

DEPARTMENT OF NUCLEAR SAFETY

1035 OUTER PARK DRIVE • SPRINGFIELD, ILLINOIS 62704
217-785-9900 • 217-782-6133 (TDD)

Rod R. Blagojevich
Governor

Gary N. Wright
Director

February 27, 2003

U.S. Nuclear Regulatory Commission
ATTN: John Zabko, STP
One White Flint North
11555 Rockville Pike, Third Floor
Rockville, MD 20852

Re: Draft Revision of STP Procedure SA-201, "Review of State Regulatory Requirements" (STP-03-010)

Dear Mr. Zabko:

The Illinois Department of Nuclear Safety hereby submits the following comment on the above-identified draft summary document. The document describes a revision to the procedures for reviewing proposed and final State regulations and expands the scope of the procedure to include review of other legally binding requirements such as license conditions and orders.

While we understand the NRC's desire to review legally binding requirements used by States to implement requirements similar to NRC regulations, the Department objects to submitting license conditions or Orders to NRC for review as "draft." License conditions and Orders are not the same as regulations. They are not circulated to licensees for comment prior to their use.

We see no need to delay the issuance of a license for up to 60 days while NRC reviews a license condition. In many cases, a license condition is used to cover one or two issues covered in NRC's regulations that are not yet covered in the state's regulations. If a state chooses to request "credit" for meeting a requirement identified in either the RATS (Regulation Action Tracking System) or SRS (State Regulation Status) with a license condition, then that condition should be submitted. However, we can foresee some situations where a license condition would not be submitted because of pending amendments to regulations that would supersede that license condition.

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The issuance of Orders by a state is not a matter for NRC comment. States typically issue orders to correct a situation where there is an immediate threat to public health and safety, not to be compatible with NRC regulations. In addition, the Department would not want a "proposed" Order to be placed in ADAMS prior to issuance.

In conclusion, we understand NRC's desire to create a procedure for evaluating Orders or license conditions used to implement requirements equivalent to NRC regulations. However, since these other legally binding requirements are not promulgated like regulations, soliciting comments from NRC prior to amending a license or issuing an Order would cause unnecessary delays in issuing amendments or correcting a public health and safety issue. If the Department wishes to take "credit" for implementing a regulation via one of these other legally binding requirements, we will submit the final version to NRC under the procedure SA-201.

Thank you for the opportunity to comment on the draft revision to the procedure for reviewing state regulatory requirements. My telephone number is 217-785-9931 and my e-mail address is k_allen@idns.state.il.us if you have questions or comments.

Sincerely,



Kathy Allen
Senior Project Manager
Office of Radiation Safety

cc: Jim Lynch, NRC Region III