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Tennessee Valley Authority, 1101 Market Street, Chattanooga, Tennessee 37402-2801

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

July 1, 2002

Secretary
U.S. Nuclear Regulatory Commission
ATTN: Rulemakings and Adjudications Staff
Mail Stop O-16C1
Washington, D.C. 20555-0001

Gentlemen:

NUCLEAR REGULATORY COMMISSION (NRC) - COMMENTS ON RULEMAKING
COMMUNICATIONS IMPROVEMENTS (VOLUME 67, NO. 104, *FEDERAL REGISTER*
37733, DATED MAY 30, 2002)

TVA appreciates the opportunity to comment on the subject Notice. TVA supports NRC's continuing efforts to improve effectiveness. The enclosure provides answers to the specific questions contained within the FR notice and suggestions relating to rulemaking communication improvements.

If you have any questions, please contact Susan Ferrell at (423) 751-7737.

Sincerely,

Mark J. Burzynski
Manager
Nuclear Licensing

Enclosure

cc (Enclosure):

(via NRC rulemaking website)
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Template = SECY-067

SECY-02

ENCLOSURE

1. In addition to the use of *Federal Register* and NRC rulemaking Web site, what other forums would be effective in informing the public about rulemaking activities?

Response: Currently, for stakeholders to become aware of proposed rule changes and opportunities for public comment, they must routinely monitor the *Federal Register* (FR) or be a subscriber to a service that monitors it. A new forum that might be effective in informing the public about rulemaking activities would be to allow them to subscribe to an e-mail distribution of the FR notice, similar to the service that NRC is providing for distributing generic communications (e.g., Information Notices, Regulatory Issue Summaries, etc.).

2. The general process used by the public to provide comments on rulemakings published in the *Federal Register* is to either mail the comments to the Secretary, U.S. Nuclear Regulatory Commission or use the NRC's interactive rulemaking Web site. In addition, public meetings are occasionally used for obtaining public comments for some rulemakings. Are there any other methods that might be used to facilitate public comments on rulemaking activities?

Response: The current processes are generally sufficient. A key aspect of these processes is that they allow flexibility while ensuring that adequate detail can be provided to support the resolution. These processes also ensure that the entity providing comments is identified so that follow-up for clarification can be accomplished, if needed. Methods which might facilitate easier access for submitting public comments (e.g., dial-up conference calls) might also be more prone to submittal of incompletely-developed comments and anonymous comments. It is easy to see how these comments could complicate NRC's ability to respond and how they might unnecessarily slow down the process.

3. At what stage(s) of the rulemaking process is interaction with the public most effective and beneficial?—e.g., at the beginning of the process before a rulemaking plan has been approved; shortly after a rulemaking plan has been approved; shortly before issuing a proposed rule; during the public comment period; or after a rulemaking has been proposed to the public and comments have been received and assessed but before the final rule has been approved?

Response: The appropriate stage for interaction with stakeholders depends strongly on the scope and complexity of the proposed rule change, but in general, the rule-of-thumb would be the earlier and more-often, the better.

Scoping meetings are beneficial for significant, extensive, or complex rule changes. These meetings allow stakeholders to provide early input to ensure that all perspectives, impacts (costs and benefits), and concerns are heard and factored into the proposed options.

Public meetings during the rulemaking comment period help stimulate dialogue between the diverse stakeholder groups and help forge consensus positions through the face-to-face interaction.

After the comment period and prior to final rule issuance, public meetings provide a valuable forum for communication of perspectives on issues which surfaced in the comments and allow significant positions in new rules to be explained and understood by all. These meetings also help facilitate the change management process for the affected stakeholders by preparing the stakeholders for the pending change.

4. What method of public interaction on rulemaking activities is preferred?— e.g., *Federal Register* notice; posting draft rule language on the Web; meetings; or other suggestions?

Response: No method is clearly preferred over the others, as each provide unique benefits. Written background material, draft language and comment/comment resolution, as well as, the final statements of consideration issued with the final rule are all valuable pieces of information that are used by the licensees in developing comments to a proposed rule change and later in the implementation of the change. The Rulemaking WebPage is effective when postings are timely.

5. How useful are public meetings for communicating NRC rulemaking activities to all stakeholders?
 - A. Are there occasions where public meetings are important in conducting rulemaking activities?
 - B. For those that consider public meetings on rulemaking activities an important part of the process, at what stage of the rulemaking process would meetings be most beneficial and effective?—e.g., at the beginning of the process before a rulemaking plan has been approved; shortly after a rulemaking plan has been approved; shortly before issuing a proposed rule; during the public comment period; or after a rulemaking has been proposed to the public and comments have been received and assessed but before the final rule has been approved?

Response: See response to question 3.

6. Are published responses to public comments on proposed rules generally comprehensive, clearly written, and well-argued?

Response: The level of the responses tend to vary from response-to-response, making it difficult to come to a general conclusion regarding their adequacy. On occasion, by necessity, the responses are no more than a “bean count” of how stakeholders weighed in on the proposed change. These are of little benefit to the licensees, but serve a recognized purpose. Also, on occasion, the responses turn out to be little more than a recitation of the previously-established position rather than a well-argued, well-developed response. At other

times, the responses are clearly written and provide clear, well-argued insight as to the reasoning behind the response.

On occasion, public comments pose complex questions or state concerns that impact licensee implementation of the rule. The responses to these questions are sometimes too brief to fully explain the reason for final decision.

As a suggestion for addressing comments for which the response might be too complex to be fully documented within the FR notice, a docketed response could be sent directly to the commenter. This docketed response could be briefly summarized and referenced in the FR notice that addresses the comment resolutions.

7. How useful is the initiative by the NRC to place draft rulemaking language on the NRC Web site with or without the associated statement of considerations?

Response: Timely postings on the NRC Web Page can be an effective method for communicating draft rulemaking. However, the statement of considerations are invaluable in establishing the context of the rule and promoting full understanding of the regulation. Every effort should be made to post the associated statements of consideration along with the draft rulemaking language.

8. How can the NRC obtain better information and comments on the cost or benefit of a rulemaking under development—i.e., information used to create a regulatory analysis?

Response: For larger scope projects or issues that will affect larger numbers of licensees, information for cost and benefit analysis could be better obtained through NRC-sponsored scoping meetings or workshops where the affected licensees are able to participate in the development of possible solutions and provide greater insight on site-specific benefits and implementation costs.

9. Is the NRC's typical 75-day comment period for proposed rules sufficient?

Response: Yes, 75 days is usually adequate.