

STATE OF ILLINOIS
DEPARTMENT OF NUCLEAR SAFETY

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George H. Ryan
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August 13, 2001

Paul H. Lohaus
Office of State Programs
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: "Draft Revision of SA-201: Review of State Regulatory Requirements"
(STP-01-059)

Dear Mr. Lohaus:

The Illinois Department of Nuclear Safety (Department) hereby submits comments on the Office of State and Tribal Program's Procedure, "Review of State Regulatory Requirements" as referenced in STP letter 01-059 identified above. This procedure describes information to be submitted to the NRC when states modify their regulations, and describes steps to be followed by NRC staff when reviewing state regulations.

For regulations, the procedure is very detailed and clearly describes the information NRC needs to complete the review. The same information is requested for "generic legally binding requirements" used by states in lieu of regulations. Unfortunately, there is no guidance for when a legally binding requirement is considered "generic." How many times does a state need to use such a requirement before it is "generic?" The procedure should clearly identify what is meant by "generic" requirements.

In addition, when a state creates a license condition to address something not yet in their regulations, it is not typically submitted to NRC for approval. A policy that requires licensees to commit to following NRC regulations for a particular use of material does not become legally binding until the license is issued. Section III.B of SA-201 indicates that requests for NRC review should be submitted when proposed generic legally binding requirements are published for public comment. Licenses, and most other forms of legally binding requirements are not published for public comment. Clearly, this issue needs additional guidance, or needs to be addressed differently from regulations.



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Appendix A, Section II.A. indicates that states should submit “an electronic version of the cover letter and regulation” yet Section V.A.1. of the procedure requires a hard copy for incorporation into ADAMS. The requirements in the procedure and the Appendix should match.

The remainder of my comments (with my emphasis added) address minor modifications to text in Appendix A:

1. The phrase “in preparing and submitting proposed regulations” in the first sentence of Section II.A. should be deleted because it does not add anything.
2. The last sentence of Section II.B. should be changed from “no longer than two months” to “ no later than two months.”
3. The first sentence of Section II. states “both proposed or final regulation.” If “both” is going to be used, the sentence should read, “both proposed and final regulations.”
4. The last sentence of the paragraph in Section III should change the term “tract” to “track.”

Thank you for the opportunity to comment. Should you have any questions, please contact me at 217-785-9931 or via e-mail at k_allen@idns.state.il.us.

Sincerely,



Kathy Allen
Office of Radiation Safety