

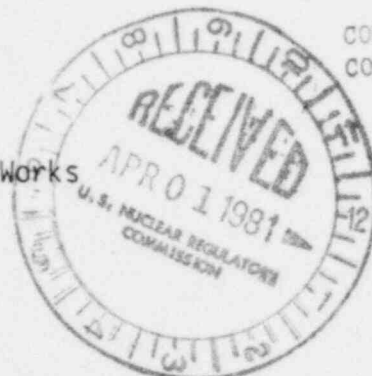


CHAIRMAN

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

March 24, 1981

The Honorable Alan K. Simpson
Chairman
Subcommittee on Nuclear Regulation
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510



COMMISSION
CORRESPONDENCE

Dear Mr. Chairman:

This letter responds to your request that the Commission provide a report on alternative measures to accelerate the licensing process. It is our understanding that your staff has already been provided with a copy of our recent response to the House Subcommittee on Energy and Water Development on the same subject. Rather than duplicate the information in that report, we will discuss here your additional questions concerning specific time savings of the various options, potential impacts on health and safety reviews, the Commission's position on the options, and the Commission's position on legislation allowing interim operation.

The modifications being considered in the present Appeal Board and Commission review procedures would save either two or three months on the average schedule, depending upon the option chosen, for each plant where a hearing must be held.

The Commission has agreed on a proposal for legislation which would allow interim reactor operation for fuel loading and low-power operation and testing before the completion of a hearing. Such interim operation would save at least two months and, where the low power testing revealed a need for repairs or modifications, could save substantially more time. Our letter to you of March 18, 1981 contained this proposal.^{1/}

Changes in the procedural rules governing the conduct of hearings, together with improved management of hearings by Licensing Boards could save two to eight months per hearing, depending upon scheduling, Board resource availability, the number of contested issues, and how heavily a hearing is contested.^{2/} The Commission has approved the actions recommended by the Chairman of the Atomic Safety and Licensing Board Panel to improve the availability of Board members, to increase the number of Board members and of law clerks available to the Boards, and to place highest Board priority on the writing of initial decisions in proceedings involving delays to construction or operation of nuclear plants.

^{1/}Commissioner Ahearne's additional views on this matter are attached.

^{2/}Commissioner Ahearne believes that reductions in hearing times also will require Commission guidance to be consistent.

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Options to accelerate the staff review process are best measured in terms of overall effect, rather than by time saving per plant. The staff proposal involving resumed hiring, mandatory overtime, reallocation of existing resources, and transfer of some scheduled projects from the licensing office, Nuclear Reactor Regulation, to other NRC offices, should prevent licensing delays for plants completed in 1983 and beyond (assuming that necessary hearings are completed in 10 months). These changes will also help to reduce licensing delays in 1981 and 1982. The exact time savings for 1981 and 1982 plants is dependent upon how quickly hiring, internal personnel transfers, and shifts in ongoing projects can be accomplished. The Commission will review proposed changes in the allocation of staff resources to make certain that such changes do not adversely affect projects necessary to assuring public health and safety and do not compromise the integrity of the hearing process. Our continuing monthly status reports will reflect changes in projected delays as they become more certain.

We are also considering a number of other steps for which we do not have estimates of the time that might be saved but which we believe will prove helpful. For example, we are preparing a policy statement to the Licensing Boards directing them to exercise firmer management of the hearing process. Other matters we are considering include rulemakings on TMI and environmental issues (which should reduce the scope of litigation), the threshold for contentions, the sua sponte role of the Boards, and the possible use of Administrative Law Judges for hearings not involving reactor licensing (to allow Board members to concentrate on reactor licensing hearings).

We have also begun to review the schedules of specific proceedings with a view to reducing delays. The McGuire hearing has been shortened by about three months. We will continue to seek to reduce delays in individual cases.

In summary, the Commission is taking the following steps to reduce licensing delays:

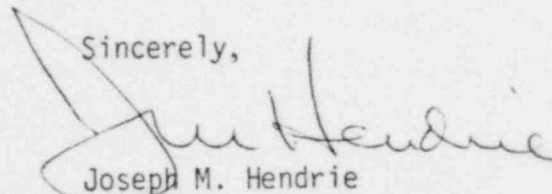
1. Reducing the time taken to decide on the effectiveness of a Licensing Board decision to permit reactor operation. A proposed rulemaking containing two alternatives is being drafted for public comment on an expedited schedule. Following review of those comments a Commission decision will be made on this option.
2. Proposing legislation to permit interim licensing for fuel loading and low power testing and operation before the completion of hearings for the limited group of plants that will be ready for operation before the end of 1983.
3. Reviewing the rules governing the conduct of the hearings. A proposed rule has been drafted and sent to the Federal Register. Public comments are to be submitted by April 7. A Commission decision on what changes are appropriate will follow review of those comments.

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4. Expediting the hiring of personnel for critical technical and legal staff positions and for positions with the Atomic Safety and Licensing Board Panel.
5. Authorizing mandatory overtime for staff review personnel. This option has already been implemented.
6. Authorizing the start of staff reallocation of resources. This option is beginning to be implemented.
7. Drafting a Statement of Policy to the Licensing Boards directing firmer management of the hearing process.
8. Pursuing the possibility of using Administrative Law Judges for certain hearings. Discussions with the Office of Personnel Management on this subject are underway.
9. Reviewing immediately affected plants on a case-by-case basis to reduce delays where possible.

The Commissioners will be prepared to discuss their views on these subjects at the hearings scheduled for later this month, as well as the impact of the Sholly decision and suggested remedies. We will provide you with additional information on the Commission's resolution of the licensing delay problem at that time.

Sincerely,



Joseph M. Hendrie

Attachment:
As stated

cc: Senator Gary Hart

Commissioner Ahearne's Comments

I do not believe we will really have an impact on accelerating the licensing process unless we make fundamental reforms in the role and practice of the hearing process. Initially, the Commission should assure that Boards serve to decide only issues that are raised by the parties, and of those, only those of substance. In particular, the threshold for admitted contentions should be significantly raised, sua sponte authority should be limited, and the Boards should be authorized to manage the proceedings with a strong hand. The Commission should move on to examine the net public good from the current hearing process and make changes accordingly.

With regard to legislation, I have accepted the desirability of low power interim licensing, given the problems we now face. If this Commission is unable to make the necessary changes, I expect another Commission will be requesting full power interim licensing legislation.

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