



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 19, 1997

Docket

50-272/311
50-315/316
50-482

Mr. David A. Lochbaum
Nuclear Safety Engineer
Union of Concerned Scientists
1616 P Street, NW, Suite 310
Washington, DC 20036-1495

Dear Mr. Lochbaum:

I am responding to your letter of November 7, 1997, to L. Joseph Callan of the U.S. Nuclear Regulatory Commission (NRC) in which you expressed concerns about the staff's handling of three exigent technical specification (TS) amendment requests. Specifically, you indicated that the staff's response to recent requests for exigent TS amendments for Wolf Creek, Salem Unit 2, and D.C. Cook may represent a trend of abuse of the license amendment process outlined in 10 CFR 50.91.

As discussed in 10 CFR 50.91(a), under the normal amendment process, a 30-day period is required after publication of the proposed amendment in the Federal Register for members of the public to file comments on the staff's proposed no significant hazards consideration determination. Section 50.91(a) indicates that when the Commission finds that exigent circumstances exist, in that time does not permit the Commission to publish a Federal Register notice allowing 30 days for prior public comment, and that the amendment involves no significant hazards considerations, the Commission may process the request under exigent circumstances and provide a 2-week prior comment period if certain provisions are satisfied. Specifically, the Commission must determine that the licensee acted in a timely manner, did not abuse the exigent provisions (i.e., made a timely application for the amendment and thus did not create the exigency), and the expedited action by the Commission would result in a net benefit to safety. In lieu of the 2-week notice, Section 50.91(a) further states that the Commission may use local media to provide reasonable notice to the public in the area surrounding the facility and to provide a reasonable opportunity for the public to comment. When determining whether a licensee abused the exigent provisions, the staff makes a determination whether the licensee contributed to the exigency once the problem was discovered.

In the case of Wolf Creek, the licensee, on October 14, 1997, identified that the facility was not being operated in compliance with the TS in that the centrifugal charging pump casings were not being vented nor had they ever been vented as required by TS 4.5.2.b. (The pumps were not designed with casing vents since noncondensable gases can escape through the top-mounted suction and discharge nozzles.)

On the basis of this information, the licensee submitted a request for a TS amendment, on October 17, 1997, to eliminate the requirement to vent the centrifugal charging pump casings. At the time of the request, Wolf Creek was in a refueling outage, and Mode 4 (the first mode at which compliance with TS 4.5.2.b would be needed) was expected to be entered on November 4, 1997. The

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licensee requested that the amendment be processed under exigent circumstances to allow startup of Wolf Creek at the end of the outage, since processing of the amendment in a routine manner would delay startup. Therefore, on October 24, 1997, the Commission used local media (the Coffey County Today newspaper) to provide reasonable notice to the public in the area surrounding the facility and a reasonable opportunity for the public to comment on the proposed TS amendment.

The staff determined that an exigent situation existed and could not be avoided because (1) the TS noncompliance was not identified by the licensee earlier, and (2) Wolf Creek could not be returned to Mode 4 without the change. The staff concluded that the licensee acted in a timely manner when the noncompliance was identified, the licensee did not abuse the exigent provisions (i.e., the licensee made a timely application for the amendment and thus did not create the exigency), and there was not sufficient time to process the amendment request in a routine manner as described in 10 CFR 50.91(a) without causing an unnecessary delay in the startup of Wolf Creek. The amendment was issued on November 3, 1997.

In the case of Salem Unit 2, the licensee identified, on August 18, 1997, that the demanded position of two control rods differed from the indicated position by 13 steps. TS 4.1.3.2.1 contained a maximum allowable difference between the demanded position and the indicated position of 12 steps. As a result, Salem Unit 2 was shut down on August 19, 1997, as required by TS. The licensee's investigation into the problem concluded that the rod position indication system was properly calibrated on August 17, 1997, and that a rod position indication of greater than 12 steps from the demand position may occur in the future due to the limitations in the calibration technique for the rod position indication system. To allow for an orderly startup of Unit 2 and to preclude unwarranted power transients, on August 19, 1997, the licensee requested a TS amendment to increase the allowable band for the control and shutdown rod demanded position versus the indicated position from 12 steps to 18 steps when the reactor thermal power is less than or equal to 85 percent and plus or minus 12 steps when the reactor thermal power is greater than 85 percent. In addition, the licensee asked that the amendment be reviewed on an exigent basis.

As in the Wolf Creek case, the Commission used local media (the Wilmington News Journal and the Today's Sunbeam newspapers) to provide reasonable notice to the public in the area surrounding the facility and to provide a reasonable opportunity for the public to comment on the proposed TS amendment. As discussed in the staff's safety evaluation for the amendment (a copy of which was forwarded to you by letter dated September 25, 1997), the staff determined that an exigent situation existed and could not be avoided because the rod position indication was successfully calibrated on August 17, 1997, and investigation into the apparent rod misalignment did not indicate any deficiencies with the calibration or circuitry. Therefore, the staff concluded that the licensee acted in a timely manner when the problem was identified, the licensee did not abuse the exigent provisions (i.e., the licensee made a timely application for the amendment and thus did not create the exigency), and there was not sufficient time to process the amendment

request in a routine manner as described in 10 CFR 50.91(a). Further, the staff took action to review and approve the amendment based on the facts at the time the licensee's request was made (i.e., the difference between the demanded position and indicated position of the rods may exceed 12 steps during restart of the plant). Additional details regarding the actions taken by the staff were discussed in my November 12, 1997 letter to you.

In the case of D.C. Cook, the licensee discovered, on September 11, 1997, that D.C. Cook Units 1 and 2 were not being operated in compliance with the TS. Specifically, TS 4.5.2.d.1 required that the licensee verify at least once per 18 months, automatic isolation of the residual heat removal (RHR) system from the reactor coolant system (RCS) when RCS pressure is above 600 psig. However, when RCS pressure is greater than 600 psig, the isolation valves between the RCS and RHR system are closed, and an interlock prevents the valves from being opened. Further, when RCS pressure is less than 600 psig, the RHR system is operating in the normal cooling configuration. In this condition, the licensee defeats the interlock that provides for the automatic isolation to prevent an inadvertent auto-closure of the valves, which would result in loss of RHR suction during shutdown cooling operation. Therefore, the surveillance to verify automatic isolation of the RHR system from the RCS when RCS pressure is above 600 psig cannot be performed without creating the risk of a loss of shutdown cooling.

At the time of discovery, both units were shut down, and restart was anticipated on September 29, 1997. Therefore, the licensee's request of September 19, 1997, for a TS amendment asked the staff to review the amendment under emergency circumstances. However, due to delays in startup of the units, the staff determined that sufficient time existed to provide the public with an opportunity to comment on the proposed no significant hazards consideration determination before the amendment was issued. Therefore, a notice was published in the Herald-Palladium newspaper on September 30, 1997. In the notice, the staff concluded that an exigent circumstance existed since the problem was not identified until September 11, 1997, and the licensee made a timely application for the proposed changes. Subsequently, it was determined that startup of the units would be delayed further. Therefore, on October 22, 1997, an exigent notice was placed in the Federal Register to provide the public with an additional opportunity to comment on the no significant hazards determination. However, because of additional delays in the startup of the units, the staff determined that processing the amendment request under exigent circumstances was no longer needed.

On the basis of the regulatory process established for addressing requests for TS amendments under exigent circumstances (as delineated in 10 CFR 50.91(a) and as discussed above) and a review of the actions taken by the staff in response to the requests for TS amendments from the licensees for Wolf Creek, Salem Unit 2, and D.C. Cook, as previously discussed, the actions taken by the staff were in accordance with the regulations. The staff critically reviews all requests for amendment under exigent circumstances to ensure the requests are made in accordance with the regulations. In addition, the Office of the General Counsel reviews all amendments processed under exigent circumstances prior to issuance to ensure the regulations contained in 10 CFR 50.91(a) are

December 19, 1997

adhered to. Finally, independent of the processing of each exigent amendment, the NRC reviews the circumstances that led to the requests for amendment and takes enforcement action when appropriate.

In addition to your concerns about the exigent TS amendment process, you requested a written explanation regarding the responsiveness of the staff when you tried to contact the NRC by telephone to discuss your comments on the proposed Wolf Creek amendment. First, I apologize for the difficulty you had in contacting the staff. The difficulties you experienced were due to a number of administrative errors including: inadequate phone coverage by assigned and backup clerical personnel, the listing of the wrong NRC phone number in the exigent notice, and a lack of sensitivity coupled with unplanned staff absences during this public comment period.

The issue you raised identified weaknesses in some administrative processes which we have subsequently taken steps to correct. Appropriate NRC managers have been briefed about this incident and reminded of the Commission's responsibilities related to the public comment process and the importance of maintaining adequate coverage of communication links with citizens for exigent amendments. Additionally, the staff is pursuing establishing a contract with an outside communication facility to provide 24-hour coverage for a toll-free telephone number that would be listed for all exigent amendment notices.

I would like to assure you that, based on your perseverance, which resulted in your comments being received by the staff within the time constraints stated in the notice, the staff was able to consider your comments in making its final no significant hazards determination. The comments are addressed in the staff's Safety Evaluation of November 3, 1997, for the amendment.

I trust that this information responds to your concerns.

Sincerely,

Original Signed By

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

*For previous concurrences see attached ORC

DOCUMENT NAME: GT970789.KMT

OFC	PDIV-2 <i>CP</i>	PDIV-2	PDIV-2 <i>CP</i>	TECH ED*	OGC*
NAME	KThomas	EPeyton	WBateman	BCalure	JMoore
DATE	12/19/97	12/19/97	12/19/97	11/28/97	12/16/97

OFC	(A)D/DRPW*	ADP*	NRR <i>TR</i>
NAME	EAdensam	RZimmerman	SCollins
DATE	12/8/97	12/12/97	12/19/97

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Docket Files (50-482, 50-272/50-311, 50-315/50-316)

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PDIV-2 Reading

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