

FREQUENTLY ASKED QUESTIONS

The Frequently Asked Questions below are categorized into the following topics:

DOE's Presidential Permit Responsibilities and Role

DOE's Environmental Review Under the National Environmental Policy Act (NEPA)

The Northern Pass Application Proceeding

DOE's Presidential Permit Responsibilities and Role

Q. Why is the Department of Energy involved in Northern Pass' proposal to build a transmission facility?

A. Anyone seeking to construct, operate, maintain, or connect an electric transmission facility crossing the borders of the United States must first obtain a Presidential permit issued by DOE under Executive Order (E.O.) 10485, as amended by E.O. 12038. Northern Pass proposes to build a transmission line that crosses a U.S. border, and has applied to DOE for a Presidential permit. DOE did not initiate, nor is it funding, the proposed transmission facility. DOE's role is limited to deciding whether to issue a Presidential permit. In addition, in order to build its proposed facility Northern Pass will be required to obtain the approval of the State of New Hampshire.

Q. What factors will DOE consider in determining whether to issue the Presidential permit? How will DOE determine whether to issue the Presidential permit?

A. E.O. 10485, as amended by E.O. 12038, authorizes the Secretary of Energy "[u]pon finding the issuance of the permit to be consistent with the public interest, and, after obtaining the favorable recommendations of the Secretary of State and the Secretary of Defense thereon, to issue to the applicant, as appropriate, a permit for [the] construction, operation, maintenance, or connection" of "facilities for the transmission of electric energy between the United States and a foreign country." Thus, in deciding whether to issue a permit, DOE must determine whether doing so would be "consistent with the public interest." In addition, the Departments of State and Defense must both make "favorable recommendations" on the issuance of the permit.

In deciding whether the issuance of a Presidential permit would be consistent with the public interest, DOE assesses the environmental impacts of the proposed project and reasonable alternatives, the impact of the proposed action on electric reliability, and any other factors that DOE may also consider relevant to the public interest. DOE will consider public comments on all aspects of its public interest determination, and will announce its decision whether to issue a permit – as well as the factors DOE considered in making its decision – in the Record of Decision (ROD).

Q. What topics can I comment on with respect to the Northern Pass application? When can I make comments?

A. DOE will consider public comments on the Northern Pass presidential permit application with respect to: (1) DOE's environmental review under the National Environmental Policy Act (NEPA); (2) electric reliability of the proposed action; and (3) any other factors that DOE may also consider relevant to the public interest.

With respect to environmental issues, DOE has extended the deadline for scoping comments on the Northern Pass EIS through June 14, 2011. The public also will have an opportunity to review and comment on the draft EIS, which DOE currently expects to be available in summer of 2012. DOE will hold public hearings in New Hampshire on the draft EIS, and DOE will request both oral and written comments on the draft EIS. DOE will consider comments on the draft EIS in preparing the final Northern Pass EIS, which DOE currently expects will be completed in 2013.

With respect to electric reliability, DOE currently expects that the applicant's technical reliability studies, prepared in conjunction with ISO-New England, will be available for review and comment by fall 2011. DOE will open a comment period to receive public comments on the studies by publishing a notice in the *Federal Register* and posting the reliability studies on the Northern Pass EIS website.

Further, prior to making a decision, DOE will request public comments on any other factors that DOE may also consider relevant to the "public interest" determination that DOE is required to make in deciding whether to issue a Presidential permit. DOE will open a comment period for this topic by publishing a notice in the *Federal Register*.

Q. I petitioned to intervene in the Northern Pass proceeding. Was my petition granted and, if so, what does it mean to be a "party" to a proceeding on an application for a Presidential permit?

A. DOE is committed to ensuring that all parties and other interested stakeholders have a meaningful opportunity to participate in this informal adjudicatory proceeding. All persons who have requested to intervene to become "parties" in the Northern Pass application proceeding have been permitted to do so. Moreover, DOE currently intends to grant future unopposed petitions to intervene, notwithstanding the deadline to intervene originally set forth in the Notice of Application. On January 27, 2011, DOE sent a letter to all interveners in the proceeding explaining that interveners' "party" status in the Presidential permit application context entitles all interveners to receive notification of all documents submitted in the proceeding. Given the significant public interest and large number of interveners in the Northern Pass proceeding, DOE has established the Northern Pass EIS website (<http://www.northernpasseis.us>) where it makes filed documents available and provides additional resources about the proceeding. In lieu of requiring service on all interveners, DOE intends this website to provide maximum transparency and to ensure that interveners and the public remain apprised of issues and developments for the duration of the proceeding. As DOE stated in its January 27, 2011, letter, any intervener who

cannot access the website should notify the Department so that DOE can make alternate arrangements to communicate developments in the proceeding.

Q. I did not intervene in the Northern Pass proceeding and I am not a “party” to the application process. What may I comment on?

A. DOE welcomes comments on the environmental impacts of the proposed project and reasonable alternatives, the impact of the proposed action on electric reliability, and any other factors that DOE may also consider relevant to the public interest. In other words, DOE will consider public comments on all aspects of its public interest determination, and “party” status is not required to comment.

Q. I filed a motion or comment with DOE. Will DOE be issuing orders in response to filings by parties during the proceeding? If so, when and how?

A. DOE is committed to ensuring that all interested stakeholders have a meaningful opportunity to participate at every stage in its consideration of the Northern Pass Presidential permit application and to ensuring that its process for considering the application is open, transparent, and impartial. DOE appreciates the public interest Northern Pass’ proposal has generated and takes very seriously the concerns of all stakeholders.

DOE anticipates that most of the issues raised by Northern Pass’ application will relate to potential environmental impacts. To the extent possible, DOE expects to treat all questions, motions, or other submissions related to these impacts as comments and consider them during preparation of the environmental impact statement (EIS) pursuant to the National Environmental Policy Act (NEPA). DOE will consider comments submitted during the scoping period for the EIS in preparation of the draft EIS. The public then will have an opportunity to review and comment upon the draft EIS, and DOE will consider those comments in preparation of the final EIS.

DOE will also accept submissions relating to the reliability impacts of the proposed project. When the applicant and the regional transmission operator, ISO-New England, have prepared the requisite transmission studies, DOE will post them on the Northern Pass EIS website, open a comment period, and consider the studies along with all comments received thereon in determining whether and how the proposed project would impact the reliability of the electrical grid.

Finally, DOE will consider comments relating to any other factors that DOE may also consider relevant to its determination whether issuance of the Presidential permit would be consistent with the public interest. Prior to making a decision on whether or not to grant the Presidential permit, DOE will open a comment period for interested stakeholders to comment on other factors that DOE may also consider relevant to the “public interest” determination DOE is required to make in deciding whether to issue a Presidential permit.

DOE does not expect to respond during the proceeding, however, to all individual motions, comments, or questions. To the extent practical, such submissions will be treated as public comments and made a part of the public record on the DOE Northern Pass EIS website. In some instances, however, an issue may be raised – for example a request for an extension of a comment period – that prompts DOE to address a comment sooner rather than later. When DOE determines that such an issue has been raised, DOE will respond by publishing a *Federal Register* notice or posting additional information on the DOE Northern Pass EIS website.

Q. Will DOE be responding to individual emails and calls regarding the proceeding?

A. Given the volume of interest in this proceeding and the need to ensure that all interested stakeholders have access to the same information, DOE is not able to respond to individual emails and phone calls received regarding the proceeding. Emails, however, will become part of the record. DOE will address comments related to potential environmental impacts through the NEPA process and will address other issues through information on the DOE Northern Pass EIS website, notice in the *Federal Register*, or in the Record of Decision as appropriate.

Q. How do I submit an anonymous comment on the Presidential permit proceeding?

A. Emails and comments may be posted anonymously on the DOE Northern Pass EIS website if the submitter so requests. Comments should be submitted to DOE (online at the DOE Northern Pass EIS website or by email or U.S. mail) and should include a statement that the commenter's name is to remain anonymous.

Q. Does DOE ever issue a Presidential permit subject to conditions or require changes in the application? Does DOE deny permit applications?

A. DOE thoroughly reviews each application for a Presidential permit. DOE regularly sets conditions (such as reliability limitations or mitigation measures) for permits. In addition, DOE often requires changes to the applicant's original proposal. There have been at least nine instances where a permit applicant has withdrawn its application voluntarily prior to DOE making a decision on the application.

Q. What is a Record of Decision?

A. The Record of Decision (ROD) announces DOE's decision to grant (either outright or with conditions) or deny the permit application and contains the reasons underlying DOE's decision. The ROD will be issued no sooner than 30 days after publication by the U.S. Environmental Protection Agency of the Notice of Availability of the final EIS in the *Federal Register*. The ROD will state DOE's decision; identify the alternatives considered in reaching the decision, including the environmentally preferable alternative; identify any mitigation associated with the decision to reduce potential environmental impacts; and describe the factors

that went into making the decision. Factors that DOE will consider in making its decision will include potential environmental impacts, the Department's reliability findings (addressing the ISO studies and any comments received thereon), and any other factors that DOE may consider relevant to DOE's decision whether to issue the permit. The ROD will be published in the *Federal Register* and posted on the DOE NEPA website and the Northern Pass EIS website.

DOE's Environmental Review Under the National Environmental Policy Act (NEPA)

Q. What is an Environmental Impact Statement (EIS)?

A. For major Federal actions that may significantly affect the quality of the human environment, NEPA requires preparation of an EIS. An EIS is a detailed analysis of the potential environmental impacts of a proposed action, a no action alternative, and the range of reasonable alternatives.

Both the White House Council on Environmental Quality and DOE have issued regulations (40 CFR Parts 1500–1508 and 10 CFR Part 1021, respectively) and guidance regarding the preparation of an EIS and NEPA implementation more generally. These materials are available on the DOE NEPA Website at nepa.energy.gov.

Q. Why is an EIS needed for the Northern Pass Transmission Project?

A. Northern Pass' proposed transmission line would cross a U.S. border, and therefore cannot be built without a Presidential permit. DOE is required to comply with NEPA prior to deciding whether to issue a Presidential permit. Given the scope and breadth of Northern Pass' proposed project, DOE has determined that the appropriate level of NEPA review is an EIS. DOE issued its Notice of Intent (NOI) to prepare an EIS on February 11, 2011 (76 FR 7828). The NOI described the proposed project and how interested persons could submit comments for consideration by DOE during the NEPA process. DOE subsequently issued a second notice that extended the period for submitting scoping comments through June 14, 2011.

Q. What alternatives will DOE analyze in the Northern Pass Transmission Project EIS?

A. The EIS will analyze potential environmental impacts of the proposed action (the route and facilities proposed by Northern Pass), reasonable alternatives to Northern Pass' proposal, and a no action alternative.

1. **No Action Alternative.** DOE will analyze the environmental impacts if DOE were to deny the permit application and the proposed Northern Pass transmission line were not constructed. The no action alternative provides a baseline for considering the potential environmental impacts of the other alternatives.
2. **Proposed Action.** DOE will analyze the potential environmental impacts of constructing and operating the transmission line as proposed by Northern Pass.

3. **Reasonable Alternatives.** DOE will analyze the potential environmental impacts of reasonable alternatives, including alternative routes, for the transmission line. DOE will identify the reasonable alternatives based on information from Northern Pass, scoping comments, and its own review of the proposal.

DOE also will evaluate appropriate mitigation measures that are not already part of the proposed action or alternatives. Mitigation measures are actions to avoid, minimize, rectify (repair, rehabilitate, or restore), reduce, or compensate for adverse environmental impacts.

Q. What types of environmental impacts will DOE analyze in the Northern Pass Transmission Project EIS?

A. For each alternative, DOE will analyze impacts across the full spectrum of resource areas, such as:

- Air Quality: Potential air quality impacts, including climate change and greenhouse gas emissions.
- Water Resources: Potential effects of groundwater withdrawals and water use.
- Geography, Geology, and Soils: Potential effects on existing geography, geology, and soils.
- Land Use: Potential effects on land uses.
- Ecological: Potential onsite and offsite impacts to vegetation, terrestrial and aquatic wildlife, threatened and endangered species, and ecologically sensitive habitats.
- Public Health and Safety: Construction and operation-related safety, process safety, and management of process chemicals and materials.
- Noise: Potential impacts such as from construction activities.
- Hazardous Materials: Pollution prevention and waste management issues, including potential impacts from the generation, treatment, transport, storage, and management of wastes.
- Visual Resources: Potential aesthetic impacts to existing visual resources.
- Floodplains: Potential impacts (e.g., impeding floodwaters, re-directing floodwaters, possible property damage) of siting structures in floodplains.
- Wetlands: Potential effects to wetlands.
- Socioeconomic Impacts: Potential congestion and other impacts to local traffic patterns; socioeconomic impacts on public services and infrastructure (e.g., police protection, schools, and utilities); and environmental justice issues with respect to nearby communities.
- Cultural and Historical Resources: Potential impacts to cultural, archeological, and other historical resources.
- Cumulative Effects: Incremental impacts of the proposed project or alternatives that, when added to other past, present, and reasonably foreseeable future actions may have potentially significant impacts on the environment.

The level of analysis of each resource area in the EIS will be in accordance with the potential significance of impacts. The above list is not intended to be all inclusive or to imply any

predetermination of impacts. DOE will evaluate scoping comments received on the EIS in determining the full range of potential environmental impacts to analyze.

Q. I have heard that being an intervener and becoming a party to a Presidential permit case does not give the party any special privileges in the EIS process. Is that true and, if it is, why is that the case?

A. NEPA provides for broad public participation in the environmental review of a proposed federal action, such as the granting of a Presidential permit. NEPA review is not an adjudication or trial, and NEPA does not require intervention in order for an interested stakeholder to participate. There are no contesting “parties” and everyone is encouraged to participate in the NEPA review.

NEPA provides for extensive public participation in the preparation of an EIS through comments on the scope of the EIS and then on a draft EIS. Comments may be provided orally at public meetings and hearings or in writing. Moreover, DOE considers and responds to all comments submitted on the draft EIS, even if a comment is submitted anonymously. In the context of a Presidential permit application proceeding, DOE treats intervener filings as NEPA comments to the extent that DOE determines the comment relates to potential environmental impacts.

Q. What will be contained in the scoping report?

A. DOE’s longstanding practice for Presidential permit applications is to develop a scoping report that summarizes the NEPA comments, both written and oral, received during the scoping process. DOE will consider the scoping comments in defining the range of alternatives and potential environmental impacts to be analyzed in the EIS. Although the scoping report will not identify alternatives or describe the environmental impacts to be studied, that information will be contained in the draft EIS. The draft EIS also will include a section describing how the public scoping comments influenced its preparation.

Q. How can I be sure that DOE will consider my scoping comments when it prepares the EIS?

A. DOE is committed to ensuring that interested stakeholders have a meaningful opportunity to participate in its environmental review process. DOE will consider all scoping comments. The scoping period has been extended until June 14, 2011. It is DOE’s practice to consider all public comments received after the close of the comment period, to the extent practicable. After the close of the scoping period, DOE will publish a scoping report that summarizes the comments received.

Q. How will I know when the draft EIS is available for me to review? How long will I have to comment on the draft EIS?

A. Notice of the draft EIS's availability will be published in the *Federal Register* and the draft EIS will be posted on the DOE NEPA website and the Northern Pass EIS website. By regulation, DOE will provide a minimum of 45 days for comment on the draft EIS, during which time DOE will also hold public hearings to receive comments on the draft EIS.

Q. What is the process for developing a final EIS?

A. After the close of the comment period on the draft EIS, DOE will prepare a final EIS. In the final EIS, DOE will consider and respond to comments it received on the draft EIS (both written and oral comments). The availability of the final EIS will be announced in the *Federal Register* by the U.S. Environmental Protection Agency and the final EIS will be posted on the DOE NEPA website and on DOE's Northern Pass EIS website.

Q. What is DOE's process for selecting a third-party contractor to help DOE prepare its EIS? How can I participate in that selection process?

A. When evaluating an application for a Presidential permit, DOE complies with the regulations at 10 C.F.R. § 205.328 (a)-(b), 10 C.F.R. § 1021.215(d), and 40 C.F.R. § 1506.5(c). DOE is ultimately responsible for selecting the third-party contractor that helps DOE prepare the EIS. DOE selects a contractor after reviewing the candidate's record and ascertaining the absence of any conflicts of interest. DOE then executes a Memorandum of Understanding (MOU) with the applicant and the contractor, providing that the applicant will be required to pay the contractor but that DOE will have complete control of the contractor's work on the EIS. In other words, the MOU provides that the contractor works for DOE alone, though its expenses are paid by the applicant. DOE's regulations require the applicant to bear the expenses of its proposal. There is no formal provision for public participation in this process. Although the regulations do not by their terms provide for public input in the selection process, DOE has in the past considered public concerns over a contractor selected in the rare circumstances where such concerns have subsequently arisen.

The Northern Pass Application Proceeding

Q. DOE regulations for Presidential permits require applications to contain "Information regarding the environmental impacts...for each routing alternative." See 10 C.F.R. § 205.322(c). The regulations also require "a brief description of all practical alternatives to the proposed facility and a discussion of the general environmental impacts of each alternative." See 10 C.F.R. § 205.322(d). Does the Northern Pass application comply with DOE's regulations?

A. The Northern Pass application contains sufficient information submitted pursuant to 10 CFR 205.322(c) and (d) for DOE to make the determination of whether an EIS is necessary. See 10 C.F.R. § 205.328(a). Specifically, the Northern Pass application provides information regarding environmental impacts and alternatives to the proposed facility. The information

provided is sufficient to enable DOE to understand the applicant's proposal and to commence an informed NEPA review. For more information, see Interpretive Guidance on the Requirements of 10 C.F.R. § 205.322 (June 2, 2011), available at <http://www.oe.energy.gov/permits.htm>.

Q. DOE regulations require Presidential permit applicants to submit a series of technical studies related to the operation of the proposed international transmission line and the regional electrical grid. See 10 C.F.R. § 205.322(b)(3)(iii). When will Northern Pass submit these studies and will the public have an opportunity to review and comment on them?

A. The technical studies required by the Presidential permit regulations are typically prepared either by or in conjunction with regional transmission grid operators that evaluate all transmission projects that are proposed for development within a region. For more information, see Interpretive Guidance on the Requirements of 10 C.F.R. § 205.322 (June 2, 2011), available at <http://www.oe.energy.gov/permits.htm>. In the case of the Northern Pass project, ISO-New England is the regional transmission operator. DOE expects the required transmission studies to be completed by the applicant and ISO-New England and submitted to DOE by fall 2011. Once DOE receives these studies, they will be posted on the DOE Northern Pass EIS website, their availability will be announced in the *Federal Register*, and DOE will provide a minimum of 30 days for written public comment. DOE will consider all comments received on the transmission studies when evaluating the electric reliability impacts of the proposed action.

Q. Is Normandeau Associates still working on the Northern Pass application proceeding even though it is no longer serving as DOE's third-party contractor for DOE's Northern Pass EIS?

A. Normandeau is no longer DOE's third-party EIS contractor helping DOE prepare the Northern Pass EIS. DOE is working to identify a new contractor to help DOE prepare the Northern Pass EIS.

However, until DOE selects a new EIS contractor, Normandeau staff will be maintaining the EIS website under the direction of DOE. Maintenance of the website includes verifying addresses for our mailing and e-mail lists and adding documents to the website as directed by DOE.

Q. When will DOE make a decision on Northern Pass' permit application?

A. DOE's final determination on whether issuance of the permit would be consistent with the public interest – and therefore whether it will issue a Presidential permit – will be set forth in a Record of Decision. DOE will issue the Record of Decision no sooner than 30 days after publication by the U.S. Environmental Protection Agency of the Notice of Availability of the final EIS in the *Federal Register*. The schedule for the Draft EIS release is currently uncertain; therefore, the schedule for the Final EIS and ROD is also uncertain.