

**ADDRESSES:** The LOA and supporting documentation are available online at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-us-coast-guards-alaska-facility-maintenance-and-repair>. In case of problems accessing these documents, please call the contact listed below.

**FOR FURTHER INFORMATION CONTACT:** Cara Hotchkin, Office of Protected Resources, NMFS, (301) 427-8401.

**SUPPLEMENTARY INFORMATION:**

**Background**

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to as “mitigation”); and requirements pertaining to the mitigation, monitoring, and reporting of the takings are set forth. NMFS has defined “negligible impact” in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: any act of pursuit, torment, or annoyance which: (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the

wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

**Summary of Request**

On December 20, 2023, we issued a final rule upon request from the Coast Guard for authorization to take marine mammals incidental to construction activities (88 FR 87937). The Coast Guard plans to conduct construction activities for pier maintenance and repair at eight facilities in Alaska. This construction will include use of vibratory pile driving and removal, impact pile driving, and down-the-hole (DTH) drilling. The use of vibratory and impact pile driving and DTH drilling is expected to produce underwater sound at levels that have the potential to result in Level A and Level B harassment of marine mammals.

**Authorization**

We have issued a LOA to Coast Guard authorizing the take of marine mammals incidental to construction activities, as described above. Take of marine mammals will be minimized through the implementation of the following planned mitigation measures: (1) required monitoring of the construction area to detect the presence of marine mammals before beginning construction activities; (2) shutdown of construction activities under certain circumstances to avoid injury of marine mammals; and (3) soft start for impact pile driving to allow marine mammals the opportunity to leave the area prior to beginning impact pile driving at full power. Additionally, the rule includes an adaptive management component that allows for timely modification of mitigation or monitoring measures based on new information, when appropriate. The Coast Guard will submit reports as required.

Based on these findings and the information discussed in the preamble to the final rule, the activities described under this LOA will have a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the availability of the affected marine mammal stock for subsistence uses.

Dated: March 1, 2024.

**Catherine Marzin,**

*Acting Director, Office of Protected Resources, National Marine Fisheries Service.*

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**BILLING CODE 3510-22-P**

**DEPARTMENT OF ENERGY**

**Notice of Availability of the Draft Environmental Impact Statement for Department of Energy Activities in Support of Commercial Production of High-Assay Low-Enriched Uranium (HALEU)**

**AGENCY:** Office of Nuclear Energy, U.S. Department of Energy.

**ACTION:** Notice of availability and public hearings.

**SUMMARY:** The U.S. Department of Energy (DOE) announces the availability of the *Draft Environmental Impact Statement for Department of Energy Activities in Support of Commercial Production of High-Assay Low-Enriched Uranium (HALEU)* (Draft HALEU EIS) (DOE/EIS-0559). DOE is also announcing a public comment period and public hearings to receive comments on the Draft HALEU EIS. DOE prepared the Draft HALEU EIS to evaluate the potential environmental impacts of DOE’s Proposed Action for the acquisition of HALEU produced by a commercial entity using enrichment technology and making it available for commercial use or demonstration projects.

**DATES:** Comments will be accepted during the comment period, which will extend for 45 days after the date that the U.S. Environmental Protection Agency (EPA) publishes its Notice of Availability in the **Federal Register** March 8, 2024. DOE plans to hold three public hearings on the Draft HALEU EIS. DOE will host internet-based, virtual public hearings in place of in-person hearings. The dates of the hearings will be on Wednesday, April 3, 2024, at 6:00 p.m. ET, 8:00 p.m. ET, and 10:00 p.m. ET. Further information on the public hearings is available on the following website: <https://www.energy.gov/ne/haleu-environmental-impact-statement>. DOE will hold the hearings no earlier than 15 days from the posting of the EPA Notice of Availability.

**ADDRESSES:** DOE invites Federal and state agencies, state and local governments, Native American Tribes, industry, other organizations, and members of the public to review and submit comments on the Draft HALEU EIS. Written comments on the Draft HALEU EIS should be sent to Mr. James Lovejoy, HALEU EIS Document Manager, by mail at: U.S. Department of Energy, Idaho Operations Office, 1955 Fremont Avenue, MS 1235, Idaho Falls, Idaho 83415; or by email to [HALEU-EIS@nuclear.energy.gov](mailto:HALEU-EIS@nuclear.energy.gov). The Draft HALEU EIS is available for viewing or

download at <https://www.energy.gov/ne/haleu-environmental-impact-statement>.

**FOR FURTHER INFORMATION CONTACT:** For information regarding DOE HALEU activities or the Draft HALEU EIS, visit <https://www.energy.gov/ne/haleu-availability-program> or <https://www.energy.gov/ne/haleu-environmental-impact-statement> or contact Mr. James Lovejoy at the mailing address listed in the **ADDRESSES** section or via email at [HALEU-EIS@nuclear.energy.gov](mailto:HALEU-EIS@nuclear.energy.gov) or telephone: (208) 526-4519. For general information on DOE's National Environmental Policy Act process, contact Mr. Jason Anderson at the mailing address listed in the **ADDRESSES** section or via email at [HALEU-EIS@nuclear.energy.gov](mailto:HALEU-EIS@nuclear.energy.gov) or telephone: (208) 526-0174.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Energy Act of 2020 directs the Department of Energy “to establish and carry . . . out a program to support the availability of HA–LEU for civilian domestic research, development, demonstration, and commercial use.” DOE is committed to support the development and deployment of the HALEU fuel cycle and to acquire and provide HALEU as authorized by Congress in Section 2001 of the Energy Act of 2020.

Low-enriched uranium (LEU) is enriched to less than 20% uranium-235 (U–235), the main fissile isotope that produces energy during a chain reaction. The current U.S. commercial power reactor fuel cycle is based on LEU enriched to less than 5% of U–235, but many advanced reactor designs require HALEU.

HALEU is defined as “uranium having an assay greater than 5.0 weight percent and less than 20.0 weight percent of the uranium-235 isotope” (42 U.S.C. 16281(d)(4)). In the United States, HALEU is currently made, in limited quantities, by blending down highly enriched uranium (HEU) (enriched to 20% or greater), with natural uranium or lower enriched uranium (*i.e.*, “downblending”). Anticipated demand from research reactors, isotope production facilities, and advanced nuclear reactors will require more HALEU to be manufactured for commercial purposes. The capability to downblend provides insufficient capacity to support commercialization of domestic HALEU supply. A commercial capability to produce HALEU through enrichment of natural uranium or LEU does not exist in the United States.

DOE predicts that by the mid-2020s, approximately 22 metric tons (MT) of HALEU will be needed for initial core loadings to support reactor demonstrations and DOE test and research reactors that were converted from HEU fuel. DOE also predicts a HALEU demand of between 8 and 12 MT of HALEU annually into the early 2030s increasing to over 50 MT of HALEU per year by 2035, and ultimately over 500 MT of HALEU per year by 2050. The lack of an adequate domestic, commercial fuel supply could impede both reactor demonstrations and deployment of advanced reactor technologies requiring HALEU.

As indicated by many commercial entities that responded to DOE's *Request for Information (RFI) Regarding Planning for Establishment of a Program to Support the Availability of High-Assay Low Enriched Uranium (HALEU) for Civilian Domestic Research, Development, Demonstration, and Commercial Use* (86 FR 71055, December 2021) (referred to as the “RFI”), there is a potential timing/coordination issue with developing that capability.

There is currently insufficient private incentive to invest in commercial HALEU production due to the current market base, resulting in those interested in designing, building, and operating advanced reactor designs that use HALEU fuel being hesitant to invest in the technology without a reliable source of HALEU fuel. There is also insufficient incentive to invest in the necessary commercial deployment of advanced reactors because the domestic HALEU fuel cycle does not currently exist. The Energy Act of 2020 aims to stimulate HALEU supply to support the development, demonstration, and deployment of advanced reactors in a manner that establishes a diversity of supply and healthy market forces for the future. This concern is a consistent theme in the industry responses to DOE's RFI. These responders emphasized the importance of the HALEU consortium that is called for in the Energy Act of 2020 and that DOE established on December 7, 2022 (87 FR 75048). Responders also emphasized the opportunity for DOE to be an agent for stability (both in assuring HALEU availability and market price certainty) during the initial phase of HALEU fuel production.

To address this issue, an initial public/private partnership is intended to accelerate development of a sustainable commercial HALEU supply capability. If successful, this partnership could provide the incentive for the private sector to incrementally expand

the capacity in a modular fashion as a sustainable market develops.

On June 5, 2023, the DOE Idaho Operations Office published for comment two Draft Requests for Proposals (RFPs) for: (1) HALEU enrichment capability in the United States; and (2) U.S. capabilities in HALEU deconversion to oxide, metal, or other forms (a final RFP for the deconversion RFP was published on November 28, 2023, and the final RFP for the enrichment RFP was published on January 9, 2024). Under the RFP for *Purchase of High-Assay Low-Enriched Uranium (HALEU)—Enrichment* (the “Enrichment RFP”), DOE solicited response from industry regarding DOE's proposal to acquire, through procurement from commercial sources, HALEU as uranium hexafluoride (UF<sub>6</sub>) enriched to a minimum of 19.75 and less than 20 weight percent U–235 as soon as possible to secure a more robust, longer-term HALEU production capability.

The enriched UF<sub>6</sub> must be deconverted to other forms, like oxide or metal, before it can be fabricated into HALEU fuel or put to other use. Under the RFP for the *Purchase of High-Assay Low-Enriched Uranium (HALEU)—Deconversion Services* (the “Deconversion RFP”), DOE solicited response from industry regarding DOE's proposal to acquire domestic HALEU deconversion services for HALEU and storage until future fuel fabrication.

**Alternatives**

The Draft HALEU EIS evaluates potential environmental impacts for the Proposed Action and the No Action Alternative. The Proposed Action is to acquire, through procurement from commercial sources, HALEU enriched to at least 19.75 and less than 20.00 weight percent U–235 over a 10-year period of performance, and to facilitate the establishment of commercial HALEU fuel production. The Proposed Action implements section 2001(a)(2)(D)(v) of the Energy Act of 2020 for the acquisition of HALEU produced by a commercial entity using enrichment technology and making it available for commercial use or demonstration projects.

This Draft HALEU EIS addresses the following activities facilitating the commercialization of HALEU fuel production and acquisition of up to 290 MT of HALEU under the Proposed Action: (1) mining, extraction, and recovery of uranium ore producing triuranium octoxide (U<sub>3</sub>O<sub>8</sub>) (from domestic or foreign in-situ recovery or conventional mining and milling sources); (2) uranium conversion from

U<sub>3</sub>O<sub>8</sub> to UF<sub>6</sub> for input to enrichment facilities; (3) enrichment in up to three steps (a) from natural uranium to LEU of no more than 5 weight percent U-235, (b) from LEU to HALEU of less than 10 weight percent U-235, and (c) to HALEU of less than 20 weight percent U-235; (4) HALEU deconversion from UF<sub>6</sub> to uranium oxide, metal, and other forms; (5) storage; (6) transportation of uranium/HALEU between facilities; and (7) DOE acquisition of HALEU of between at least 19.75 weight percent and less than 20 weight percent U-235. In addition to the activities above, the following actions could result from implementation of the Proposed Action: (1) fuel fabrication for a variety of fuel types in a U.S. Nuclear Regulatory Commission (NRC) Category II facility; (2) HALEU-fueled reactor (demonstration and test, power, isotope production) operations; and (3) spent fuel storage and disposition. While not specifically a part of the Proposed Action, these activities are reasonably foreseeable and therefore acknowledged and addressed to the extent possible in the Draft HALEU EIS.

While the Draft HALEU EIS provides information that could be used to identify impacts from the construction and operation of HALEU fuel cycle facilities, the selection of specific locations and facilities will not be a part of the Record of Decision for this EIS.

#### Preferred Alternative

The Preferred Alternative is the Proposed Action, to acquire, through procurement from commercial sources, HALEU enriched to at least 19.75 and less than 20 weight percent U-235 over a 10-year period of performance, and to facilitate the establishment of commercial HALEU fuel production. The No Action Alternative would not implement the Proposed Action, leaving development of a domestic commercial supply of HALEU to industry or industry would remain reliant on foreign supplies of HALEU, contrary to Congressional direction under section 2001 of the Energy Act of 2020.

#### Virtual Public Hearings

DOE will host three interactive, virtual public hearings during the public comment period on Wednesday, April 3, 2024, at 6 p.m. ET, 8 p.m. ET, and 10 p.m. ET. During these public hearings, DOE will give a brief presentation on the Draft HALEU EIS, followed by a period during which DOE will accept oral comments on the Draft HALEU EIS. Parties interested in providing oral comments are encouraged to preregister for the public hearings and indicate their desire to

comment. Oral comments will be transcribed. Written comments on the Draft HALEU EIS may also be submitted during the public comment period as indicated under the **ADDRESSES** section. All comments, received before the end of the comment period, whether oral or written, will be considered by DOE as the HALEU EIS is finalized. DOE will post information regarding the public hearings on the HALEU EIS website at <https://www.energy.gov/ne/haleu-environmental-impact-statement>. The hearings will also be announced in newspapers.

#### Signing Authority

This document of the Department of Energy was signed on March 1, 2024, by Dr. Kathryn Huff, Assistant Secretary for Nuclear Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by the Department of Energy. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned Department of Energy Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 1, 2024.

**Treana V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

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**BILLING CODE 6450-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 5867-054]

#### Alice Falls Hydro, LLC; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the application for a new license to continue to operate and maintain the Alice Falls Hydroelectric Project No. 5867 (project). The project is located on the Ausable River in Clinton and Essex counties, New York. Commission staff

has prepared an Environmental Assessment (EA) for the project.

The EA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

The Commission provides all interested persons with an opportunity to view and/or print the EA via the internet through the Commission's Home Page (<http://www.ferc.gov>), using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or at (866) 208-3676 (toll-free), or (202) 502-8659 (TTY).

You may also register online at <https://ferconline.ferc.gov/FERCOnline.aspx> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595, or [OPP@ferc.gov](mailto:OPP@ferc.gov).

Any comments should be filed within 45 days from the date of this notice.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at <https://ferconline.ferc.gov/FERCOnline.aspx>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <https://ferconline.ferc.gov/QuickComment.aspx>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A.