



UNITED STATES
NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS
WASHINGTON, D. C. 20555

April 23, 1999

Dr. William D. Travers
Executive Director for Operations
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Dr. Travers:

SUBJECT: PROPOSED REVISIONS TO THE NRC GENERIC COMMUNICATIONS PROCESS

During the 461st meeting of the Advisory Committee on Reactor Safeguards, April 7-10, 1999, we reviewed the proposed revisions to the NRC generic communications process. During our review, we had the benefit of discussions with representatives of the NRC staff, Nuclear Energy Institute (NEI), and the documents referenced.

DISCUSSION

There are four basic types of generic communications currently in use: (1) bulletins (BLs); (2) generic letters (GLs); (3) information notices (INs); and (4) administrative letters (ALs). The industry and the members of the U.S. Senate have expressed concerns regarding the staff's use of BLs and GLs. The industry argued that the differences in regulatory requirements of these generic communications were not clearly differentiated, and although the NRC has adopted a policy that BLs and GLs be subject to the backfit rule, 10 CFR 50.109, the staff has often inappropriately invoked the compliance exemption of the rule in its requests for licensees' actions. Therefore, recipients of BLs and GLs feel obligated to respond and act on the actions requested. The industry expressed the need for the staff to clearly differentiate the differences between BLs and GLs, and to ensure appropriate consideration of the backfit rule requirements.

In addition, a number of BLs and GLs have invoked 10 CFR 50.54(f) to require licensees to submit information under oath or affirmation that is necessary to enable the Commission to determine whether to "modify, suspend, or revoke" a license. In fact, few of these generic communications have involved potential modification, suspension, or revocation of a license. The staff and the industry agree that the use of 10 CFR 50.54(f) should be restricted.

In responding to these concerns, the staff has proposed approaches to better define and specify requirements associated with BLs and GLs. The staff also has proposed to use the regulatory information letter (RIL) as a new generic communication tool.

CONCLUSIONS AND RECOMMENDATIONS

1. We agree with the staff's proposal for resolving concerns associated with the present use of generic communications. The benefits of this proposal include the following:
 - Reduction in the potential use of generic communications to impose regulatory requirements.
 - Assurance of appropriate consideration of the backfit rule and the associated compliance exemption.
 - Restriction of the use of 10 CFR 50.54(f) to cases in which the Commission is actually contemplating modification, suspension, or revocation of a license.
 - Implementation of a more uniform process across the agency for the use of generic communications.
2. The process for approving these generic communications is not clear from the description included in the draft Commission paper. Neither the generic communication development process discussed in the paper nor the flow chart presented by the staff at our meeting comprehensively described the role of the Committee to Review Generic Requirements (CRGR) in the process.
3. Guidance for the decision to declare an issue "urgent" should be provided.
4. The staff stated that a limited cost-benefit analysis would be performed, even for cases in which the initial screening indicated that an exemption to the backfit rule was justified. An adequate justification for the limited cost-benefit analysis has not been provided. The staff should make clear that such cost-benefit considerations will only be used as guidance on the appropriate disposition of compliance issues.
5. In the draft Commission paper, the staff proposes that RILs be reviewed by CRGR "as appropriate." Because RILs can be used to announce the staff's technical or policy positions, we recommend that the paper be revised to require that all RILs be reviewed by the Office of Nuclear Reactor Regulation Executive Team and CRGR.

We commend the staff for its early interaction with the industry and its efforts to resolve the concerns associated with the generic communications process.

Sincerely,

A handwritten signature in dark ink, reading "Dana A. Powers". The signature is fluid and cursive, with the first name "Dana" being the most prominent part.

Dana A. Powers
Chairman

References:

1. The 105th Congress, U.S. Senate, Report 105-206 dated June 5, 1998, Subject: Energy and Water Development Appropriation Bill, 1999.
2. Letter dated August 11, 1998, from Joe F. Colvin, Nuclear Energy Institute, to Shirley A. Jackson, Chairman, NRC, regarding the July 17, 1998 NRC Public Meeting on Stakeholders' Concerns.
3. Memorandum dated March 3, 1999, from Robert L. Dennig, Office of Nuclear Reactor Regulation, to John Larkins, ACRS, Subject: ACRS Review of Draft Commission Paper on Generic Communication Process.

