

BWR OWNERS' GROUP

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Project No. 691

BWROG-07019
April 5, 2007

Mr. Michael Case
Director, Division of Policy and Rulemaking
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: BWROG Engagement in 10 CFR 50.46a Rulemaking

Dear Mr. Case:

During the recent NRC Regulatory Information Conference (RIC) I attended the session on the 10 CFR 50.46a rulemaking. During that session, an NRC Staff member indicated that the BWROG concerns about the Transition Break Size (TBS) for BWRs would have received greater consideration if they had been elevated earlier in the comment process (prior to the ACRS meetings in October and November of 2006), including the three public meetings held by NRC to discuss comments. It appears from this statement at the RIC that not all NRC Staff involved in this rulemaking were sufficiently aware of the previous BWROG involvement. Given that the proposed rule is under reconsideration as a result of the ACRS letter of November 16, 2006, the BWROG would like to communicate its concerns regarding the TBS for BWRs more clearly to the cognizant members of the NRC Staff. Therefore, we request a meeting, at the earliest mutually agreeable opportunity, to discuss our comments on the rule and elicitation process, along with our supporting analysis results. This presentation will clearly demonstrate the benefits that would accrue from a smaller TBS for BWRs. This supports the ultimate goal of having the final rule be useful to the entire industry.

In response to the assertion that we have not been sufficiently engaged in the process, the BWROG offers the following information that clearly demonstrates that we have been fully engaged in the public comment process for this rulemaking from its inception in 2002 (ML021430330):

- Our concerns with the TBS for BWRs were detailed in both our comment letters of March 8, 2006 on the proposed rulemaking (BWROG-06006) and January 12, 2006 on the Expert Elicitation, NUREG-1829 (BWROG-06002). In both letters, the BWROG offered to provide the Staff more detailed information based on the analyses that supported our comments.

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- We participated in public meetings on the rule package (August 17, 2004, November 18, 2004, February 16, 2006 and August 17, 2006), as well as the workshop on the Elicitation (November 9, 2005). As noted in the minutes of the August 17, 2006 public meeting (ML062350597), the BWROG questioned why the definition of the BWR TBS had not been modified in response to our docketed comments.

Because there was no apparent response to our written comments and participation in the public meetings, we sought advice from within the NRC Staff as to what additional avenues were available to provide the technical information behind our comments on the safety benefits of a smaller TBS for BWRs. We were advised by a senior NRC Staff member to participate in the upcoming ACRS scheduled meetings to discuss the rulemaking, which we did. At these ACRS meetings, held October 31 and November 1, 2006, we presented a summary of the analysis results that led to our conclusion that the TBS for BWRs could be reduced by eliminating the unnecessary conservatism that was applied to the NUREG-1829 expert elicitation results. The ACRS was very receptive to this information, as discussed in their November 16, 2006 letter to the Commission on the rulemaking package. Consequently, we continue to believe that our comments have merit and should be fully vetted as part of the rulemaking process.

Please contact either myself, Mr. Fred Emerson (BWROG Project Manager, 910-675-5615), or Ms. Michelle Honcharik (the NRC Project manager for the BWROG) to arrange the requested meeting.

Sincerely,



R. C. Bunt
BWR Owners' Group Chair

cc: Jack Grobe, NRC
Michelle Honcharik, NRC
John Butler, NEI
Douglas Coleman, BWROG Vice-Chair
Amir Shahkarami, BWROG Executive Committee Chair
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Ken McCall, GE BWROG Program Manager
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