

March 4, 2005

ORGANIZATION: Nuclear Energy Institute Early Site Permit (ESP) Task Force
SUBJECT: SUMMARY OF JANUARY 18, 2005, MEETING WITH NUCLEAR ENERGY INSTITUTE EARLY SITE PERMIT (ESP) TASK FORCE TO DISCUSS EMERGENCY PLANNING (EP) AND ENVIRONMENTAL ASPECTS OF ESP REVIEWS

On January 18, 2005, a meeting was held between the U.S. Nuclear Regulatory Commission (NRC) and the Nuclear Energy Institute ESP Task Force (hereafter referred to as NEI) at NRC Headquarters in Rockville, MD. The purpose of this meeting was to discuss emergency planning and environmental aspects of ESP application reviews. A list of meeting attendees is included as Attachment 1. The meeting agenda is provided as Attachment 2. No NRC or NEI handouts were provided during the meeting.

Highlights of the Emergency Planning Portion of the Meeting

The first agenda item for the meeting was NEI comments on the NRC staff's letter dated November 9, 2005 (ADAMS Accession Number ML042870262), on the subject of issues related to emergency planning for ESPs. NEI noted the staff's recurring use of the following phrase in the draft safety evaluation report for the North Anna ESP application (ML043020619): "... acceptable and meets the requirements of (various rules), insofar as it describes the essential elements of advanced planning that have been considered..." The staff responded that this language comes from the first paragraph in Section III of Appendix E to 10 CFR Part 50, and that the purpose of the language is to credit, where appropriate, an applicant's partial compliance with the referenced regulations in Appendix E.

NEI asked whether, if an ESP applicant references an existing emergency plan, there is a need to evaluate existing emergency plan details at the combined license (COL) stage. The staff replied that, as stated in its November 9 letter, such review is not normally needed. Rather, the staff would evaluate the extension of that plan to the new facility. NEI then inquired regarding language in Supplement 2 to NUREG-0654/FEMA-REP-1, Rev. 1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants, Criteria for Emergency Planning in an Early Site Permit Application" (bottom of page 1) that appears to refer to review at the COL stage possibly occurring under revised standards. The staff replied that if the standards changed from when the ESP was issued, the finality of the ESP determination would be governed by the provisions of 10 CFR 52.39. The staff added that the subject language in Supplement 2 did not change the staff's conclusions in its November 9 letter.

NEI asserted that Supplement 2 limits the applicant's ability to provide more detail to comply with the regulations, and that the staff has guidance for review of such information, namely NUREG-0654. The staff responded that NUREG-0654 does not address major features. The staff added that they understood NEI's comments on Supplement 2.

The staff stated that it is currently evaluating the need for revised guidance regarding EP and that Supplement 2 is being considered for revision as part of that evaluation. NEI representatives responded that they wished to emphasize their concern about issues noted with Supplement 2. They stated that the NRC and the industry needed to look at these issues. The staff asked how NEI views the priority of these concerns relative to other industry priorities. NEI responded that the priority would depend on the results of the discussion later in the day regarding submittal of completed and integrated emergency plans with COL action items.

The staff then read a letter from the Federal Emergency Management Agency (FEMA) (copy attached to this summary) that concludes that NRC's November 9, 2004, letter regarding EP is acceptable to share with the industry and other stakeholders.

Regarding submittal of complete and integrated plans with COL action items, the staff stated that it believes such a submittal might meet the current regulations, but the staff needs to do additional work in this area to verify this. NEI stated its opinion that, if an exemption for such action items is needed at the ESP stage, it would seem that an exemption would be needed at the COL stage as well. NEI inquired as to whether NUREG-0654 would be the review standard for such a submittal, and the staff replied affirmatively. The staff noted that it has developed a draft list of items that might be good candidates for COL action items, and that the list was based on earlier NRC/NEI discussions regarding appropriate subjects for emergency planning inspections, tests, analyses, and acceptance criteria (EP ITAAC). NEI requested that the staff provide the draft list and a determination regarding the acceptability of the proposed approach to the industry as soon as possible. The staff asked NEI to confirm the priority it attaches to this request, and NEI agreed to provide that information.

Regarding the "significant impediments" determination, the staff discussed referencing existing plan information in an ESP application, and the need to provide supplementary information to address the new facility. NEI remarked that existing plans may be based on supporting information that is not retrievable, and emphasized that the finding needed at ESP is whether a plan can be developed. NEI repeated its position in earlier meetings that the existence of an implemented plan is sufficient evidence that there are no significant impediments to development of an EP. The staff stated that it is conceivable a plan could have been developed even in the face of significant impediments. The staff went on to state that an ESP site that is proximate to an operating nuclear facility would not be expected to have physical characteristics that could pose a significant impediment to the development of emergency plans. The staff referred NEI to Item B.2 in the staff's November 9 letter. The staff further stated that EP information for an existing, operating reactor site should be: (1) applicable, (2) up-to-date, and (3) reflect a new reactor in the supplemental information provided at the ESP stage.

The staff then stated that it had received a FEMA letter dated January 14, 2005 (attached), that indicated there is no requirement for a 44 CFR 350 review and approval for a new plant on an existing reactor site.

The staff and NEI discussed the need for/length of population projections at ESP stage. The staff stated that factors that affect the site throughout the term of ESP should be considered. Information in the ESP application should support the acceptability of the requested ESP duration. The staff further stated that an existing evacuation time estimate (ETE) would not need to be revised to include projected population. However, the impact of projected population changes over the term of the ESP should be discussed in the application.

Prior to adjourning the meeting, the staff clarified its response to the question regarding review of existing EPs for a “significant impediments” ESP submittal by emphasizing, consistent with the staff’s November 9 letter, that a detailed review of such plans would not be necessary. NEI asked what the phrase “up to date” means in the context of information required to supplement an existing plan. The staff replied by citing an example. For an ETE (which may have been completed years earlier), the applicant should provide justification that the ETE is still valid. Guidance in NUREG/CR-4831 indicates that a change in population of 10 percent indicates a need to check evacuation times. The applicant should provide information to convey that the ETE was reviewed and the justification for determining that the ETE results remain valid.

Highlights of the Environmental Portion of the Meeting

The discussion regarding environmental reviews began with a discussion of what type of environmental review product will be required of the staff at the COL stage. The staff stated that it is not sure what is required and needs to further research the question. The staff added that in the unlikely event all environmental issues are resolved at ESP, an environmental report (ER) may not be needed at COL. Further work is needed to verify whether this would be the case.

NEI stated that if a new ER is needed at COL, there is no finality at all. NEI added that the ESP and COL are “connected actions,” so there should be one environmental impact statement (EIS), subject to supplementation. NEI asserted that the ESP is a partial construction permit (CP), therefore, it should be viewed in a similar manner on environmental issues. The staff pointed out that a nuclear power plant is not constructed under an ESP, but is constructed under a CP, so the similarity may not be as great as NEI suggested. NEI also asserted that, if there is no need to issue a supplemental EIS at COL, the staff need not make a finding or docket anything. NEI added that their position is that no data is needed at COL for issues resolved at the ESP stage, and they referred the staff to their written position in Section 6.4.1 of the recently published draft NEI COL guidance document (ML050110295).

The staff noted that absent new and significant information, it will not revisit COL environmental issues resolved at ESP. Questions as to whether there is new information and whether such information is or is not significant would be subject to review and litigation at COL.

The staff stated that it is inappropriate and indefensible to apply finality based on end-result impacts (small-moderate-large). NEI responded that the Council on Environmental Quality definition of significance goes to the magnitude of the impact, that there is a “tension” between considerations regarding “new and significant” and the staff’s position that it cannot reach conclusions regarding finality based on impacts.

NEI asked whether an environmental protection plan is required for ESP or COL. The staff replied that it is still researching this question and will resolve it before the final EISs for the ESP applications currently under review are issued. The staff added that NEI would be informed of the results of this review by letter.

Action Items

The following action items were agreed to at the conclusion of the meeting:

1. NEI will verify the priority of the staff resolving questions regarding “complete and integrated emergency plans with COL action items.”
2. The staff will determine whether the existing regulatory framework allows “complete and integrated emergency plans with COL action items” at ESP, and will inform NEI of the results of this determination by letter.
3. NEI will send a letter to the staff conveying its position regarding environmental review issues and finality at ESP.
4. Upon receipt of NEI’s letter, the staff will provide a response via letter addressing points made in NEI’s letter.
5. The staff will inform NEI by letter regarding the need for an environmental protection plan at the ESP or COL stages.
6. The staff will evaluate what environmental review documents are required at COL and will inform NEI by letter.
7. The staff will consider Item 6 from the NEI’s September 27, 2004 letter, which requested the staff’s interpretation of the use of the phrase “one or more elements of the permit” in 10 CFR 52.39(b), and will provide the results of that evaluation to NEI by letter.

/RA/

Michael L. Scott, Senior Project Manager
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New, Research and Test Reactors Program
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

Project No. 689

Attachments: 1. List of attendees
2. Agenda
3. FEMA letter dated 12/15/04
4. FEMA letter dated 1/14/05

cc w/ atts: See next page

Action Items

The following action items were agreed to at the conclusion of the meeting:

1. NEI will verify the priority of the staff resolving questions regarding "complete and integrated emergency plans with COL action items."
2. The staff will determine whether the existing regulatory framework allows "complete and integrated emergency plans with open items" at ESP and will inform NEI of the results of this determination by letter.
3. NEI will send a letter to the staff conveying its position regarding environmental review issues and finality at ESP.
4. Upon receipt of NEI's letter, the staff will provide a response via letter addressing points made in NEI's letter.
5. The staff will inform NEI by letter regarding the need for an environmental protection plan at the ESP or COL stages.
6. The staff will evaluate what environmental review documents are required at COL and will inform NEI by letter.
7. The staff will consider Item 6 from the NEI's September 27, 2004 letter, which requested the staff's interpretation of the use of the phrase "one or more elements of the permit" in 10 CFR 52.39(b), and will provide the results of that evaluation to NEI by letter.

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ADAMS ACCESSION NUMBER: ML050400256 *See previous concurrence

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Distribution for January 18, 2005, Meeting Summary dated March 4, 2005

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MEETING WITH NEI ESP TASK FORCE TO DISCUSS EMERGENCY PLANNING (EP) AND ENVIRONMENTAL ASPECTS OF ESP REVIEWS

January 18, 2005

Attendance List

NRC

Laura Dudes

NRR/DRIP/RNRP

Michael Scott

NRR/DRIP/RNRP

Raj Anand

NRR/DRIP/RNRP

Dan Barss

NSIR/DRP/EPD

Bruce Musico

NSIR/DRP/EPD

Joe Anderson

NSIR/DRP/EPD

Bob Weisman

OGC

Tom Kenyon

NRR/DRIP/RLEP

A. Fernandez

OGC

NEI ESP Task Force

Adrian Heymer

Russ Bell

Eddie Grant (Exelon)

Cedric Jube

George Zinke (Entergy)

Charles Pierce (Southern Nuclear)

Chalmer Myer (Southern Nuclear)

John Costello (Dominion)

Guy Cesare (Enercon Services)

Bill Maher (Exelon)

Other Interested Attendees

Mike Schoppman

Framatome ANP

Ken Wierman

FEMA

Steve Frantz

Morgan Lewis

Lynn Hall

DOE

David Lewis

Shaw Pittman

Agenda

January 18, 2005, Meeting with the Nuclear Energy Institute (NEI) ESP Task Force on

ATTACHMENT 1

Issues Related to Early Site Permits (ESPs)

1:30 p.m.	Introductory Comments	NRC/NEI
1:45 p.m.	NEI comments on staff's November 9, 2004 letter on emergency planning (EP) for ESPs	NEI/NRC
2:30 p.m.	Discussion on EP issues: 44 CFR 350 certification Schedule for revising Supplement 2 to NUREG-0654 "No significant impediments" review for site near existing operating plant "Complete and integrated" EP with open items Need for/length of population projections at ESP stage	NRC/NEI
4:00 p.m.	Discussion of environmental issues relevant to ESP: Finality of meteorological data provided at ESP stage Exceedence at COL stage of plant design parameters provided in ESP	NRC/NEI
4:30 p.m.	Summary	NRC/NEI
4:45 p.m.	Public comment	
5:00 p.m.	Adjourn	

NOTE: NEI refers to the NEI ESP Task Force.

Specific topics and associated discussion times may change without notice.