

DPS STAFF GUIDANCE ON PREPARING A PUBLIC INVOLVEMENT PLAN

Article 10 of the Public Service Law empowers the State of New York Board on Electric Generation Siting and the Environment (Siting Board) to issue Certificates of Environmental Compatibility and Public Need (Certificate) authorizing the construction of major electric generating facilities. On July 17, 2012, the Siting Board adopted regulations to implement Article 10. The regulations include requirements that are intended to “ensure that the Board is aware of the concerns of stakeholders” and to encourage stakeholder participation throughout the certification process.

One of the key element of the regulations is the requirement that applicants develop and implement a Public Involvement Program (PIP). Section 1000.4 of the regulations specifies that the program must include:

- (1) consultation with the affected agencies and other stakeholders;
- (2) pre-application activities to encourage stakeholders to participate at the earliest opportunity;
- (3) activities designed to educate the public as to the specific proposal and the Article 10 review process, including the availability of funding for municipal and local parties;
- (4) the establishment of a website to disseminate information to the public;
- (5) notifications; and
- (6) activities designed to encourage participation by stakeholders in the certification and compliance process.

Potential applicants should note that a PIP should be designed to facilitate public participation at all phases of the Article 10 process, from pre-application through certification and compliance.

The regulations require an applicant to submit a written plan describing its proposed program to DPS for review at least 150 days prior to submission of a preliminary scoping statement. DPS Staff will provide specific comments to the applicant if it finds the proposed plan is inadequate. This guidance memorandum offers suggestions that potential applicants should consider in developing PIP plans. Every project and every community will have its own characteristics and public information needs, and DPS encourages potential applicants to tailor their proposals accordingly.

A fundamental first step in designing a Public Involvement Program is determining who are the stakeholders who may be affected by the proposed project. Governmental agencies, such as local planning boards, are among the stakeholders that a PIP plan should identify. Attachment 1 to this document is a generic list of the kinds of agencies that may be affected by a project; applicants should identify the specific agencies that they propose to include in their program. Attachment 2 is a generic sample plan for an applicant's outreach to a host municipality that may be useful when developing a Public Involvement Program plan.

Broader outreach activities should also be included in the Public Involvement Program plan to show that the requirements of Section 1000.4 will be met.

IDENTIFICATION OF STAKEHOLDERS

No. Recommendation:

1. In order to identify the communities and groups that may be affected by the proposed project, the Public Involvement Program plan (Plan) should provide:
 - (a) a general description of the proposed project including: size, location, fuel source, and major related facilities;
 - (b) the location of interconnections, including the identification of municipalities crossed by any interconnections;
 - (c) the location of reasonable alternative sites, where applicable; and
 - (d) a preliminary Study Area and description of major routes of transportation for construction and operation (including transport of fuel for facility, if applicable).

If the proposed project is a variant of another project that was previously presented to the public in the same geographic area, the project description should identify the differences between the two projects in order to facilitate the identification of stakeholders.

2. The Plan should list the stakeholders that the applicant has already identified as likely to be affected by the project and describe the applicant's prior outreach to those parties.
3. The Plan should also describe the methodology to be used for identifying additional stakeholders, such as:
 - (a) affected agencies;
 - (b) other stakeholders that may be affected by the construction and operation of the facility including:
 - (i) host landowners; and
 - (ii) adjacent landowners; and
 - (iii) other affected individuals, groups and organizations; and
 - (c) whether environmental justice communities will be affected by the proposal.

LANGUAGE ACCESS

No. Recommendation:

4. The Plan should identify language(s) other than English spoken:
 - (a) according to United States Census data by 5,000 or more persons residing in any 5-digit zip code postal zone in which any portion of such zone is located within the preliminary Study Area for the proposed facility, giving the source of data used; and
 - (b) by a significant population of persons residing in close proximity to the proposed facility, alternative locations and interconnections not captured above.
5. If languages other than English are identified above, the Plan should identify:
 - (a) how documents will be translated into languages other than English; and
 - (b) what provision will be made for communicating with those members of the public at public meetings.

IDENTIFICATION OF GOALS & METHODS FOR SPECIFIC CONSULTATIONS

No. Recommendation:

6. The PIP must provide for consultations with affected agencies and other stakeholders. An applicant's Plan should describe the consultations that the applicant will undertake, what the goals of those consultations are, and the points in the process at which the applicant will engage in those consultations.
7. The Plan should describe the applicant's approach to communicating with affected agencies and other stakeholders. For each affected agency and other stakeholder specific consultation identified above, the Plan should:
 - (a) identify the methods of outreach to be used;
 - (b) contain an outreach schedule with approximate dates, times and locations;
 - (c) identify who will be doing the outreach along with their contact information; and
 - (d) provide a methodology to measure the success of the outreach.
8. If an environmental justice community will be affected by the proposal, the Plan should provide specific measures to address environmental justice outreach issues throughout all phases of the Article 10 process.

TRACKING OF PUBLIC INVOLVEMENT PROGRAM ACTIVITIES

No. Recommendation:

9. The Plan should include provisions for tracking the Public Involvement Program activities to be conducted over the course of the Article 10 process and the applicant's response to any feedback that it receives from stakeholders. This may be accomplished by preparing summaries of stakeholder interactions, comments, and questions. The Plan should also provide for recording any actions taken by the applicant in response to stakeholder feedback. The program should be fashioned so that it is easy to track the applicant's progress towards achieving its public involvement goals. The reports should be posted on the Applicant's website and filed with the Siting Board Secretary for posting in the case file.

WEBSITE

No. Recommendation:

10. The Plan should include:
- (a) a description of:
 - (i) an established project website including website address; or
 - (ii) a schedule for developing a website to disseminate information to the public;
 - (b) a schedule or outline for updating the website;
 - (c) a statement of the lead time that will be provided for the posting of notices of future outreach events; and
 - (d) a description of the content that will be provided on the website.
11. The Plan should provide that the website will:
- (a) be written in plain language and when appropriate, translated into other languages for comprehension by non-English speaking stakeholders identified under Recommendation No.4 above;
 - (b) be easily navigated;
 - (c) contain contact information for the Applicant (e-mail, telephone number and mailing address);
 - (d) provide links to:
 - (i) the Siting Board Article 10 Public Information Coordinator;
 - (ii) the Siting Board home page; and
 - (iii) case-specific documents;
 - (e) include information on the Article 10 process;
 - (f) explain the Intervenor Funding process (including stating the specific dollar amounts of funding that will be available for each phase of the project);
 - (g) contain project-specific information;
 - (h) contain a map of the proposed facility and alternate facility locations and interconnections; and
 - (i) provide a schedule that lists:
 - (i) dates/times/locations for in-person outreach events; and
 - (ii) key milestone dates, such as date when the application will be filed.

PUBLIC CONSULTATIONS AND OUTREACH

No. Recommendation:

12. The Plan should:
- (a) identify general outreach activities that will take place prior to submittal of the application, which may include mailings, open houses, meetings, seminars/webinars, etc., to inform, engage, and solicit input from the agencies, local community, general public, and other stakeholders;
 - (b) identify how information relative to events open to the public will be disseminated;
 - (c) include material to educate the public as to the specific proposal, including project technology, location of facilities, proposed study area, outline of the scope of studies to be provided in the application, etc.;

- (d) include educational material relative to the Article 10 review process and the goals of the Public Involvement Program;
 - (e) include material to educate the public on how it may become involved in each step of the Article 10 review process;
 - (f) include educational material on Intervenor Funding (including stating the specific dollar amounts of funding that will be available for each phase of the project); and
 - (g) explain how this information will be disseminated to the local community, general public, and other stakeholders.
13. Aspects of a project's design or the technology to be used may change over the course of the Article 10 process. A PIP Plan should explain how the applicant will inform and engage agencies and other stakeholders when such changes occur.

NOTIFICATIONS

No. Recommendation:

14. The Plan should describe how the applicant will notify stakeholders of events and activities and of changes or additions to the public outreach program. Notification processes should be designed to ensure all stakeholders receive the information through means that are appropriate to their communities and likely to be effective. The Plan should also ensure that notifications are made in time to allow stakeholders to participate in public outreach and education activities.

ACTIVITIES TO ENCOURAGE PARTICIPATION

No. Recommendation:

15. The Plan should identify:
- (a) pre-application activities designed to encourage stakeholder participation early in the process, with special attention paid to potential environmental justice areas;
 - (b) activities designed to encourage participation by stakeholders in the certification and compliance phases;
 - (c) the goals of these activities;
 - (d) methodologies for measuring the success of such activities;
 - (e) a schedule of such activities indicating when and where they will be conducted; and
 - (f) how information relative to events open to the public will be disseminated.

REQUIRED AGENCY/MUNICIPAL PRE-APPLICATION CONSULTATIONS

No. Recommendation:

16. The Article 10 Regulations require a number of specific consultations with affected agencies and municipalities. The Plan should include a schedule of the required consultations with approximate dates, times and locations and identifying who will be doing the outreach along with their contact information. If a consultation is not applicable to the proposed facility, the schedule should so indicate.
17. The schedule of required consultations should include, if applicable:
- (a) consultation with DPS, NYISO and the local transmission owners to identify applicable requirements to be used to demonstrate the degree of compliance with all relevant applicable reliability criteria of the Northeast Power Coordinating Council Inc., New York State Reliability Council, and the local interconnecting transmission utility, including any criteria regarding blackstart and fuel switching capabilities [16 NYCRR 1001.5(n)];
 - (b) consultation with DPS and the Department of Environmental Conservation (DEC) to develop an acceptable input data set, including modeling for the Applicant's proposed facility and inputs for the emissions analysis, to be used in the simulation analyses [16 NYCRR 1001.8];
 - (c) consultation with the Department of Health (DOH) and DEC to determine a set of non-criteria (i.e. toxic) pollutants to be emitted from the proposed facility [16 NYCRR 1001.17(c)(9)];
 - (d) consultation with DOH and DEC to determine appropriate pollutants for an estimation of the maximum potential air concentrations (short and long term) [16 NYCRR 1001.17(d)(1)];
 - (e) consultation with DOH and DEC to determine appropriate pollutants for a comparison of the maximum predicted air concentrations to ambient air quality standards and guidelines and ambient background concentrations for non-criteria pollutants for both short-term and long-term exposures [16 NYCRR 1001.17(d)(2)];
 - (f) consultation with DOH and DEC to determine if cumulative source impact analyses for any appropriate pollutant in accordance with air permitting requirements and 6 NYCRR Part 487 are warranted [16 NYCRR 1001.17(d)(3)];
 - (g) consultation with the Office of Parks, Recreation and Historic Preservation (OPRHP) to determine if a Phase IB cultural resources study is required [16 NYCRR 1001.20(a)(3)];
 - (h) consultation with OPRHP to determine if a Phase II study based on intensive archaeological field investigations shall be conducted to assess the boundaries, integrity and significance of cultural resources identified in Phase I studies [16 NYCRR 1001.20(a)(4)];
 - (i) consultation with OPRHP and DPS to determine the need for and scope of work for any required Phase II cultural resources study [16 NYCRR 1001.20(a)(4)];
 - (j) consultation with local historic preservation groups to identify sites or structures listed or eligible for listing on the State or National Register of Historic Places within the viewshed of the facility and within the study area [16 NYCRR 1001.20(b)];

- (k) consultation with DEC, DPS, OPRHP, and the Adirondack Park Agency (APA) where appropriate to establish representative viewpoints for the photographic simulations of the facility and interconnections [16 NYCRR 1001.24(b)(4)];
- (l) consultation with the affected school districts to inform the Applicant's estimate of incremental school district operating and infrastructure costs due to the construction and operation of the facility [16 NYCRR 1001.27(f)];
- (m) consultation with the affected municipalities, public authorities, and utilities to inform the Applicant's estimate of incremental municipal, public authority, or utility operating and infrastructure costs that will be incurred for police, fire, emergency, water, sewer, solid waste disposal, highway maintenance and other municipal, public authority, or utility services during the construction and operation phases of the facility [16 NYCRR 1001.27(g)];
- (n) consultation with the affected local emergency response organizations to inform the Applicant's analysis of whether all contingency plans to be implemented in response to the occurrence of a fire emergency or a hazardous substance incident can be fulfilled by existing local emergency response capacity, and in that regard identifying any specific equipment or training deficiencies in local emergency response capacity [16 NYCRR 1001.27(k)];
- (o) consultation with the municipalities or other local agencies whose requirements are the subject of the local laws exhibit to determine whether the Applicant has correctly identified all such requirements and to determine whether any potential request by the Applicant that the Board elect to not apply any such local requirement could be obviated by design changes to the proposed facility, or otherwise [16 NYCRR 1001.31]; and
- (p) consultation with the state agencies and authorities whose requirements are the subject of the State Laws and Regulations exhibit to determine whether the Applicant has correctly identified all such requirements [16 NYCRR 1001.32].

REQUIRED AIRPORT/HELIPORT PRE-APPLICATION CONSULTATIONS

No. Recommendation:

- 18. The Article 10 Regulations require a number of specific consultations related to air transportation impacts. The Public Involvement Plan should include a schedule of the required consultations with approximate dates, times and locations and identifying who will be doing the outreach along with their contact information. If a consultation is not applicable to the proposed facility, the schedule should so indicate.
- 19. The Plan should also, as applicable to project location and design:
 - (a) identify the necessity of consultations with the operators of airports or heliports [16 NYCRR 1000.4(f) & 1001.25(e)&(f)];
 - (b) provide the methodology used to identify the operators;
 - (c) include outreach to inform such operators of the proposed facility and its location prior to the submission of the preliminary scoping statement [16 NYCRR 1000.4(f)];
 - (d) include an informal Department of Defense review of the proposed construction or alteration, in accordance with 32 Code of Federal Regulations, Section 211.7; or a formal Department of Defense review of the proposed construction or alteration in

- accordance with 32 Code of Federal Regulations, Section 211.6 [16 NYCRR 1001.25(f)(1)]; and
- (e) include consultations with operators of airports and heliports that are non-military facilities, including providing a detailed map and description of such construction or alteration to such operators, and a request for review of and comment on such construction or alteration by such operators [16 NYCRR 1001.25(f)(2)].

APPLICANT RESPONSE TRACKING TABLE

No. **Recommendation:**

- 20. The Plan should include a table listing by rows each separate DPS staff recommendation set forth in this attachment in one column, and in a second column a statement for each row that either:
 - (a) the Applicant has revised the Public Involvement Program plan to incorporate the DPS recommendation (giving the section or page number of the Plan where the revision appears); or
 - (b) providing a written explanation as to why the Applicant decided not to incorporate the recommendations.

ATTACHMENT 1

GENERIC LIST OF AGENCY STAKEHOLDERS FOR PUBLIC INVOLVEMENT PLANS AND OUTREACH

MUNICIPALITIES WITHIN PROJECT STUDY AREA

County, Town, City, Village officials – chief executive officer(s), planning offices, etc.

PUBLIC AIRPORT and HELIPORTS – owners/operators within required distances

NEW YORK STATE AGENCIES

NYS Dept of Agriculture and Markets – agricultural lands, agricultural districts, impact avoidance and mitigation measures

NYS Dept of Environmental Conservation – environmental justice rules, air emissions, natural resources, ecologic resources, bird and bat studies, stormwater planning, open space conservation planning, etc.

NYS Dept of State – coastal resources, coastal zones and inland waterways, local waterfront revitalization plans, south shore estuary reserve office

NYS Office of Parks, Recreation and Historic Preservation – State Historic Preservation Officer, state historic sites, state parks, recreation resources, open space conservation planning, etc.

NYS Division of Homeland Security and Emergency Services– emergency preparedness plans, critical infrastructure impacts, etc.

NYS Dept of Public Service – Public Information Officer, Office of Gas, Electric & Water, Office of Energy Efficiency & Environment, Office of Consumer Policy, as appropriate

NYS Department of Transportation – NYS highway work and occupancy permit requirements, oversize deliveries

NYS Dept of Health – public health issues

Empire State Development Corporation – economic development, Empire Zones

State Legislature -- members of the State Senate and State Assembly representing locations within project study area (depending on timing of the filing of the preliminary Scoping Statement, the identification may need to consider both the current districts and the newly revised districts that take effect in January, 2013).

REGIONAL or LOCATIONAL AGENCIES

Adirondack Park Agency for projects within or adjoining Adirondack Park “blue line”

Central Pine Barrens Joint Planning and Policy Commission – for projects in Pine Barrens Preserve areas

Heritage Areas: e.g., Mohawk Valley Heritage Corridor Commission

Hudson River Valley Greenway for projects in Greenway community locations

NYS Office of General Services – for NYS-owned underwater lands

South Shore Reserve Office – for the Long Island South Shore Estuary Reserve area

Thruway Commission/Canal Corporation for projects within transportation corridors

Tug Hill Commission for projects within or adjoining Tug Hill Communities

FEDERAL AGENCIES

Dept of Defense Clearinghouse for Energy Development – hazards to military aviation, RADAR/LORAN and communications

Federal Aviation Administration – hazards to aviation, airport

US Army Corps of Engineers – wetlands and navigable waterways

US Fish & Wildlife Service – federally listed endangered species, migratory birds

NOAA –National Marine Fisheries Service – fisheries resources, federally listed endangered marine species

ATTACHMENT 2

EXAMPLE PUBLIC INVOLVEMENT PROGRAM PLAN COMPONENT FOR OUTREACH TO HOST TOWN

In developing a Public Involvement Program plan component for outreach to the host municipality (Town), an applicant should consider its objectives for the outreach to the Town and what type of information it should convey and gather in advancing the application process. An applicant should also be mindful of the objectives and information a Town would want to gain from outreach from an applicant about the project and anticipate them to the best of its ability.

Initial Outreach to Host Town

- a. Describe the goals of consultation:
 - Meet town representatives;
 - Disseminate Information;
 - Request Information that will help advance the PIP process and preparation of the Application; and,
 - Schedule follow up meeting(s) and consultation (s).
- b. Describe the measure of success for the consultation:
 - Consultation would be deemed successful if the information described below in “Disseminate Information” was provided to Town representatives, information was gathered to help advance the PIP process and preparation of the application, and follow up meetings or consultations were either scheduled or will be scheduled (provide more detail).

Disseminate Information

- Project
 - Describe the project and location.
- Describe Article 10 of the Public Service Law.
 - Explain the phases of the Article 10 process.
 - Explain why the project is going through the Article 10 process.
 - Explain the Public Involvement Plan and why the applicant is conducting the outreach.
 - Explain how the Town can participate in each step of the Article 10 process.
 - Describe the available Intervenor Funding – why it is available, how much will be available, when the funds will be available, who is eligible for funding, what the process is for obtaining funding.
- Describe additional consultations and outreach the applicant is conducting, including plans for outreach with Town residents.
- Advise of outreach or activities to encourage participation of the Town and its residents and provide a schedule of any planned activities. Describe the goal of the outreach.
- Provide information to the Town regarding where residents can get additional information on the project and Article 10 and provide the website information.

- If any language other than English is spoken, advise the Town of where information about the project, Article 10 process, and outreach opportunities is available in the other language(s) and describe any specialized outreach opportunities for this group.
- Environmental Justice – advise of any communities identified and specific outreach targeting those Environmental Justice communities.
- Next Steps – describe the next steps in the process, when the Preliminary Scoping will commence and how the Town can Participate.

Request Information

- Request contact information for discussion of:
 - Payment in lieu of taxes agreement
 - Highway work agreements
 - Local Laws
 - Follow up activity: consult with representative of the municipality and other local agencies whose requirements are the subject of the local laws exhibit to determine whether the applicant has correctly identified all such requirements and to determine whether the applicant has correctly identified all such requirements and to determine whether any potential request by the applicant that the Board elect to not apply any such local requirements could be obviated by design changes to the proposed facility, or otherwise.
 - Emergency Response Organizations
 - Follow up activity: consult with affected local emergency response organizations to inform the applicant’s analysis of whether all contingency plans to be implemented in response to the occurrence of a fire emergency or a hazardous substance incident can be fulfilled by existing local emergency response capacity, and identify any specific equipment or training deficiencies in local emergency response capacity.
 - Environmental Impact Review
 - Follow up activity:
 - Disclose potentially significant adverse environmental and health impact resulting from the construction and operation of the proposed facility including an identification of particular aspects of the environmental setting that may affect the Town.
 - Request the Town to advise of any additional material environmental impacts or effects of the project on the Town based on the description provided.
 - Chief Executive or Chief Financial Officer
 - Follow up activity: Inform the Town of the applicant’s estimated incremental municipal operating and infrastructure costs incurred for police, fire, emergency, water, sewer, solid waste disposal, highway maintenance and other municipal services during the construction and operation phases of the facility.
- Request contact information for interest groups or community leaders.
- Inquire which news sources are used by the Town for official notices and whether any specific rules apply for notice for town meetings.