

Comments on the ESRP With Which the Staff Agrees

December 11, 2007

Original Comment Number	Review Area	ESRP Section	Origin of Comment Comment	Responder	Agree w/ Comment?	Response
1	General	NA	<u>NEI Cover Letter - p.2:</u> Applications submitted before an ESRP update becomes final should not be reviewed under the new version of an ESP	Paul Hendrickson	yes	As a matter of fairness, applications should be evaluated against the ESRPs in effect prior to the time of submittal.
3	General	NA	<u>NEI Comments p. 13:</u> Make sure that ESRP review interfaces are consistent.	Paul Hendrickson	yes	In conjunction with updating the ESRPs, the staff will endeavor to make sure that the Review Interfaces are consistent among ESRPs.
5a	General	Intro	<u>NEI Comments p. 1:</u> RG 4.2 should be updated	Kugler/ Hendrickson	yes	The staff has determined that it would be beneficial to update Regulatory Guide (RG) 4.2. The staff plans to issue an updated version of the RG in 2008.
7	General	Intro	<u>NEI Comments p. 2:</u> Issues resolved at the ESP stage should have finality when reviewing a COL application.	Kugler/ Hendrickson	yes	The staff is in basic agreement with the language proposed by NEI. The staff proposes to add substantially similar language to the Introduction.
8	General	Intro	<u>NEI Comments p. 2:</u> Language at p. 13 of the Introduction relating to the "new and significant" principle should be changed.	Kugler/ Hendrickson	yes	The staff is in basic agreement with the language proposed by NEI. The staff proposes to add substantially similar language to the Introduction
12	Environmental Justice	2.54	<u>NEI Comments p. 3:</u> The term <i>communities</i> should be defined	Mike Scott	yes	The staff agrees that the term "populations" should be used whenever that is intended and that "communities" should only be used in the ESRP when reviewers are being directed to solicit input from community leaders or other representatives. The term "community" as used in the ESRP means a distinct and identifiable group with shared group identity, social values, and interests.
14	Environmental Justice	2.54	<u>NEI Comments p. 3:</u> Qualifying language should be added to the application of the Council on Environmental Quality (CEQ) EJ guidance to NRC.	Mike Scott	yes	The staff agrees with the recommendation. The staff proposes to add language similar to that proposed by industry.
17	Chapter 3	3.0 - 3.6	<u>NEI Comments p. 5:</u> Revise these ESRPs to reflect the plant parameter envelope (PPE) concept.	Paul Hendrickson	N/A	ESRPs 3.0 through 3.6 have not yet been revised. The staff will take account of the PPE approach when these ESRPs are updated
18	Transmission Lines	3.7	<u>NEI Comments p. 5:</u> Further guidance should be provided concerning cases when the COL applicant is not the owner/operator of new transmission lines	Ramsdell/ Hendrickson	yes	The staff proposes to add the following language to section I of ESRP 3.7: "In some cases transmission lines may be constructed and operated by an entity other than the applicant. In such cases, impact information may be limited and the reviewer should proceed with the assessment using the information that can be obtained. When specific information is not available, reviewers may use information on transmission lines gained from other sources, such as the operating license renewal process and from the GEIS for license renewal (NUREG-1437)."
20	Transmission Lines	3.7	<u>Cudworth letter p. 5 (Comment #8):</u> ESRP 3.7 should define the term transmission line.	Ramsdell/ Hendrickson	yes	The staff will consider adding a definition for the term <i>transmission line</i> .
26	Transmission Lines	3.7	<u>Cudworth letter p. 6 (Comment #14):</u> The reference to alternative corridors on p. 3.7-4 should be deleted.	Ramsdell/ Hendrickson	yes	See the response to comment #93

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28	Transmission Lines	3.7	<u>Transcript of Aug 9 meeting (Cesare) p. 37:</u> ESRP 3.7, and other ESRPs as appropriate, should recognize that FERC does not approve construction of new transmission lines. FERC only approves interconnections.	Ramsdell/ Hendrickson	yes	The staff agrees with this comment and will make changes to the ESRPs as appropriate.
29	Transmission Lines	3.7	<u>Transcript of Aug 9 meeting (Bowling) p. 47-48:</u> The EIS should focus on transmission line construction and maintenance practices rather than routes.	Ramsdell/ Hendrickson	yes	The staff agrees that the EIS should address the impacts of construction and maintenance practices for a proposed new transmission line. However, the proposed route is also important because it determines the environmental resources that may be impacted.
30	Transportation of fuel	3.8, 5.7.2	<u>NEI Comments p. 5:</u> The wording regarding description of transportation packaging systems should be changed	Phil Daling	yes	The staff proposes to change the affected text to state: "description of the types of transportation packaging systems that might be used for fresh fuel, irradiated fuel, and other radioactive wastes."
34	Land Use and Transmission Lines	4.1.2	<u>NEI Comments p. 6-7:</u> Clarify application of LWA rule to ESRP 4.1.2.	Paul Hendrickson	yes	The staff proposes to delete the bullet at the top of p. 4.1.2-4. Numerous other changes to NUREG-1555 will be required to conform to this rule.
36	Land Use and Transmission Lines	4.1.2	<u>NEI Comments p. 6-7:</u> Add information on what approvals are needed for transmission line route selection.	Paul Hendrickson	yes	The staff proposes that a new bullet be added to Data and Information Needs calling for information on the approvals needed for new transmission lines.
37	Ecology	4.3.1	<u>NEI Comments p. 7:</u> Add clarifier on important species and their habitats.	Jim Becker	yes	Important terrestrial species and habitats are defined in Table 2.4.1-1 in ESRP 2.4.1. Thus, the parenthetical reference "(see Table 2.4.1-1 in ESRP 2.4.1)" will be added to each occurrence of "important" species/habitats in ESRP 4.3.1 as a source of clarification.
39	Ecology	4.3.2	<u>NEI Comments p. 7:</u> Clarify whether use of the term terrestrial environment at p. 4.3.2-4 is correct.	Amoret Bunn	yes	The acceptance criteria will be updated and clarified for review associated with aquatic resources
40	Ecology	4.3.2	<u>NEI Comments p. 7:</u> The text in section III(2)(f) (p. 4.3.2-7) should be revised to limit biological assessments to federally listed species.	Amoret Bunn	yes	The reference to "'important' species or habitats" will be updated to read "Federally threatened endangered species and/or Federally designated habitat".
41	Environmental Justice	4.4.3	<u>NEI Comments p. 7:</u> Add phrase "as compared." Add statement from NRC's EJ policy statement.	Mike Scott	yes	The staff has no objection to adding the phrase "as compared, with the general population of the impacted area" at the end of the first bullet (making the text comparable to that of the second bullet).
42	Environmental Justice	4.4.3	<u>NEI Comments p. 7:</u> Clarify application of CEQ's EJ guidance	Mike Scott	yes	The staff has no objection to adding language to the ESRP that the CEQ EJ guidance should be followed subject to the NRC EJ policy statement.
43	Environmental Justice	4.4.3	<u>NEI Comments p. 8:</u> Add statement from NRC's EJ policy statement.	Mike Scott	yes	The staff has no objection to the following sentence from the NRC's policy statement being added to the ESRP: "[An environmental justice review] is not a broad-ranging review of racial or economic discrimination." This guidance also comes from the Commission in the Louisiana Energy Services case.

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44	Environmental Justice	4.4.3	<u>NEI Comments p. 8:</u> Add text to p. 4.4.3-4.	Mike Scott	yes	The staff has no objection to adding the following text: "as compared with impacts on the general population in the impacted area," at p. 4.4.3-4, paragraph (4)(a) at the end of the first sentence. The staff has no objection to adding words in the same sentence, before the words "disproportional environmental impacts," to help clarify the meaning. However, the words: "peculiar or," while correct, carry a pejorative overtone in some contexts. The staff suggests using the words "distinctive or" instead.
48	Cooling System	5.3.1.2	<u>NEI Comments p. 10:</u> Delete the third bullet under section III(1) at p. 5.3.1.2-7.	Amoret Bunn	yes	This section will be further revised to clarify a review of a proposed plant at a new site and at an existing site, as well as clarify the respective jurisdictions of NRC and EPA.
51	Environmental Justice	5.8.3	<u>NEI Comments p. 10:</u> Clarify application of the CEQ EJ guidance.	Mike Scott	yes	The staff has no objection to clarifying the fact that CEQ's EJ Guidance is subject to NRC's EJ policy statement by adding the words "subject to the NRC policy on environmental justice matters."
52	Environmental Justice	5.8.3	<u>NEI Comments p. 10:</u> Make conforming changes on p. 5.8.3-4.	Mike Scott	yes	NEI suggests conforming proposed paragraph (6)(a) under Review Procedures to the proposed language for paragraph (4)(a) in Section 4.4.3 on p. 4.4.3-4. The staff agrees that the two paragraphs should have parallel language.
53	Cumulative Effects	5.11	<u>NEI Comments p. 10:</u> Change bullet title.	Paul Hendrickson	yes	The bullet heading at the bottom of p. 5.11-1 will be changed to ESRPs 5.1 through 5.9.
54	Cumulative Effects	5.11	<u>NEI Comments p. 10-11:</u> Clarify application of cumulative impacts to benefit/cost analysis.	Paul Hendrickson	yes	The staff concludes that it doesn't make sense to include cumulative impacts in the weighing of costs and benefits of the proposed action. There is no reasonable way to properly balance costs and benefits of the past, present, and reasonably foreseeable future actions of others. Indeed, NEPA and CEQ don't appear to have any concept for cumulative benefits, nor do they appear to require agencies to include cumulative impacts in the cost-benefit balancing.
56	Accidents	7.1	<u>NEI Comments p. 12-13:</u> NEI made several comments on ESRP 7.1.	Ramsdell/ Hendrickson	NA	ESRP 7.1 has not yet been updated. The staff will take account of the NEI comments when these ESRPs are updated.
71	Need for Power	Ch. 8	<u>Cudworth letter p. 9 (Comment #19):</u> Revise text so that information will not be requested from an applicant that is not relevant to the proposed plant.	Mike Warwick	yes	The staff agrees that the text should be clearer on what alternative information may be sufficient for NRC review of the need for power based on the context applicable for the plant and applicant. Framing these as scenarios corresponding to the approaches the commenter provides on pages 7 and 8 of his comments could be an appropriate alternative approach.
90	Alternatives	9.0	<u>Cudworth letter p. 10 (Comment #22):</u> The Ch. 9 ESRPs should clarify whether cumulative impacts should be analyzed for alternatives.	Kugler/ Hendrickson	yes	The staff agrees that NUREG-1555 should state the NRC position on the analysis of cumulative impacts for alternatives considered in an EIS. The NRC position is that cumulative impacts are only analyzed in an EIS for the proposed action and not for alternatives. This position has been followed for the EISs prepared in conjunction with the initial four ESP applications. The staff will make this position clear by adding clarifying text in the Introduction and/or in Ch. 9.

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91	Alternatives	9.2.1	<u>NEI Comments p. 21:</u> Change the requirement for 6 years of data from commercial operation to 3 years.	Paul Hendrickson	yes	The staff agrees that it would be reasonable to make the future dates in the Ch. 8 and Ch. 9 ESRPs consistent. Accordingly, the dates in ESRP 9.2.1 calling for the 6th year of commercial operation will be changed to the 3rd year of commercial operation.
93	Alternatives	9.4.3	<u>Cudworth letter p. 10-11 (Comment #23):</u> ESRP 9.4.3 should be deleted.	Ramsdell/ Hendrickson	yes	ESRP 9.4.3 covers review of the applicant's proposed transmission system. The scope of the review includes alternative corridor routes and alternatives to proposed system design, construction, and maintenance practices. The staff proposes that ESRP 9.4.3 be eliminated from NUREG-1555 because the LWA rule [10 CFR 50.10(a)(2)(vii) and 51.4] has defined transmission line construction to be a non-construction activity for purposes of NRC's regulations.