

**From:** "HEYMER, Adrian" <aph@nei.org>  
**To:** <nvg@nrc.gov>  
**Date:** 03/08/2006 9:52AM  
**Subject:** 03-08-06\_Letter on Part 52 Issues

March 8, 2006

Ms. Nanette Gilles

Senior Operations Engineer

U.S. Nuclear Regulatory Commission

Mail Stop O-4D9A

Washington, DC 20555-0001

PROJECT 689

Dear Ms. Gilles:

Your February 8, 2006, e-mail notice regarding the NRC March 14, 2006, workshop on the revised proposed rule to update 10 CFR Part 52 requested that additional questions and topics on the NRC's rulemaking proposal be forwarded to the NRC in advance of the workshop. The following questions are forwarded for discussion in the workshop:

1. A large number of the proposed changes are directed at clarifying the applicability of various NRC requirements to Part 52 applicants, licensees and permit holders. The proposals include a) new Section 52.0 omnibus applicability provisions; b) incorporation into Part 52 of selected requirements from 10 CFR Part 50 (e.g., Section 52.79(a)(9) reference to 10 CFR 50.63 Station Blackout requirements); and c) changes to Part 50 and other parts within 10 CFR to address applicability of specific requirements to Part 52 applicants, licensees and permit holders. Why has the staff chosen to use three methods to accomplish this objective?
2. Why does the staff propose to incorporate certain Part 50 requirements into Part 52, while ignoring other requirements in Part 50 and other parts of 10 CFR? How does applicability under Part 52 differ for technical requirements repeated in Part 52 versus those that are not?

Sincerely,

Adrian P. Heymer

Senior Director, New Plant Deployment  
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NUCLEAR ENERGY INSTITUTE

**Adrian P. Heymer**  
SENIOR DIRECTOR, NEW PLANT DEPLOYMENT  
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March 8, 2006

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2. Why does the staff propose to incorporate certain Part 50 requirements into Part 52, while ignoring other requirements in Part 50 and other parts of 10 CFR? How does applicability under Part 52 differ for technical requirements repeated in Part 52 versus those that are not?
3. The NRC has stated that completion of the rulemaking proposed in SECY-05-0203 will provide early resolution of generic issues that would otherwise have to be addressed during NRC review of the first combined license (COL) applications. On reading the proposed rule it is difficult to discern what generic issues are being resolved. What are several examples of generic COL application issues that would be resolved through the proposed rulemaking on Part 52 rule?

There are additional topics listed below that need clarification and that need to be discussed in the context of the proposed rulemaking at the March 14, 2006 workshop. Until discussions are held, we do not know whether changes to the regulations will be required or whether detailed regulatory guidance will be sufficient. These issues are not new and have been discussed before. Additional public meetings during the public comment period may be required to reach a better understanding of the Part 52 implementation process and to determine whether additional rule changes or just regulatory guidance are appropriate and necessary.

- Several applicants are planning to file COL applications that reference an early site permit (ESP) application or a design certification (DC) application. What is the process for implementing 10 CFR §§ 52.27(c) and 52.55(c)?<sup>1</sup> How and when does the NRC intend to provide clarification on this topic?
- What are the various processes for obtaining Limited Work Authorizations (LWA) under Part 52 on a schedule that provides meaningful benefit to COL applicants? How and when does the NRC intend to provide clarification on this topic?
- What are the detailed processes and expected milestone schedules in 10 CFR Part 2 to promote more timely ESP and COL hearings, and timely completion of the Section 52.103 process? How and when does the NRC intend to provide clarification on these critical COL implementation elements?
- The proposed rule includes a provision on severe accident design and information. The change process for severe accident design requirements is different than the change control process for other regulatory requirements. It is not a generic Part 52 requirement. It is included in each design certification rule Section VIII.B.5.c. Why does the extensive proposal for changing Part 52 not include a generic provision for managing severe accident management design changes? Also, there is no guidance on how to interpret the Section VIII.B.5 requirements. How and when does the Commission intend to clarify or modify the criteria in Section VIII.B.5.c of the design certification rules for changes to severe accident information?

We plan to raise these Part 52 process questions and topics in the public workshop and submit written comments to the NRC on these matters, including specific industry proposals for addressing them. In the matter of attaining an understanding of the Part 52 implementation process, the industry and NRC have a mutual goal to obtain regulatory certainty on a schedule that supports the ongoing COL activities of both the NRC and COL applicants.

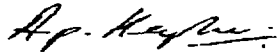
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<sup>1</sup> 10 C.F.R. § 52.27(c) currently provides that a COL applicant may, at its own risk, "reference in its application a site for which an early site permit application has been docketed but not granted." 10 C.F.R. § 52.55(c) allows a COL applicant, at its own risk, to "reference in its application a design for which a design certification application has been docketed but not granted."

Ms. Nanette Gilles  
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We look forward to the March 14, 2006, workshop and to any follow-on interactions with the NRC staff to clarify additional aspects of the Part 52 process such as those identified above. If you have any questions, please contact me at 202-739-8094; [aph@nei.org](mailto:aph@nei.org) or Russ Bell at 202-739-8087; [rjb@nei.org](mailto:rjb@nei.org).

Sincerely,

A handwritten signature in cursive script, appearing to read "Adrian P. Heymer".

Adrian P. Heymer

c: Mr. David Matthews, U.S. Nuclear Regulatory Commission  
Dr. William Beckner, U.S. Nuclear Regulatory Commission  
Ms. Kathryn Winsberg, U.S. Nuclear Regulatory Commission