Dr. Ronald L. Simard
SENIOR DIRECTOR, BUSINESS
SERVICES DEPARTMENT
BUSINESS OPERATIONS DIVISION

November 26, 2002

Mr. James E. Lyons
Director, New Reactor Licensing Project Office
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: Resolution of Generic Topic ESP-2a (Pre-application interactions)

Dear Mr. Lyons:

In public meetings on April 24, May 28 and June 13, we discussed matters related to pre-application interactions and how generic ESP issues could most efficiently be addressed. In addition to the public meetings, we addressed these matters in our May 20 response to the staff's February 22 letter to NEI.

Note that generic topic ESP-2a was recently defined to focus on pre-application interactions as distinct from topic ESP-2, ESP Inspection Guidance, which will continue to focus on the need to fill gaps in guidance for applicant preparation and NRC review of ESP applications. Bifurcating this topic facilitates timely documentation of understandings and expectations associated with ESP interactions during the pre-application phase. ESP-2 will be addressed via industry comments and follow-up discussion on the recently released Inspection Manual Chapter for ESP (IMC-2501), and the draft ESP Review Standard to be published for trial use and comment by the end of this year.

Our ESP-2a discussions regarding pre-application interactions covered three general areas:

1. Nature of pre-application interactions
2. NRC review fee structure for ESP applicants
3. Local public meetings by NRC

We request that, by reply to this letter, the NRC confirm the understandings and expectations that resulted from our discussions in each of these areas, as identified

below. To ensure timely resolution of generic issues and continued progress toward ESP applications in 2003, we request that NRC respond within 30 days.

Sub-topic ESP-2a.1, Nature of pre-application interactions

Understandings/Expectations:

1. Substantial pre-submittal interactions with NRC will be important to address significant gaps in guidance for preparing ESP applications and to simplify follow-on NRC reviews.

2. We expect a significant number of ESP-related issues will be common to all three lead ESP applicants. Thus the lead ESP applicants are collectively addressing these issues with the NRC primarily through NEI-led interactions with the ESP Task Force (ESPTF). Applicant-specific interactions, such as site visits, will take place on an as-needed basis as determined by the applicant and the NRC.

3. Dealing with generic issues via the ESPTF is consistent with license renewal experience, the need to use resources effectively and the goal that ESP applications maximize use of common information and approaches. In addition, this approach provides a mechanism for meaningful interactions in the absence of specific regulations, regulatory guidance or other bases for assessing ESP application information prior to formal submittal.

4. The NRC's February 22 letter to NEI states that, "[I]n general, the NRC's enforcement policy would not apply prior to the submission of an ESP application." Indeed, as identified by the NRC staff on June 13, "[A]ll pre-application activities except for the Local Public Meeting are voluntary and depend on the availability of staff resources and the consent of the applicant."

   While not required, the value of pre-application interactions is clear, and the prospective ESP applicants, through NEI, have initiated discussion on a range of generic ESP topics. In addition to facilitating the three pilot ESP projects and yielding guidance for follow-on ESP applicants, we expect that these interactions will support the staff's efforts to develop ESP inspection guidance, proceduralize its activities to promote consistent ESP reviews and otherwise prepare for first-ever ESP applications. We expect that ESP review guidance and procedures developed by the staff will reflect the voluntary nature of most pre-application interactions.

5. NRC staff feedback generated by pre-submittal assessment of applicant-specific information is expected to be documented and provided to the ESP applicant. ESP applicants will address this feedback as appropriate in the ESP submittal. To the extent the applicant conforms its submittal to the advance feedback provided by the NRC in a particular area, it is expected that, absent significant new information, the NRC will find that aspect of the ESP application to be acceptable during their review.

Sub-topic ESP-2a.2 – NRC review fee structure for ESP applicants

Understandings/Expectations:

1. Interactions with the NRC related to generic ESP topics, such as those addressed herein, are for the purpose of exchanging information and supporting the NRC's regulatory improvements and efforts. Specifically, these interactions and reviews support the NRC's development of generic guidance and regulations related to implementation of first-of-a-kind requirements in Part 52 governing ESP applications and reviews. Because these activities provide insights of value to the NRC in furtherance of its generic regulatory efforts and objectives for Part 52, they qualify for a fee exemption pursuant to 10 CFR 170.11(a)(1)(iii) (A).

2. Applicant-specific activities, including local public meetings, are fee recoverable under Section 170.21. However, the three lead ESP applicants, Exelon, Entergy and Dominion, plan to seek exemption from NRC review fees under Section 170.11(b)(1) on the basis that ESP activities are in the public interest inasmuch as they further the Commission's objectives for Part 52; provide a demonstration of the untested Part 52 ESP process; assist in NRC development of ESP application, review and inspection guidance; and generally further the NRC's generic regulatory improvement efforts. ESP applicant requests for exemption from NRC review fees are consistent with fee waivers granted by the NRC for lead license renewal applicants.

Sub-topic ESP-2a.3 – Local public meetings by NRC

As discussed with the NRC staff, NEI and the ESP applicants fully support public information meetings in the vicinity of candidate sites in advance of ESP applications. Indeed, to ensure local communities are fully informed, the ESP applicants have been implementing communications plans in connection with their selection of ESP candidate sites.

Understandings/Expectations:

1. The NRC staff will hold public information meetings in the vicinity of the sites identified by ESP applicants in advance of ESP applications. The purpose of these meetings is to provide an opportunity for interested persons living near the identified sites to gain a full understanding of the ESP process within Part 52 and to highlight opportunities for the public to participate in the process.

2. At the May 28 public meeting, the NRC staff said it would work with ESP applicants and other stakeholders on the structure and timing of such meetings to facilitate appropriate coordination with ongoing communications plans. The NRC staff held the first of these meetings in the vicinity of the Grand Gulf site in November 2002. While the NRC staff has indicated their intent to hold these meetings up to one year in advance of an ESP application, experience with holding initial meetings of this type may indicate their optimum timing for future ESP applicants.

Enclosed for your use is an updated list and status of generic ESP topics that have been identified for discussion during the pre-application period.

We look forward to your confirmation of the understandings and expectations described above related to ESP-2. If you have any questions concerning this request, please contact Russ Bell (rjb@nei.org or 202-739-8087).

Sincerely,

Original Signed By,

Ron Simard

Enclosure

c: Ronaldo V. Jenkins, NRC/NRR
Document Control Desk

Enclosure

Status of Generic ESP Interactions

ESP Topic Higher priority topics shaded	Initial Discussion	Resolution Pending	Discussions Ongoing	Next Discussion	NEI Letter	NRC Response	Potential Snr. Mgmnt Issue	ESP Schedule Impact if not Resolved by	Remarks
1. ESP application form & content	8/22		x						NRC provided TOC comparison on Oct. 16
2. ESP inspection guidance	4/24		x						• IMC-2501 issued; reflects QA open issue (see ESP-3) • ESP Review Std. to be issued for trial use & comment by year end
2a. Pre-application interactions (voluntary nature, plans for local public mtgs & review fee structure)	4/24	x				11/26			
3. QA requirements for ESP information	5/28		x	12/5			x	2/1/03	Open issue – Applicability of Appendix B to ESP
4. Nominal NRC review timeline	10/17		x	1Q03					
5. Mechanism for documenting resolution of ESP issues	5/28	x			9/10	11/5			Closed
6. Use of plant parameters envelope (PPE) approach	7/16		x	12/5			x	2/1/03	Remaining aspects of PPE approach and NRC questions to be discussed Dec. 5
7. Guidance for satisfying §52.17(a)(1) requirements	7/16		x	12/5			x	2/1/03	Subset of ESP-6
8. Fuel cycle and transportation impacts (Tables S-3 & S-4)	9/25		x	12/5				3/1/03	
9. Criteria for assuring control of the site by the ESP holder				1Q03					
10. Use of License Renewal GEIS for ESP	9/25	x							
11. Criteria for determining ESP duration (10-20 years)				12/5					

Enclosure

ESP Topic Higher priority topics shaded	Initial Discussion	Resolution Pending	Discussions Ongoing	Next Discussion	NEI Letter	NRC Response	Potential Snr. Mgmnt Issue	ESP Schedule Impact if not Resolved by	Remarks
12. Guidance for evaluating severe accident mitigation alternatives under NEPA	8/22		x	12/5				2/1/03	Deferral to COL likely; to be further discussed Dec. 5 in connection with ESP-6
13. Guidance for ESP seismic evaluations	6/13		x	1/03					2nd meeting on pilot demonstration activity planned for Jan. 2003
14. Applicability of Federal requirements concerning environmental justice				1Q03					Evaluating related PFS decision by Commission
15. Appropriate level of detail for site redress plans	9/25	x			11/26				
16. Guidance for ESP approval of emergency plans				1Q03					
17. Petition to eliminate duplicative NRC review of valid existing site/facility information									Staff recommendation pending on petition PRM-52-1
18. Petition to eliminate reviews for alternate sites, sources and need for power									Staff recommendation pending on petition PRM-52-2
18a Alternative site reviews				12/5				3/1/03	
19. Addressing effects of potential new units at an existing site				1Q03					
20. Practical use of existing site/facility information	9/25	x			11/26				
21. Understanding the interface of ESP with the COL process.				2Q03					
22. Form and content of an ESP	x		x	12/5			x	2/1/03	NEI draft provided Aug. 22; NRC feedback requested for Dec. 5 meeting