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RECORD #105

TITLE: Relief From Technical Specification LCO's

FICHE: 67976-329



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

JUL 15 1985

EGM 85- 05

MEMORANDUM FOR: T. E. Murley, Regional Administrator, Region I
J. N. Grace, Regional Administrator, Region II
J. G. Keppler, Regional Administrator, Region III
R. D. Martin, Regional Administrator, Region IV
J. B. Martin, Regional Administrator, Region V

FROM: Harold R. Denton, Director
Office of Nuclear Reactor Regulation

James M. Taylor, Director
Office of Inspection and Enforcement

SUBJECT: RELIEF FROM TECHNICAL SPECIFICATION LCO'S

It has come to our attention that some Regions have been granting relief from technical specification limiting conditions for operation upon request from licensees without following the procedures for granting license amendments and, in some cases, without obtaining NRR concurrence prior to granting the relief. In a number of instances, some of which were documented in response to an April 5, 1985 request from Hugh Thompson, licensees would have been required to shut down or to delay start-up absent some relief. In each case, the licensees were permitted to continue in operation or to start up and the event was resolved under the rubric of "enforcement discretion."

We are writing this memorandum to clarify the approach to be used for granting or denying amendments in situations in which the amendment cannot be processed before the limiting condition for operation action statement time expires.

Emergency relief from the technical specifications may be given only in rare circumstances for the short period of time it takes to process an emergency license amendment. When a limiting condition for operation in a technical specification will be exceeded within a few hours and if, as a consequence, the licensee will have to shut down the plant or to delay start-up, a licensee may seek a temporary waiver of compliance with the requirement for a sufficient period of time to allow the staff to process an emergency technical specification amendment. The appropriate Assistant Director of the Division of Licensing in NRR, with the concurrence of the responsible Regional Division Director, may grant a temporary waiver of compliance with the requirement if the licensee has demonstrated in a written submittal provided before the TS LCO expires that the plant can safely continue to operate without compliance with the technical specification during the time it will take to process the amendment request. Such relief may be considered only if the licensee's last minute request for immediate action was due to circumstances beyond the licensee's control and the licensee could not have reasonably foreseen the need for relief in time for normal processing of the amendment request.

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The waiver should be documented by the Division of Licensing, NRR and should be for a fixed period of time, normally not to exceed the two working days it takes to process the amendment.

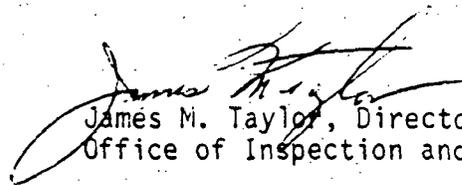
Enforcement action will not be taken for the period during which the waiver is in effect.

The Assistant Director of the Division of Licensing in NRR should proceed to expeditiously process the amendment request, in accordance with existing procedures for emergency amendments. If it is determined during the processing of the amendment that it raises a significant hazards consideration, the amendment should not be granted without prior notice and an opportunity for a hearing. In addition, if during the processing of the amendment such a finding is made, any temporary waiver is to be immediately suspended and the compliance with the action statement should be required.

As a separate matter, if it is found during the safety review that an LCO has no safety basis, it should be deleted or revised using existing procedures.

Except in the rare circumstances described above, if an LCO in a technical specification will be exceeded before a license amendment can be granted, the licensee must nonetheless take the action required by the action statement accompanying the LCO. Of course, a licensee may depart from its technical specifications, pursuant to the provisions of 10 CFR 50.54(x), without prior NRC approval in an emergency when it must act immediately to protect the public health and safety.


Harold R. Denton, Director
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