

NUCLEAR REGULATORY COMMISSION

[Docket No. 52-043; NRC-2010-0215]

Draft Memorandum of Agreement between the U.S. Nuclear Regulatory Commission, New Jersey Historic Preservation Office, Advisory Council on Historic Preservation, National Park Service, PSEG Power, LLC, and PSEG Nuclear, LLC

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is requesting comment on a draft Memorandum of Agreement (MOA) between the NRC, New Jersey Historic Preservation Office (NJ HPO), Advisory Council on Historic Preservation (ACHP), National Park Service (NPS), and PSEG Power, LLC, and PSEG Nuclear, LLC (PSEG). The purpose of the draft MOA is to resolve adverse effects to historic properties identified during consultation for a proposed early site permit (ESP).

DATES: Submit comments by **[INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2010-0215. Address questions about NRC dockets to Carol Gallagher; telephone:

301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **Mail comments to:** Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see “Obtaining information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Allen Fetter, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-8556, e-mail: Allen.Fetter@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments.

A. Obtaining Information.

Please refer to Docket ID NRC-2010-0215 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2010-0215.
- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “[ADAMS Public](#)

[Documents](#)” and then select “[Begin Web-based ADAMS Search](#).” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The draft MOA is available in ADAMS under Accession ML15239B244.

- **NRC’s PDR:** You may examine and purchase copies of public documents at the NRC’s PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments.

Please include Docket ID NRC-2010-0215 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion.

On May 25, 2010, PSEG submitted the ESP application via letter pursuant to Part 52 of Title 10 of the *Code of Federal Regulations* (CFR) (ADAMS Accession No. ML101480484). The

location of the proposed ESP site is adjacent to the existing Salem and Hope Creek Nuclear Generating Stations on the east bank of the Delaware River in Lower Alloways Creek Township, Salem County, New Jersey.

An ESP is a licensing option provided under the NRC's regulations in 10 CFR Part 52 that allows an applicant to obtain approval for a reactor site. The approval of the ESP indicates that there are no safety or environmental issues at the proposed site that would preclude the construction of a nuclear power plant with the characteristics identified in the plant parameter envelope. Because an ESP is only a site approval and does not authorize the construction or operation of a nuclear power plant, an applicant may obtain an ESP without specifying the design of the reactor(s) that it may separately apply to build and operate at the site. The ESP application and review process makes it possible to evaluate and resolve safety and environmental issues related to siting before the applicant makes a large commitment of resources. Granting an ESP would result in no effects to historic properties; the ESP review includes an analysis of potential adverse effects from construction and operation of a postulated plant to support a site suitability determination.

Pursuant to 36 CFR 800.8, the NRC is using its National Environmental Policy Act (NEPA) process for developing the ESP environmental impact statement (EIS) to facilitate consultation pursuant to Section 106 of the NHPA (*54 U.S.C. 306108*). The U.S. Army Corps of Engineers (USACE) participated in the development of the ESP EIS as a cooperating agency, pursuant to NEPA, but is consulting separately under Section 106 of the NHPA for the activities that it regulates.

On August 22, 2014, the NRC requested comment (79 FR 49820) on its draft EIS analyzing: (1) the impacts of constructing and operating a postulated nuclear plant at the proposed ESP site that is the subject of NRC review, and (2) impacts associated with a USACE

permit action on a Department of the Army permit application to perform certain building activities on and near the ESP site.

The draft ESP EIS contained a finding of no adverse effect to historic properties for the NRC's Section 106 NHPA review. The New Jersey Historic Preservation Office (NJ HPO) concurred with this finding. By letter dated December 4, 2014, the NRC received a revised opinion letter from the NJ HPO finding that the proposed project would result in an adverse effect to historic properties (ADAMS Accession No. ML15005A040). The NJ HPO stated that the visual intrusion of two new natural draft cooling towers, which are included in the plant parameter envelope for the ESP application, would, if selected in a subsequent application to construct and operate a nuclear plant at the ESP site, result in an adverse effect to historic properties. The NRC met with the NJ HPO, PSEG representatives, and interested members of the public on January 9, 2015, in Salem County, New Jersey to discuss the NJ HPO's concerns. Between January and August 2015, the NRC met with the NJ HPO, ACHP, NPS, interested members of the public, and PSEG several times to discuss the effects from the proposed project on historic properties and to develop possible mitigation strategies for any potential effects. Between January and August 2015, the NRC conducted seven publicly noticed consultation meetings and teleconferences, pursuant to Section 106 of the NHPA.

Based on the information from these meetings and additional research, the NRC issued letters on June 24, 2015, to NJ HPO, ACHP, and NPS stating its determination that natural draft cooling towers, if selected, would result in an indirect visual adverse effect on the Abel and Mary Nicholson House National Historic Landmark (127 Fort Elfsborg–Hancock Bridge Road), the property at 349 Fort Elfsborg-Hancock Bridge Road, and the property at 116 Mason Point Road. These properties are within an area the NJ HPO has determined is an NRHP-eligible historic district. In its letter, the NRC stated its intention to develop a MOA to resolve the adverse effect to these three properties.

The draft MOA addresses the potential indirect adverse visual effect from construction and operation of natural draft cooling towers as analyzed in the ESP EIS and would conclude NHPA Section 106 consultation for the ESP. The draft MOA provides a framework for consultation at the combined license or construction permit/operating license stage.

I. Request for Public Comment.

The NRC is requesting public comment on the draft MOA. The NRC does not plan to provide individual responses to comments. However, the NRC will consider any comments received when finalizing the MOA and will publish the final MOA in the *Federal Register*. The draft MOA is available in ADAMS under Accession No. ML15239B244.

Dated at Rockville, Maryland this 28th day of August, 2015.

For the Nuclear Regulatory Commission.

/RA/

Francis M. Akstulewicz, Director,
Division of New Reactor Licensing,
Office of New Reactors.