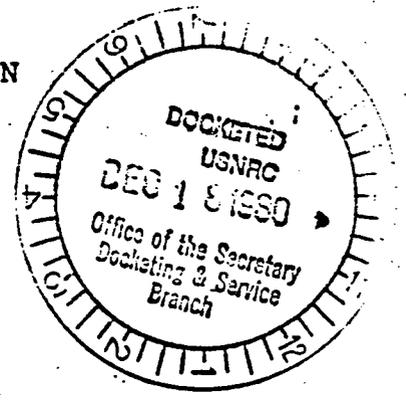


L. Chadler

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

John F. Ahearne, Chairman
Victor Gilinsky
Joseph M. Hendrie
Peter A. Bradford



In the Matter of)
STATEMENT OF POLICY:)
FURTHER COMMISSION GUIDANCE FOR)
POWER REACTOR OPERATING LICENSES)

PR-Miscellaneous Notice
(45 FR 41738)

MEMORANDUM AND ORDER
(CLI-80-42)

Recently the Commission, by a vote of 3-2, issued a Statement of Policy entitled "Further Commission Guidance for Power Reactor Operating Licenses." 45 Fed. Reg. 41738 (June 20, 1980). In essence, the Statement of Policy announced the intent of the Commission that in future actions on nuclear power reactor operating license applications, it would look to the list of "Requirements for New Operating Licenses" found in NUREG-0694 (June 1980) as setting forth requirements for new operating licenses which should be "necessary and sufficient for responding" to the accident at Three Mile Island ("TMI"). Consequently, current operating license applications were to be judged against present NRC regulations, as supplemented by these TMI-related requirements. Insofar as certain of the provisions of NUREG-0694 sought to impose operating

license requirements beyond those necessary to show compliance with the regulations:

although the [licensing and appeal] boards may entertain contentions asserting that the supplementation is unnecessary (in full or in part) and they may entertain contentions that one or more of the supplementary requirements are not being complied with; they may not entertain contentions asserting that additional supplementation is required. Id.

On November 3, 1980, by a vote of 2-2, the Commission denied a request for a stay of the Statement of Policy filed by the Union of Concerned Scientists and the Shoreham Opponents Coalition.

On October 28, 1980, by a vote of 4-0, the Commission approved NUREG-0737, "Clarification of TMI Action Plan Requirements," which is a letter from D. G. Eisenhut, Director of the Division of Licensing, NRR, to licensees of operating power reactors and applicants for operating licenses forwarding post-TMI requirements. NUREG-0737 now supersedes NUREG-0694, the latter being the document which forms the core of the substantive requirements in the aforementioned Statement of Policy. NUREG-0737 makes numerous significant changes in NUREG-0694. In some instances, the requirements in NUREG-0694 are made more flexible, especially as to implementation schedules. In some instances, the requirements in NUREG-0694 are made more strict. In addition, NUREG-0737 adds new requirements, taken from previously issued Bulletins and Orders, which were not part of NUREG-0694.

The Commission's approval of NUREG-0737 requires that some changes be made in the previously adopted Statement of Policy.

Moreover, the Commission has now had more time to reflect upon the distinction between interpretive and supplementary requirements, as originally set forth in NUREG-0694 and as modified in NUREG-0737, and believes that the number of supplementary requirements may be quite small. For these reasons, the Commission has decided that the Statement of Policy should be amended as set forth in the Appendix to this Memorandum and Order. 1/

It is so ORDERED.



For the Commission,

Samuel J. Chilk
 SAMUEL J. CHILK
 Secretary of the Commission

Dated at Washington, D.C.

this 18th day of December, 1980.

1/ Chairman Ahearne concurs in amending the policy statement, but disagrees in how it should be amended. His dissenting views are attached to the Appendix.