is well supported. Recently published FERC EAs where the applicants utilized the APDEA process can be located in the Commission's eLibrary system. The APDEA should include maps, figures and other necessary graphics and should be submitted without applicant logos or other applicant identifying marks. The APDEA should also list all publications, reports, literature, and communications, including agency contacts, which were cited or relied on to prepare the document. Do not include citations to other filings by the applicant. Before beginning work on an APDEA, consult with the staff regarding the appropriate computer file format for the document.

The APDEA must document the mitigation the applicant is proposing to implement to support a finding of no significant impact. If the APDEA is done correctly, the staff's review after filing will not identify any unresolved issues or result in the need to recommend additional mitigation, and the staff will be able to quickly finalize and issue the EA. The goal should be to produce an EA with as few recommendations for further mitigation as possible. Our experience has shown that the APDEA process works best for projects that have a well defined scope and where the staff has confidence in the abilities of the applicant's environmental consultant.

The fundamental components of the APDEA process are listed below in chronological order.

- The applicant must request a pre-filing meeting with the OEP staff to introduce and describe the proposed project, receive the staff's assessment of the appropriate level of environmental analysis, and request approval for the using the APDEA option.
- Based on the results of the pre-filing meeting with the staff, the applicant must submit to the staff a draft pre-filing request letter that includes the intent to prepare an APDEA and an agreement to hire and fund a third-party environmental consultant if requested by the staff.³
- After incorporating any comments from the staff, the applicant should file the pre-filing request letter with the Commission.
- The applicant should work with the staff to establish timeframes and protocols for regular conference calls, interagency meetings, site visits, and public meetings regarding the proposed project.

³ For example, if a project becomes controversial during the pre-filing process, staff may request applicant to fund a third party consultant.

- In consultation with the staff, the applicant should develop a schedule for the submission of the draft resource reports and sections of the APDEA. The schedule should also include the necessary time for review by the staff and cooperating agencies.
- The applicant should adhere to the pre-filing timelines established in the regulations and the agreed-upon schedule for the filing of draft resource reports and the APDEA sections. Schedules can be adjusted in consultation with the staff. Draft resource reports and the APDEA sections must be filed with the Commission.
- The staff will provide the applicant with its comments on draft resource reports and the APDEA, and will file a summary of its comments in the public record.
- The applicant must respond to the staff and cooperating agency comments, make the requested changes to the APDEA, and file the APDEA with its formal application.
- After the application is filed, the staff will independently review the APDEA. When the staff believes sufficient information is in the public record to move forward, the staff will finalize and issue the EA as expeditiously as possible.

Please feel free to contact the staff of the Division of Gas—Environment and Engineering with any specific questions.