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UNITED STATES

SECY 78-665

NUCLEAR REGULATORY COMMISSION

## INFORMATION REPORT

For: The Commissioners

From: Robert B. Minogue, Director  
Office of Standards Development

Thru: Executive Director for Operations 

Subject: IMPROVING PUBLIC PARTICIPATION IN THE DEVELOPMENT OF  
REGULATORY GUIDES

Purpose: To inform the Commission of intended changes in procedure that will provide increased opportunity for early public comment on regulatory guides (including implementation schedules) and their associated value/impact statements.

Discussion: The staff intends to change its procedures for developing and issuing regulatory guides. The purpose of the new procedure is to permit the public to participate earlier in the decision-making process before a guide is approved by NRC staff management and to encourage greater public input in the value/impact statement associated with each guide.

Some of the more important features of the new procedure are:


- 1) The current procedure requires complete agreement by all concerned offices and a review by the Regulatory Requirements Review Committee (RRRC) (if appropriate) and by the Advisory Committee on Reactor Safeguards (ACRS) Subcommittee on Regulatory Activities (if appropriate) prior to issuance of a guide for public comment. The new procedure will require only division-level review and the advice of the ACRS Subcommittee (if appropriate) prior to public comment. This new process should provide for more meaningful use of public comments by incorporating them earlier in the process before staff positions are firmly established.

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- 2) In the current procedure, the value/impact statement associated with the guide is placed in the Public Document Room so that interested members of the public may comment on the statement during the comment period. The number of public comments on the statements filed under this procedure has not been extensive. In the new procedure, a specific request for comments on the draft value/impact statement will be sent to all guide recipients along with the draft guide and its associated value/impact statement. Although draft guides issued using the new procedure may not be as technically sound or responsive to NRC needs as in the current procedure, the new procedure should result in more and better public comments on these documents, and the active guide that is finally published should be an improvement.
- 3) The current procedure requires review of all reactor-related guides by the RRRC both before and after public comment. In the new procedure, the RRRC reviews before public comment will be eliminated. In the new procedure the RRRC will have the benefit of public input on each reactor-related guide (including its implementation schedule) and its associated value/impact statement the first time as well as subsequent times it reviews the guide. This should reduce the demands on the time of the membership of RRRC and make it more responsive to public input.
- 4) The elimination of several review steps prior to public comment should simplify the guide development process and may result in some savings in manpower associated with guide review.
- 5) The guide development process after issuance for public comment will remain unchanged.

We are in the process of implementing the new procedure now. The change in procedure will be announced to all guide recipients by individual letter and by notice in the Federal Register. Appropriate congressional committees will also be notified.

Coordination: This procedure has been developed jointly by the Office of Standards Development and the program offices. This paper has been concurred in by the Offices of Nuclear Reactor Regulation, Nuclear Material Safety and Safeguards, Inspection and Enforcement and Standards Development. The Office of the Executive Legal Director has no objection.

  
Robert B. Minogue, Director  
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Enclosure:  
New Procedure for Issuing Draft  
Regulatory Guides (Including  
Implementation Schedules) and  
Their Value/Impact Statements

NEW PROCEDURE FOR ISSUING DRAFT REGULATORY GUIDES  
(INCLUDING IMPLEMENTATION SCHEDULES) AND THEIR VALUE/IMPACT STATEMENTS

The new procedure for issuing draft guides for comment is essentially a shortened version of the current procedure. Review by the RRRC and Office concurrence prior to issuance for public comment have been eliminated, and the draft guide is issued for public comment following the division level review. Review following public comment remains unchanged and includes the ACRS and RRRC reviews where appropriate and Office concurrence prior to issuance of an active guide.

The following is a summary outline of the new procedure for developing guides:

1. The program office (usually NRR, NMSS or IE) that will be the principal user of the guide designates lead divisions on the SD Task Initiation Form (TIF) when SD seeks approval from that office to initiate a new task. The lead divisions that SD identified will have overall responsibility for representing the office's position on issues raised during the course of developing the guide.
2. The SD task leader seeks working level input on the draft guide (including implementation schedules) and its associated value/impact statement from cognizant individuals from NRR, NMSS and IE, as appropriate. Treatment of the issues in current and previous licensing cases are considered at this step. When guides and regulations are issued together, a single value/impact statement may be prepared.
3. SD sends the draft guide (including implementation schedule) and its associated value/impact statement for division review in the principal program office.
4. SD allows no less than 15 working days for the division level review except in unusual cases that will be justified by a memorandum from the appropriate SD division director. A longer time will be allowed if the volume or complexity of the guide warrants. The principal program office will complete its review within the requested time period except in unusual cases that will be justified by a memorandum from the responsible division director in that office. Comments sent from the principal program office to SD will be over the signature of the lead division director.
5. SD resolves the division review comments and obtains the review of the ACRS Subcommittee on Regulatory Activities (if appropriate). Although SD may informally contact cognizant individuals in other offices and ACRS (if appropriate) for clarification and amplification of comments, there is no further review of the draft guide by other offices prior to



distribution for public comment. The authority to issue a draft guide is delegated to the responsible division director within SD. A memorandum describing the resolution of comments is prepared by the SD task leader and addressed to the responsible SD division director. This memorandum is distributed to lead divisions and cognizant individuals in other program offices.

6. The draft guide (including implementation schedule) and its associated value/impact statement are prepared in an informal format that suggests documents in an early stage of development subject to significant revision in response to public comment. The word "DRAFT" appears on the top of every page of both documents. Although the draft guide is not assigned a regulatory guide number (e.g. RG 1.120) it does have a task number (e.g. EM 701-3) and the regulatory guide division number (e.g. Division 1 - Power Reactors) printed on the first page. The title of the guide is printed in capitals across the top of the first page beneath an NRC logo. A note is included in a box on the first page of the draft guide--that it is intended to involve the public early in the development of the guide, that both the guide and value/impact statement are subject to substantial change, that they do not represent an official NRC staff position and that comments on the value/impact statement should be accompanied by supporting data.
7. The draft guide (including implementation schedule) and its value/impact statement are edited only to a limited extent by the SD staff of technical editors prior to their issuance for public comment. The objective is not to develop a highly polished document but to remove ambiguities and errors in grammar, syntax, spelling and punctuation that could substantially affect the public's understanding of the draft guide and its associated value/impact statement. Printing of the draft guide is authorized by the responsible SD division director. The Commission is advised of the prospective issuance of the draft guide in the SD Activities Report.
8. SD prepares a Federal Register notice announcing availability of the draft guide (including implementation schedule) and its value/impact statement for public comment. Also, SD prepares letters to congressional oversight committees. Both the Federal Register notice and congressional letters contain the same note of explanation that is printed in a box on the first page of the draft guide. (The division director must be delegated new authority to sign a Federal Register notice.) Upon publication of the notice of availability in the Federal Register, the SD staff assures that the documents are mailed to the appropriate distribution list for public comment.

9. The current post-comment period guide development process resumes with resolution of public comments, another round of division level review, ACRS review (if appropriate), RRRC review (if appropriate), ELD review, thorough editing, and an SD resolution of comments memorandum prior to the usual concurrence by appropriate office directors.
10. In most cases, the guide is now issued in active form and the final value/impact statement is also distributed along with the guide. (The active form is the version of the guide as it is finally published.) However, in those cases where the guide now differs substantially from the draft previously reviewed by the public, the guide may be submitted to the public again for comment.