



July 8, 2010

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Sent via email to fwhabtat@gw.dec.state.ny.us
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BTA Policy Comments
NYS DEC - Division of Fish Wildlife and Marine Resources
Bureau of Habitat
625 Broadway, 5th Floor
Albany, NY 12233-4756

Dear DEC Staff:

As a follow-up to the June 10th meeting between the New York Affordable Reliable Electricity Alliance (New York AREA) and the New York State Department of Conservation (DEC) staff, and per Ms. Crocker's invitation to recommend specific changes to the proposed policy, New York AREA respectfully submits the following additional comments on the DEC's draft "Best Technology Available (BTA) for Cooling Water Intake Structures."

As discussed in our meeting, these comments reflect your request for additional language designed to improve the draft policy as well as suggested changes to the language that would help to build much needed flexibility into it. New York AREA and its diverse membership noted that the policy as written is confusing, rigid and several sections lack adequate justification.

In addition and per our previous letter submitted in person on June 10, 2010, we would again request an independent study sponsored by the DEC to assess the impact of the policy on system reliability, jobs and electricity prices. With Appendix A of the draft BTA policy noting that more than two dozen power facilities are subject to impact by the proposed policy, an estimated cost of \$8.5 billion, and many jobs at risk, such a study is imperative.

In fact, while we do offer specific language changes, we believe the DEC should not proceed further with the policy until such a study is completed. We also believe extensive discussions with the New York Independent System Operator (NYISO) to ensure reliability are very important. A new policy should be issued, taking into account the costs and benefits of various cooling technologies, which would be consistent with last year's U.S. Supreme Court decision.

With this, New York AREA offers the following recommendations:

Additional language to be incorporated into the policy:

Page 2 of the policy, new paragraph after (4):

"This policy sets performance goals based on the reductions in impingement and entrainment associated with the use of closed-cycle cooling or its equivalent (as defined in the policy). Consistent with the Clean Water Act's emphasis on technology-neutral performance standards and limitations, these performance goals do not mandate the installation or use of closed-cycle cooling at new or existing facilities subject to the policy, nor do they predetermine how such facilities will ultimately achieve the required reductions. Facilities may propose to achieve the policy's performance goals through a variety of means, including alternative technologies. Even at facilities where closed-cycle cooling is deemed 'available,' site-specific factors and the potentially significant adverse environmental impacts of closed-cycle cooling may favor the installation and use of alternative technologies."

Proposed edits to existing language (additions underlined):

Page 4 of the policy (third paragraph):

"Given the effectiveness of closed-cycle cooling at reducing adverse environmental impact caused by a CWIS, and the biological importance of New York's surface waterbodies for commercial and recreational uses, particularly in the marine and coastal district, the tidal reach of the Hudson River, and the Great Lakes, this policy establishes the reductions in impingement and entrainment achievable with closed-cycle cooling or its equivalent as the performance goal for all new, existing and repowered industrial facilities in New York."

Page 5 of the policy (first paragraph):

"Where the Department determines that wet closed-cycle cooling is available at an existing facility, achieving reductions in impingement and entrainment equivalent to closed-cycle cooling will be required as BTA to comply with 6 NYCRR s.704.5. Facilities may propose to use alternative technologies other than closed-cycle cooling that achieve equivalent reductions."

Page 9 of Appendix A (third paragraph):

"Closed-cycle cooling or equivalent is required for all new industrial facilities in New York with non-contact cooling water needs."

New York AREA and its members believe that input from the public and concerned parties should be incorporated into the draft policy to avoid serious economic consequences for our state.

On behalf of our membership, thank you for your attention to this matter.

Sincerely,



Arthur "Jerry" Kremer
Chairman
New York AREA

cc: Ms. Alison Crocker, Deputy Commissioner, Office of General Counsel
Mr. Stuart Gruskin, Executive Deputy Commissioner