



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

CC: L. Plisco
R. Architzel
SU
2/24/92

February 20, 1992

Note to: Steven West, NRR

From: Geary Mizuno, OGC

SUBJECT: BACKFIT DISCUSSION IN THERMOLAG GENERIC LETTER

OGC Enforcement had previously provided you with a markup of the proposed generic letter. I have some additional comments with respect to the backfit discussion.

First, as required by NRR Office Letter 901, Revision 1 (January 16, 1992), all 10 CFR 50.54(f) requests must be accompanied by a statement addressing the requirements of 50.54(f). See pp.2-3 of NRR Office Letter 901, Rev.1. Your proposed generic letter does not contain or reference such a discussion.

Second, your backfit discussion is somewhat incomplete and confused. An information request, by itself, never constitutes a backfit because it does not impose a backfit as defined in 10 CFR 50.109(a)(1), e.g., a change or modification to a plant's design, hardware or procedures resulting from a changed or new position. Therefore, the first portion of your backfit discussion should state that this generic letter only requires information to determine whether plants are in compliance with their licensing basis, and does not impose a backfit as defined in 50.109(a)(1). However, as you know the CRGR requires that if an information request is likely to result in actions that could constitute a backfit, then a backfit discussion should be prepared contemporaneous with the 50.54(f) information request. See e.g., Backfitting Guidelines, NUREG-1409 (July 1990), p.3, in footnote *. In this case, plants may have to undertake additional actions which could be deemed to be a backfit. However, the compliance exception of Section 50.109(a)(4)(i) appears to apply. Accordingly, the remainder of your backfit discussion should discuss the possible need for additional action by licensees to assure compliance, and therefore that a backfit analysis is not required pursuant to the exception in Section 50.109(a)(4)(i). Some supporting discussion should accompany this determination, to make clear why this is merely a matter of compliance.

If you have any questions, you can reach me at 504-1639.

cc: R. Hoefling, OGC

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William T. Russell

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CC:

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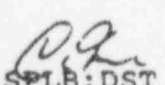
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