

From: "BELL, Russ" <rjb@nei.org>
To: "Michael Scott" <MLS3@nrc.gov>
Date: 9/3/04 5:24PM
Subject: RE: ESP template and Part 21

Let me try this again, this time with the attachments. Have great Labor Day Weekend.

From: BELL, Russ
Sent: Friday, September 03, 2004 4:05 PM
To: Michael Scott
Subject: ESP template and Part 21

As basis for discussion at our meeting set for 9/9, attached is a letter dated today that provides our comments on the ESP template related to Item 7 on Part 21 applicability. The template comments we provided on July 30 are provided again as an enclosure.

Also related to Part 21, we plan to seek clarification of this NRC staff statement in its June 22 letter on Part 21 applicability:

[Therefore.] "unless, an ESP applicant can demonstrate in its application that there is reasonable assurance that the Section 50.55(e) and Part 21 obligations - both retrospective and prospective - will be met, either through a Part 21 reporting program or an equivalent alternative..., the NRC could not find that the requirements of these regulations will be satisfied."

What is it you expect to see in ESP applications?

If you have any questions, please give me call.

This electronic message transmission contains information from the Nuclear Energy Institute, Inc. The information is intended solely for the use of the addressee and its use by any other person is not authorized. If you are not the intended recipient, you have received this communication in error, and any review, use, disclosure, copying or distribution of the contents of this communication is strictly prohibited. If you have received this electronic transmission in error, please notify the sender immediately by telephone or by electronic mail and permanently delete the original message.

Mail Envelope Properties (4138E100.A4C : 1 : 14924)

Subject: RE: ESP template and Part 21
Creation Date: 9/3/04 4:08PM
From: "BELL, Russ" <rjb@nei.org>

Created By: rjb@nei.org

Recipients

nrc.gov
owf4_po.OWFN_DO
MLS3 (Michael Scott)

Post Office

owf4_po.OWFN_DO

Route

nrc.gov

Files	Size	Date & Time
MESSAGE	1684	09/03/04 04:08PM
TEXT.htm	2919	
NEI Letter to Mr. William D. Beckner-NRC.pdf		67138
ESP template comments.pdf	889470	
Mime.822	1316631	

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard



NUCLEAR ENERGY INSTITUTE

Adrian P Heymer
DIRECTOR, SPECIAL PROJECTS
NUCLEAR GENERATION DIVISION

September 3, 2004

Dr William D. Beckner
New, Research and Test Reactor Program
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation
US Nuclear Regulatory Commission
Washington DC
20555-0001

Project 689

Dear Dr. Beckner,

This letter provides our comments on the NRC's June 22, 2004, letter to NEI that proposed an Early Site Permit (ESP) template and are in addition to the comments we provided during a July 30, 2004, public meeting (enclosed). We recommend that the template be modified to be consistent with the staff's view that 10 CFR Part 21 is applicable to ESP holders upon issuance of the ESP as stated in a June 22 NRC letter on Part 21 applicability and in our July 30 public meeting.

In particular, we have the following comments on Item 7 of the proposed ESP template concerning Part 21 applicability:

- Based on the staff's June 22 letter to NEI on Part 21, it is our understanding that Part 21 reporting requirements would be applied to the ESP holder upon issuance of the ESP. Item 7 should be modified to be consistent with that letter.
- Part 21 specifies the circumstances and the timing for required reports to the Commission. An ESP need not and should not require "immediate" notification of the Commission of Part 21 reportable compliance or safety issues.

Mr. William D. Beckner
September 3, 2004
Page 2

- Part 21 requires a report to NRC when thorough evaluation reasonably indicates a reportable compliance or safety issue. Part 21 does not require reporting of "any information that may indicate" an ESP noncompliance issue.

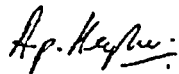
Accordingly, we recommend Item 7 be replaced with the following:

7. In accordance with 10 CFR 52.37, 10 CFR Part 21 is an applicable regulation for this ESP.

We look forward to discussing this proposed modification with the staff during our public meeting scheduled for September 9, 2004. The enclosure provides additional comments of an administrative nature and emphasizes a topic for the September 9, 2004, meeting: the need for, and scope of design parameters that the staff is proposing to list in the ESP (Table 2).

If you have any questions on this matter, please contact Russ Bell (202-739-8087 or rjb@nei.org) or me (202-739-8094 or aph@nei.org).

Sincerely,



Adrian Heymer

Enclosure

c: Mike Scott, NRC/NRR



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

June 22, 2004

Mr. Adrian Heymer
Nuclear Energy Institute (NEI)
1776 I Street, NW, Suite 400
Washington, DC 20006-3708

SUBJECT: EARLY SITE PERMIT TEMPLATE

Dear Mr. Heymer:

The U.S. Nuclear Regulatory Commission (NRC) staff has developed a draft early site permit (ESP) template. This template is intended to enhance the efficiency, consistency, and effectiveness of the staff's review of ESP applications and to ensure that information needed for an ESP, should one be issued, is available. It also allows other interested parties the opportunity to view the general form of an ESP. The NRC has made no decision on issuance of an ESP to any applicant. Should ESPs be issued in the future, each will vary from any others issued (and from the template), depending on site- and application-specific considerations. The generic ESP template therefore only provides a starting point for the possible development of future ESPs.

This letter provides the draft permit template for your information and feedback. We are also sending the draft template to the three current ESP applicants. We would welcome a discussion of the template in a future technical exchange.

Should you have questions regarding this letter or development of an ESP template, please contact Mr. Mike Scott of my staff at (301) 415-1421.

Sincerely,

A handwritten signature in black ink, appearing to read "J. E. Lyons".

James E. Lyons, Program Director
New, Research and Test Reactors Program
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

Project No. 689

Enclosure: As stated

cc: See next page

ESP-Generic

cc:

Mr. David Lochbaum
Union of Concerned Scientists
1707 H Street, NW
Suite 600
Washington, DC 20006-3919

Mr. Paul Gunter, Director
Reactor Watchdog Project
Nuclear Information & Resource Service
1424 16th Street, NW, Suite 404
Washington, DC 20036

Mr. Russell Bell
Nuclear Energy Institute
Suite 400
1776 I Street, NW
Washington, DC 20006-3708

Mr. Thomas P. Miller
U.S. Department of Energy
Headquarters - Germantown
19901 Germantown Road
Germantown, MD 20874-1290

Mr. James Riccio
Greenpeace
702 H Street, NW, Suite 300
Washington, DC 20001

Mr. Rod Krich
Vice President, Licensing Projects
Exelon Nuclear
4300 Winfield Road
Warrenville, IL 60555

Ms. Patricia Campbell
Winston & Strawn
1400 L Street, NW
Washington, DC 20005

Mr. James F. Mallay, Director
Regulatory Affairs
FRAMATOME, ANP
3315 Old Forest Road
Lynchburg, VA 24501

Mr. Ernie H. Kennedy
Vice President New Plants
Nuclear Plant Projects
Westinghouse Electric Company
2000 Day Hill Road
Windsor, CT 06095-0500

Dr. Regis A. Matzie
Senior Vice President and
Chief Technology Officer
Westinghouse Electric Company
2000 Day Hill Road
Windsor, CT 06095-0500

Mr. Gary Wright, Director
Division of Nuclear Facility Safety
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, IL 62704

Mr. Vince Langman
Licensing Manager
Atomic Energy of Canada Limited
2251 Speakman Drive
Mississauga, Ontario
Canada L5K 1B2

Mr. David Ritter
Research Associate on Nuclear Energy
Public Citizens Critical Mass Energy
and Environmental Program
215 Pennsylvania Avenue, SE
Washington, DC 20003

Mr. Tom Clements
6703 Guide Avenue
Takoma Park, MD 20912

Mr. Paul Leventhal
Nuclear Control Institute
1000 Connecticut Avenue, NW
Suite 410
Washington, DC 20036

Mr. Jack W. Roe
SCIENTECH, INC.
910 Clopper Road
Gaithersburg, MD 20878

Dr. Gail H. Marcus
U.S. Department of Energy
Room 5A-143
1000 Independence Ave., SW
Washington, DC 20585

Ms. Marilyn Kray
Vice President, Special Projects
Exelon Generation
200 Exelon Way, KSA3-E
Kennett Square, PA 19348

Mr. Joseph D. Hegner
Lead Engineer - Licensing
Dominion Generation
Early Site Permitting Project
5000 Dominion Boulevard
Glen Allen, VA 23060

Mr. George Alan Zinke
Project Manager
Nuclear Business Development
Energy Nuclear
M-ECH-683
1340 Echelon Parkway
Jackson, MS 39213

Mr. Charles Brinkman
Westinghouse Electric Co.
Washington Operations
12300 Twinbrook Pkwy., Suite 330
Rockville, MD 20852

Mr. Marvin Fertel
Senior Vice President
and Chief Nuclear Officer
Nuclear Energy Institute
Suite 400
1776 I Street, NW
Washington, DC 20006-3708

Dr. Glenn R. George
PA Consulting Group
130 Potter Street
Haddonfield, NJ 08033

Mr. Arthur R. Woods
Enercon Services, Inc.
500 TownPark Lane
Kennesaw, GA 30144

Mr. Thomas Mundy
Director, Project Development
Exelon Generation
200 Exelon Way, KSA3-E
Kennett Square, PA 19348

Mr. Ed Wallace, General Manager
Projects
PBMR Pty LTD
PO Box 9396
Centurion 0046
Republic of South Africa

Ms. Vanessa E. Quinn, Chief
Radiological Emergency Preparedness
Branch
Department of Homeland Security/FEMA
500 C Street, SW
Washington, DC 20472

External E-Mail
eddie.grant@exeloncorp.com

NEI enclosure on ESP template
September 3, 2004

DRAFT

Mr. [Ms.] Utility POC,
Title
Applicant Company
Address

Applicant may not be a utility.

ISSUANCE OF EARLY SITE PERMIT NO. ESP-XXX FOR THE SPECIFIED SITE

Pursuant to 10 CFR 52.24, "Issuance of early site permit," and with consideration of the Initial Decision, dated XXX XX, 20XX, by the Atomic Safety and Licensing Board and the report of the Advisory Committee on Reactor Safeguards dated XXX XX, 20XX, the Nuclear Regulatory Commission has issued Early Site Permit (ESP) No. ESP-XXX to (Applicant Company). This permit expires on XXX XX, 2XXX.

During the period ESP-XXX remains valid, pursuant to 10 CFR Part 52, an application for a construction permit under 10 CFR Part 50 or an application for a combined license under 10 CFR Part 52 may reference ESP-XXX, subject to the terms and conditions specified in the ESP. The ESP does not authorize construction activities except as specified in the permit.

A copy of ESP-XXX is enclosed, along with a copy of a related notice that has been forwarded to the Office of the *Federal Register* for publication. If you have questions on ESP-XXX, please contact [name] at 301-415-XXXX.

Sincerely,

James E. Dyer, Director
Office of Nuclear Reactor Regulation

DRAFT

APPLICANT COMPANY

SPECIFIED SITE

DOCKET NO. 52-XXX

EARLY SITE PERMIT

Early Site Permit No. ESP-XXX

1. The Nuclear Regulatory Commission (the NRC or the Commission) has found that:
 - a. The application for an early site permit filed by Applicant Company (the applicant) complies with the applicable requirements of the Atomic Energy Act of 1954, as amended, and the applicable rules and regulations of the Commission;
 - b. All required notifications to other agencies or bodies have been duly made;
 - c. The applicant has provided a description and safety assessment of the site, including an analysis and evaluation of the site under the radiological consequence evaluation factors identified in 10 CFR 50.34(a)(1) [using a plant parameter approach as a surrogate for actual facility design information];
 - d. The applicant has demonstrated that there are no physical characteristics unique to the proposed site that could pose a significant impediment to the development of emergency plans and has provided an acceptable description of contacts and arrangements made with local, state, and federal government agencies with emergency planning responsibilities;

[Either or neither of the following statements will be added, depending on whether the applicant has chosen to address these subjects.] In addition, the applicant has provided the major features of emergency plans, which are acceptable as described in Table 1 of this ESP;
[or]
In addition, the applicant has provided complete and integrated emergency plans that provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency, as described in Table 1 of this ESP;
 - e. The applicant has demonstrated that the site complies with the siting evaluation factors in Subpart B of 10 CFR Part 100;
 - f. The applicant has provided an environmental report that addresses the requirements of 10 CFR 52.17(a)(2);

- g. [If the applicant has sought authorization to perform limited work in accordance with 10 CFR 52.25:] The applicant has provided an adequate site redress plan in accordance with 10 CFR 52.25(b); Reference should be to 52.17(c)
- h. On the basis of the foregoing, there is reasonable assurance that the site and identified existing and potential hazards in the site vicinity will pose no undue risk for up to [specify limit on number of reactors as supported by SER and/or EIS] nuclear power plants whose design characteristics are specified in Table 2 of this ESP [or] to one or more nuclear power plants falling within the plant design parameters specified in Table 2 of this ESP that might be constructed and operated on the site in the future under a license issued under 10 CFR Part 50 or 10 CFR Part 52 [Limitations on numbers and/or sizes of reactors as applicable, and as supported by the SER and/or EIS, will be specified in Table 2];
- i. The issuance of an ESP will not be inimical to the common defense and security or to the health and safety of the public; and
- j. The issuance of an ESP, subject to the conditions for protection of the environment set forth herein, is in accordance with the National Environmental Policy Act of 1969, as amended, and with applicable sections of 10 CFR Part 51 as invoked by Subpart A of 10 CFR Part 52, and all applicable requirements therein.
2. The results of the NRC staff's review of the safety and emergency planning aspects of the application are documented in a safety evaluation report, NUREG-XXXX, dated XXXX. The results of the staff's review of the environmental aspects of the application are documented in an environmental impact statement, NUREG-XXXX, dated XXXX.
3. Pursuant to Section 103 of the Atomic Energy Act of 1954, as amended (the Act), and 10 CFR Part 52, "Early Site Permits; Standard Design Certifications; and Combined Licenses for Nuclear Power Plants," and with consideration of the Initial Decision of the Atomic Safety and Licensing Board, dated XXX XX, 200X, and the report of the Advisory Committee on Reactor Safeguards dated XXX XX, 200X, the Nuclear Regulatory Commission hereby issues Early Site Permit No. ESP-XXX to the applicant for an area on Specified Site as described in the application and amendments thereto (the application) filed in this matter by the applicant and as described in the evidence received at the public hearing upon that application. As described in the application, Specified Site is located about XX miles [direction] of Major Landmark, State.
4. This ESP is subject to all applicable provisions of the Act and rules, regulations, and orders of the Commission now or hereafter in effect; and it shall ~~be deemed to contain~~ and be subject to the conditions specified or incorporated below. Insert before the semicolon: "(consistent with 10 CFR 50.39)"
- a. [If the applicant has sought authorization to perform limited work in accordance with 10 CFR 52.25 and has provided an adequate site redress plan] The applicant is authorized to perform the following activities at the site as described in its application: [list approved activities]

[or] No authority is granted to perform activities at the site in accordance with 10 CFR 50.10(e)(1);

- b. [Specify terms and limitations documented in the SER and/or EIS appropriate for inclusion in the ESP]
 - c. This ESP is subject to the following conditions for the protection of the environment: [list]
5. In accordance with 10 CFR 52.39, the Commission will, in proceedings for a combined license (COL) under 10 CFR Part 52 or a construction permit under 10 CFR Part 50 that references this ESP, treat as resolved matters resolved in the ESP proceeding, subject to certain conditions described in 10 CFR 52.39(a)(2). In accordance with 10 CFR 52.79, a COL application that references this ESP need not contain information or analyses submitted to the Commission in connection with this ESP, except information sufficient to demonstrate that the proposed facility design falls within the site and plant characteristics [or, if plant design is not specified in the ESP application] within the site characteristics and plant design parameters specified in Table 2 of this ESP. In addition, the following items must be addressed in a COL application that references this ESP. These items, which are not required to be addressed in Insert "or CP" after "in a COL" but are applicable to the interface between the site and plant design
 6. [Provide limits on the number of times that the ESP may be referenced, citing technical and/or policy bases as explained in the SER and/or EIS, if any, or in other documents such as a SECY paper.]
 7. ~~In accordance with 10 CFR Part 21 and 10 CFR 52.37, the applicant is required to immediately notify the Commission of any information (1) that may indicate the site does not comply with the Atomic Energy Act or applicable Commission regulations or (2) that indicates that future construction of one or more nuclear power reactors at the ESP site could pose a substantial safety hazard.~~ Replace Item 7 with: In accordance with 10 CFR 52.37, 10 CFR Part 21 is an applicable regulation for this ESP.
 8. Until this ESP is referenced in a combined license or construction permit application, the site safety analysis report, the environmental report, the emergency planning information, and the site redress plan, submitted as part of the ESP application and as amended through [dates of most recent revisions reviewed by NRC], may not be modified except in accordance with the provisions of 10 CFR 52.39.
 9. This ESP is effective as of its date of issuance and shall expire on XXX XX, 2XXX. At any time before the expiration date, the ESP may be referenced in one or more applications for a COL under 10 CFR Part 52 or a construction permit under

10 CFR Part 50. This ESP continues to be valid beyond the above specified expiration date in accordance with 10 CFR 52.27(b)(1) under certain circumstances specified therein.

Reference should be to 52.27(b)

FOR THE NUCLEAR REGULATORY COMMISSION

James E. Dyer, Director
Office of Nuclear Reactor Regulation

- Enclosures: (1) Acceptable Aspects of Proposed Major Features Emergency Plan [or] Complete and Integrated Emergency Plan
- (2) Site and Plant Design Characteristics [or, if design is not specified] Site Characteristics and Plant Design Parameters for the Early Site Permit

TABLE 1

EARLY SITE PERMIT NO. ESP-XXX

APPROVED ASPECTS OF PROPOSED MAJOR FEATURES EMERGENCY PLAN [or]
COMPLETE AND INTEGRATED EMERGENCY PLAN

The following aspects of the applicant's proposed major features emergency plan [or] complete and integrated emergency plans as submitted in its ESP application are acceptable:

[List acceptable aspects of major features or of complete and integrated emergency plans, as applicable.]

TABLE 2

EARLY SITE PERMIT NO. ESP-XXX

SITE AND PLANT DESIGN CHARACTERISTICS [or, if design is not specified] SITE CHARACTERISTICS AND PLANT DESIGN PARAMETERS FOR THE EARLY SITE PERMIT

Site Characteristics

The following site characteristics are specified for this ESP. These characteristics are approved by the NRC, and any issues related to them are to be treated as resolved in a construction permit proceeding under 10 CFR Part 50 or a combined license proceeding under 10 CFR Part 52, subject to the provisions of 10 CFR 52.39.

[List site characteristics and their values from the ESP application that are important to the staff's findings in 10 CFR Parts 52 and 100 or are important in assessing the environmental impacts of constructing and operating nuclear power plants on the site. Technical staff will develop a list of such parameters during reviews in support of development of the SER and the EIS, and the characteristics and values chosen as bases for the site permit will be identified as such in the relevant SER or EIS sections. The following are examples that may or may not appear in any specific ESP.]

Maximum tornado wind speed	XXX m/s [or mph]
Maximum snow pack (100-year return period)	XXX kg/m ² [or lb/ft ²]
Static and dynamic bearing capacities	XXX kg/m ² [or lb/ft ²]
Shear wave velocity	XXX m/s [or ft/s]
Flood level	XXX m [or ft]
etc.	

[See Commission policy on conversion to the metric system (57 FR 46202); while the NRC supports and encourages use of the metric system, docketed material such as this ESP will use the system of units employed by the applicant.]

Plant design characteristics [if plant design specified in ESP application] [or] plant design parameters [if plant design not provided in ESP application]

The following design characteristics [parameters] are specified for this ESP. These characteristics [parameters] are assumptions about the design of nuclear plant[s] that might in the future be constructed on the ESP site. The staff's findings regarding the site characteristics are partially based, where applicable, on these parameters. Their applicability and use in a construction permit proceeding under 10 CFR Part 50 or a combined license proceeding under 10 CFR Part 52 are discussed in the permit of which this table is a part.

[List design characteristics/parameters and their values that are important to the staff's findings. Typically these would be input values for the ESP applicant's accident analysis or values important in the applicant's assessment of the environmental impacts of constructing

and operating nuclear power plants on the site. Technical staff will develop a list of such characteristics/parameters and their values during reviews in support of development of the SER and the EIS. Those chosen for inclusion in the ESP will be identified as such in the relevant SER or EIS sections. COL or CP applicants referencing the ESP would need to demonstrate that plant(s) submitted in their applications fall within the plant characteristic/parameter values specified herein. Alternatively, such applicants would need to demonstrate that such plants comply with the Commission's regulations, although they do not fall within the plant characteristic/parameter values specified in the ESP. The following are examples that may or may not appear in any specific ESP.]

Maximum thermal power	XXXX Mw(th)
Maximum reactor building height	XXX m [or ft]
Embedment depth	XXX m [or ft]
Closest spacing between reactor modules	XXX m [or ft]
etc.	

The need for and scope of design parameters that staff is proposing to list in ESPs will be the subject of further discussion during the public meeting scheduled for September 9.