



Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

AFFIRMATION/DISCUSSION SESSION

PUBLIC MEETING

Thursday, July 15, 1982

Pages 1 - 13

Prepared by:
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Office of the Secretary

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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AFFIRMATION/DISCUSSION SESSION

- - -

PUBLIC MEETING

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Commissioners' Conference Room
Room 1130
1717 "H" Street, N.W.
Washington, D. C.

Thursday, July 15, 1982

The Commission met in public session, pursuant to notice, at 3:35 o'clock p.m., NUNZIO J. PALLADINO, Chairman of the Commission, presiding.

COMMISSIONERS PRESENT:

- NUNZIO PALLADINO, Chairman of the Commission
- JOHN F. AHEARNE, Member of the Commission
- THOMAS ROBERTS, Member of the Commission
- JAMES ASSELSTINE, Member of the Commission

STAFF PRESENT AT COMMISSION TABLE:

- S. CHILK
- L. BICKWIT
- F. REMICK
- M. MALSCH

AUDIENCE SPEAKERS:

- J. SCINTO

PENGAD CO., BATONNE, N.J. 07002 - FORM 740

DISCLAIMER

This is an unofficial transcript of a meeting of the United States Nuclear Regulatory Commission held on Thursday, July 15, 1982 in the Commission's offices at 1717 H Street, N.W., Washington, D. C. The meeting was open to public attendance and observation. This transcript has not been reviewed, corrected, or edited, and it may contain inaccuracies.

The transcript is intended solely for general informational purposes. As provided by 10 CFR 9.103, it is not part of the formal or informal record of decision of the matters discussed. Expressions of opinion in this transcript do not necessarily reflect final determinations or beliefs. No pleading or other paper may be filed with the Commission in any proceeding as the result of or addressed to any statement or argument contained herein, except as the Commission may authorize.

P R O C E E D I N G S

CHAIRMAN PALLADINO: The meeting will please come to order. This is an affirmation/discussion session and I will ask the Secretary to walk us through the items on the agenda.

MR. CHILK: The first paper, Mr. Chairman, is SECY-82-99, 10 CFR Part 50, a Proposed Rule to clarify applicability of license conditions and technical specifications in an emergency.

The Commission in this paper is being asked to approve a proposed rule that would provide that a licensee can take reasonable actions that depart from license conditions or tech specs when such action is immediately needed to protect the public health and safety.

All Commissioners have approved publication of the proposed rule with the modifications attached to our memorandum of July 14th. Commissioner Asselstine has provided additional comments for publication of the rule with which Commissioner Ahearne agrees. I am informed that Commissioner Gilinsky will also add comments to the rule asking for a public comment on whether senior reactor operators should be required to make the decision on deviations from technical specs since the SRO is trained in that basis.

I would ask you to affirm your votes?

(Chorus of ayes.)

CHAIRMAN PALLADINO: Do I have a copy of your comments?

COMMISSIONER ASSELSTINE: You should. They are incorporated.

MR. CHILK: They are incorporated into the

1 memorandum that is attached.

2 CHAIRMAN PALLADINO: Maybe I agree with them, too.

3 COMMISSIONER ASSELSTINE: Fine.

4 MR. CHILK: The second paper is SECY-82-257 which is
5 a draft policy statement on the treatment of psychological
6 stress contentions in proceedings other than TMI-1 Restart.

7 Here the Commission is being asked to approve a
8 Statement of Policy providing guidance to the licensing
9 boards on the treatment of these psychological stress
10 contentions in proceedings as I have indicated other than
11 TMI-1 Restart.

12 The proposed Policy Statement would instruct the
13 licensing boards to exclude psychological stress contentions
14 which do not meet the criteria adopted by the D. C. Circuit
15 in Pane versus NRC.

16 All Commissioners have voted to approve the Policy
17 Statement with revisions that take into account the current
18 status of the litigation. Commissioner Ahearne's proposed
19 modification to page 3 have also been concurred in by all
20 Commissioners.

21 Would you please affirm your votes?

22 (Chorus of ayes.)

23 MR. CHILK: The third is 82-268 which is a draft of
24 an immediate effectiveness order for San Onofre 2 and 3. The
25 Commission is being asked to approve an Order allowing the
San Onofre Licensing Board's May 14th decision to become
effective.

All Commissioners have voted to approve the proposed

1 order with alternative 2 as modified by Commissioners Ahearne
 2 and Roberts. Commissioner Asselstine has also proposed a
 3 modification in the order to which others have agreed.
 4 Commissioner Gilinsky proposed some changes to which all
 5 Commissioners have also agreed.

6 . Would you please affirm your votes?

7 (Chorus of ayes.)

8 CHAIRMAN PALLADINO: Do you have a question?

9 COMMISSIONER ASSELSTINE: I have a question about
 10 Commissioner Gilinsky's additional suggested changes.

11 COMMISSIONER ROBERTS: I am not sure that I agree.

12 COMMISSIONER ASSELSTINE: Yes, I had --

13 MR. CHILK: I thought everyone had agreed.

14 COMMISSIONER ASSELSTINE: His second item on the
 15 vote sheet --

16 MR. BICKWIT: If this is discussed, I think this
 17 should be a closed session item.

18 CHAIRMAN PALLADINO: Even if we discuss --

19 COMMISSIONER AHEARNE: Do you understand what the
 20 second item is?

21 MR. BICKWIT: Yes.

22 COMMISSIONER AHEARNE: The comment.

23 CHAIRMAN PALLADINO: I took that as a comment.

24 MR. BICKWIT: I took it as a comment, also, and if
 25 you want to discuss whether it ought to be included in an
 order or it is the sense of the Commission or whatever, I think
 you ought to do it in closed session.

COMMISSIONER AHEARNE: Even if we all agree that it
 was just a comment, non-binding comment?

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1 MR. BICKWIT: Well, if that is what you all agree to,
2 no.

3 COMMISSIONER AHEARNE: That was my view.

4 CHAIRMAN PALLADINO: I looked on it as a non-binding
5 comment.

6 MR. BICKWIT: I have no problem with that.

7 MR. CHILK: The next paper is SECY-82-281 which is
8 a TMI-1 Psychological Impacts, litigation strategy and response
9 to licensee's motion with respect to the stress issue.

10 The proposed order would deny the licensee's
11 motion which asks that the Commission decide whether it intends
12 to prepare a supplemental environmental impact statement or
13 psychological health effects associated with the operation of
14 TMI. The paper also includes some litigation strategy.

15 Chairman Palladino, Commissioners Ahearne, Roberts
16 and Asselstine have approved the proposed order and the
17 remaining content. Commissioner Gilinsky has now disapproved
18 and I understand has provided separate views which were just
19 given to us a few minutes ago.

20 May I ask you to affirm your votes?

21 (Chorus of ayes.)

22 COMMISSIONER AHEARNE: I suppose you will also
23 provide us with a copy of Commissioner Gilinsky's views?

24 MR. CHILK: Yes.

25 COMMISSIONER AHEARNE: I would like to ask one
question. At least on my affirmation sheet, there was an
issue that you, Jim, had raised.

COMMISSIONER ASSELSTINE: I have withdrawn that.

COMMISSIONER AHEARNE: All right.

1 COMMISSIONER ASSELSTINE: My view is that it is
2 better not to do that at the present time.

3 COMMISSIONER AHEARNE: Fine.

4 MR. CHILK: The next item is SECY-82-282 which is
5 a Three Mile Island Restart Proceeding, Appeal Board Order
6 requesting authorization to hear issues sua sponte.

7 This was a late add-on to the affirmation schedule
8 and before we discuss it, the Commission would have to vote
9 to hold that on less than one week's notice.

10 (Chorus of ayes.)

11 MR. CHILK: The proposed order would deny the ASLAB
12 request and direct the staff to examine each of the issues
13 raised by the Board and to provide the Commission with its
14 findings prior to the time the Commission makes its decision
15 on restart.

16 The Chairman and Commissioners Gilinsky, Ahearne,
17 Roberts and Asselstine have voted to approve the order. There
18 have been changes suggested by Commissioner Ahearne,
19 Commissioner Roberts and Commissioner Asselstine which have
20 been agreed to by a majority.

21 Would you please affirm your votes?

22 (Chorus of ayes.)

23 MR. CHILK: The last item and one which will require
24 discussion deals with SECY-82-111, Requirements for Emergency
25 Response Capability. The Commission is being asked in this
paper to approve a set of basic requirements for emergency
response capability and to approve the staff working with the
licensees to develop plant-specific implementation schedules.

The records indicate that the Chairman and

1 Commissioners Ahearne, Roberts and Asselstine have basically
2 approved the paper subject to the modifications that we
3 circulated on July 14th. Commissioner Gilinsky has disapproved.

4 A recent OGC memorandum, however, requires consider-
5 ation and necessitates some changes in what we circulated to
6 you on the 14th.

7 COMMISSIONER AHEARNE: I would add, also, at least
8 for myself, and say that I had agreed with what you had
9 circulated on the 14th -- I agreed with it subject to some
10 modification.

11 CHAIRMAN PALLADINO: Which we are about to discuss?

12 COMMISSIONER AHEARE: Yes.

13 MR. CHILK: It appears as we recap the issue that
14 items 1 through 6 on your attachment and number 10 remain
15 unchanged. Item 9 requires some rewrite, but basically the
16 Commission by a 3 to 2 vote with Commissioners Gilinsky,
17 Ahearne and Asselstine favoring review and the Chairman and
18 Commissioner Roberts opposing review have asked for at least
19 negative consent review of the proposed regulatory guide.

20 COMMISSIONER AHEARNE: I don't think you need the,
21 "at least."

22 COMMISSIONER ASSELSTINE: That's right -- by negative
23 consent review.

24 MR. CHILK: All right. The General Counsel is pre-
25 pared to discuss his memorandum that was circulated this
morning and then some proposed new language that we would
insert in items 7 and 8 to compensate for that memorandum
following which we would hope to be in a position to ask for
your affirmation.

1 MR. BICKWIT: I think the memo is self-explanatory.
2 I just don't know whether you have had a chance to read it.
3 In the event that perhaps some of you haven't, let me just
4 take you through it.

5 The basic concept is that it had been pointed out
6 that it was unclear in the original document how these
7 requirements of 82-111 would be applied in OL proceedings
8 and in CP proceedings. The staff when asked the question,
9 what particular status do you want to apply to these
10 requirements answered that basically they wanted the same
11 status as is presently accorded to NUREG-0737 requirements in
12 OL proceedings and NUREG-0718 requirements in CP proceedings.

13 What has been drafted here incorporates that concept.
14 As you may recall, 0737 and 0718 are NUREG's that have a
15 special status in these proceedings. They are not typical
16 NUREG's. They are codes of conduct that have been blessed by
17 the Commission. They are not binding on the Boards, however,
18 when they are brought to the Boards' attention, the Boards
19 understand that the Commission regards these requirements if
20 met as forming a basis for the grant of an OL in one case or
21 a CP in the other.

22 The policy statement with respect to operating
23 licensees makes that point with respect to 0737. With respect
24 to 0718, the preamble of the CP rule makes a similar point.

25 What we therefore propose is that in addition to
the language that clarifies this matter in the 82-111 Report,
we propose a revision to the policy statement that will make
clear that these 82-111 requirements have the status of the
NUREG's and since we are informed that in the case of CP's, the

1 82-111 requirements conflict in a few respects with the 0718
2 requirements, this policy statement would make it clear that
3 the Commission regards these as superseding the conflicting
4 0718 requirements.

5 CHAIRMAN PALLADINO: What do you mean by the word,
6 "these?"

7 MR. BICKWIT: I mean the ones with which the 82-111
8 requirements conflict. Where the 82-111 requirements conflict
9 with the 0718 requirements, the 82-111 requirements will be
10 regarded as prevailing.

11 COMMISSIONER AHEARNE: I would agree with everything
12 that Len has proposed with the exception of the impact on the
13 CP/ML rule for several reasons. First, in the discussions
14 that I have been in, it has been focussed upon 0737 and the OL
15 applicants and I would agree with those kinds of changes and
16 the changes that were indicated in items 7 and 8 as revised
17 by the Secretary.

18 Now when you move to the applicants for CP, there are
19 very few as we all know, that are covered by the CP/ML rule
20 because it explicitly is limited to those who already had
21 applications on file. So we are really talking about a very
22 small set.

23 Now in 82-111 or the enclosure, the discussion was
24 for applicants for a construction permit or manufacturing
25 licensee, the requirements described in this document must be
supplemented with the specific provisions in the rule
specifying licensing requirements for pending CP and ML
applications.

Up until a moment ago I had not understood that there

1 was an actual conflict. That language didn't lead me to
2 believe that. I had read that language and believed what
3 it meant was just what it said, that you would have to go
4 farther to see the actual rule.

5 If there is a conflict between some, then clearly
6 I am not going to vote to remove that conflict until I
7 understand what it is because many of the provisions that we
8 were told in 82-111 had to be modified from the direction
9 that the staff had been going for a number of reasons which
10 were related to how difficult it is to make some of these
11 changes on either a plant that is already in existence or
close to operating.

12 For those very few plants that are in the construction
13 permit application process, I have difficulty without knowing
14 the details of understanding why it is that I should reject
15 some of those requirements we put into the rule. So I can't
vote to take those out --

16 MR. BICKWIT: It is requirements that are put into
17 0718 but not in the rule.

18 COMMISSIONER AHEARNE: But you see, as you had
19 pointed out, that 0718 is supposed -- the rule says 0718 is
20 being given extra precedential treatment and I would like to
understand what it is we would be striking.

21 MR. BICKWIT: I understand that. I am just clarifying
22 that point.

23 COMMISSIONER AHEARNE: So in the absence of that
24 understanding, I would vote to remove the reference to 0718
25 in your revision -- just strike those kinds of references.

CHAIRMAN PALLADINO: What are you striking?

1 COMMISSIONER AHEARNE: The section that OGC had
2 added which is the part speaking to the '50.34(f) Appendix E
3 issues in the 0718, I would just drop those out.

4 MR. BICKWIT: I just don't know where we are in that
5 case. I am confused so I assume the Boards will be confused
6 if there are conflicting requirements.

7 COMMISSIONER AHEARNE: Len, I grant you that would
8 be a problem but all I am saying is that for myself when you
9 said and it was the first time that I had heard that there are
10 conflicting requirements between the two and I am not going to
11 vote to take something out that we had already spent a lot of
time talking about putting in.

12 Maybe we never had addressed these particular
13 elements, but in the absence of knowing them, I am not going
14 to vote to take them out.

15 MR. BICKWIT: No. I am just suggesting that it would
16 be a more rational posture as far as I am concerned to get that
17 explanation rather than to issue this document with a conflict
that will confuse the Boards.

18 COMMISSIONER AHEARNE: Fine. I would agree with that.

19 MR. BICKWIT: Maybe you can get that right here and
20 now. I don't really know. I can't give it to you, but I
think Joe Scinto can.

21 MR. SCINTO: I am just surprised to hear that someone
22 in the staff thinks there is a conflict.

23 (Laughter.)

24 MR. SCINTO: The documents sent to the Commission
25 which was attached to 82-111 on its second page, following the
page that the Commissioner quoted from, explicitly says, "The

1 basic requirements in this document do not alter previously
2 issued guidance which remains in effect."

3 CHAIRMAN PALLADINO: What are you reading from?

4 MR. SCINTO: The second page of 82-111.

5 CHAIRMAN PALLADINO: And what does it say?

6 MR. SCINTO: It says, "The basic requirements in this
7 document do not alter previously issued guidance which remains
8 in effect." I know 82-111 went through the concurrence
9 process and was discussed at length with the staff. So I
10 am surprised that there is now someone from the staff who
11 thinks there is a conflict.

12 COMMISSIONER AHEARNE: I would say for myself there
13 either is or is not a conflict.

14 (Laughter.)

15 COMMISSIONER AHEARNE: If there is not a conflict
16 then there would be no problem in striking a reference to 0718,
17 correct?

18 MR. BICKWIT: Absolutely.

19 COMMISSIONER AHEARNE: And if there is a conflict,
20 we have to find out about it. So I am back to my position,
21 as I said, either strike the reference to 0718 or let's go
22 further.

23 MR. BICKWIT: I understnad. Bob Purple was our
24 source and Bob Purple, I was hoping would be here and is not.

25 COMMISSIONER AHEARNE: I would suggest remove it from
affirmation.

MR. BICKWIT: With great distress.

CHAIRMAN PALLADINO: We worked so hard on 111 for so
many weeks and to come so close --

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COMMISSIONER AHEARNE: But nevertheless --

CHAIRMAN PALLADINO: All right. I agree. I don't know whether we have a conflict or not.

COMMISSIONER ASSELSTINE: Close.

CHAIRMAN PALLADINO: Very close. I was hoping you could cross out the sentence and then we could go on.

MR. BICKWIT: I don't think you can do that.

CHAIRMAN PALLADINO: I hope nothing more comes up on that.

(Laughter.)

CHAIRMAN PALLADINO: Is there anything more that we should discuss at affirmation session?

MR. CHILK: There are no other affirmation items.

CHAIRMAN PALLADINO: All right. Thank you. We will stand adjourned.

(Whereupon, at 3:55 o'clock p.m., the meeting was adjourned to reconvene at the Call of the Chair.)

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PENGAD CO., BAYONNE, N.J. 07002 - FORM 749

NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the

NUCLEAR REGULATORY COMMISSION

in the matter of: AFFIRMATION/DISCUSSION SESSION

Date of Proceeding: Thursday, July 15, 1982

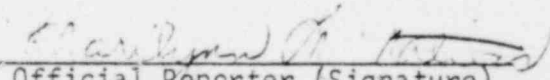
Docket Number: _____

Place of Proceeding Room 1130, 1717 "H" St., N.W.
Washington, D. C.

were held as herein appears, and that this is the original transcript thereof for the file of the Commission.

MARILYNN M. NATIONS

Official Reporter (typed)


Official Reporter (Signature)

NUCLEAR REGULATORY COMMISSION

10 CFR PART 50

Applicability of License
Conditions and Technical Specifications
in an Emergency

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing a change to its regulations which would clarify that all Part 50 ~~licensees~~ licensees may take reasonable action that departs from a license condition or technical specification in an emergency when such action is immediately needed to protect the public health and safety.

The rule is being proposed because NRC regulations currently do not permit deviations from license conditions or technical specifications under any conditions. Emergency situations can arise, though, during which a license condition or a technical specification could prevent necessary protective action by the licensee. The proposed rule would allow such action to be taken in emergency circumstances.

DATE: Comments must be submitted in writing on or before _____
Comments received after this date will be considered if it is practical to do so, but assurances of consideration cannot be given except as to comments filed on or before this date.

ADDRESSES: Interested persons are invited to submit written comments and suggestions on the proposed rule change to the Secretary of the Commission, U. S. Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Docketing and Service Branch. Copies of the comments received by the Commission may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D. C.

FOR FURTHER INFORMATION CONTACT: Charles M. Trammell, III, Office of Nuclear Reactor Regulation, U. S. Nuclear Regulatory Commission, Washington, D. C. 20555 (telephone: 301-492-7389).

SUPPLEMENTARY INFORMATION: The proposed change would clarify the regulations in 10 CFR Part 50 by providing that a licensee may take reasonable action that departs from a license condition or a technical specification in an emergency when such action is immediately needed to protect the public health and safety.

At present, NRC regulations do not permit deviations from license conditions or technical specifications under any circumstances. Emergencies can arise, though, during which compliance with a license condition or a technical specification could prevent necessary action by a licensee to protect the public health and safety. Licensees are understandably reluctant to take actions contrary to their licenses. Absolute compliance with the license in emergencies can be a barrier to effective protective action by a licensee.

Technical specifications contain a wide range of operating limitations and requirements concerning actions to be taken if certain systems fail and if certain parameters are exceeded. The bulk of technical specifications are devoted to keeping the plant parameters within safe bounds and keeping safety equipment operable during normal operation. However, technical specifications also require the implementation of a wide range of operating procedures which go into great detail as to actions to be taken in the course of operation to maintain facility safety. These procedures are based on the various conditions -- normal, transient and accident conditions -- analyzed as part of the licensing process. Nevertheless, unanticipated circumstances can occur during the course of emergencies. These circumstances may call for responses different from any considered during the course of licensing -- e.g., the need to isolate the accumulators to prevent nitrogen injection to the core while there was still substantial pressure in the primary system was unforeseen in the licensing process before TMI-2; thus, the technical specifications prohibited this action. Special circumstances requiring a deviation from license requirements are not necessarily limited to transients or accidents not analyzed in the licensing process. Special circumstances can arise during emergencies involving multiple equipment failures or coincident accidents where plant emergency procedures could be in conflict, or not applicable to the circumstances. In addition, an accident can take a course different from that visualized when the emergency procedure was written, thus requiring a protective response at variance with a procedure required to be followed by the license. Also, performance of routine surveillance testing, which might fall due during an emergency, could either divert the attention of the operating crew from the emergency or cause the loss of use of equipment needed for proper protective action.

Technical specifications or license conditions can be amended by NRC, and the proposed rule is not intended to apply in circumstances where time allows this process to be followed. The proposed rule would apply only to those emergency situations where action by the licensee is required immediately to protect the public health and safety -- action which may be contrary to a technical specification or a license condition.

It is the intent of the proposed rule to allow deviations from license requirements only in the special circumstances described. It is not intended that licensees be allowed to deviate from procedures and other license requirements where these are applicable.

For these reasons, the Commission believes that there should be a specific provision in the Commission's rules clearly indicating that a licensee may take reasonable action that departs from a license condition or technical specification in an emergency when such action is immediately needed to protect the public health and safety.

In view of the fact that the rule permits a licensee to depart from NRC's requirements, the Commission expects that, if adopted, it would be applied rarely and only under the special circumstances described. The NRC would review carefully any licensee's use of the rule to determine whether the licensee had to act immediately in an emergency to avert possible adverse consequences to the public health and safety and may require written statement from a licensee concerning its actions after use of the provisions of this rule. The Commission recognizes that a licensee would need to exercise judgment in applying the rule and that, in its after-the fact review, it may not agree in every instance with

a licensee's actions. However, enforcement action for a violation of the rule would not be taken unless a licensee's action was unreasonable considering all the relevant circumstances having to do with the emergency.

The proposed rule also would require a licensee, under §50.72, to notify the NRC Operations Center by telephone of emergency circumstances requiring it to take any protective action that departs from a license condition or a technical specification. When time permits, the notification would be made before the protective action is taken; otherwise, it would be made as soon as possible thereafter. The impact of this reporting requirement on licensees would be negligible.

The proposed rule follows the recommendation in NUREG-0616, "Report of Special Review Group, Office of Inspection and Enforcement on Lessons Learned from Three Mile Island"* that NRC establish and announce a firm policy regarding the applicability of the license under emergency circumstances, with certain exceptions discussed below.

a). The proposed rule does not require that departure from a license condition or technical specification have the concurrence of the most senior licensee and NRC personnel available at the time before the departure.

While the Commission does not disagree with the general concept that the most senior licensee personnel available at the time should be involved, the proposed rule specifies only the minimum actions necessary to assure public health and safety, without going into further detail as to which other licensee personnel should be involved if time permits. The persons responsible for safe operation

* NUREG-9616 is available for inspection and copying for a fee at the NRC Public Document Room, 1717 H. Street, N.W., Washington, D.C.

that a reactor operator should get the concurrence of a senior reactor operator and does not go into further detail as to which additional persons should be involved if time permits or which persons should be involved under other circumstances.

of the facility are already identified in the facility license and implementing procedures. Adding this requirement to the proposed rule itself is therefore believed to be unnecessary.

- b). The proposed rule does not require the concurrence of NRC personnel. Receiving the "concurrence" or "approval" of NRC personnel would amount to a license amendment using procedures contrary to those existing for amendments. The rule specifically applies to emergency situations where immediate action is needed and time is not available for a license amendment. Requiring the concurrence of NRC personnel available at the time tends to shift the burden of safety from the licensee to NRC - contrary to the proposed rule's intent. It could also shift the burden to NRC personnel on site who may be unqualified to concur in a proposed licensee action.

The Commission believes that the proposed rule on the applicability of license conditions and technical specifications in emergencies should be implemented by adding the necessary clarification to §50.54, "Conditions of licenses" and to §50.72, "Notification of significant events." The proposed rule would apply to all facilities licensed pursuant to Part 50.

Additional comments of Commissioner^S Asselstine and Ahearn

Commissioner^S Asselstine ^{and Ahearn are} is concerned that the proposed rule may not provide sufficient guidance to Part 50 licensees for identifying those situations in which deviations from license conditions or technical

specifications are allowable. ^{They} ~~Commissioner Asselstine~~ ^{are} also concerned that the proposed rule and the supplementary information may not provide a clearly defined standard to be used by the NRC staff in determining whether to take enforcement action against Part 50 licensees who deviate from license conditions or technical specifications in these types of situations. ^{They} ~~He~~ would particularly appreciate comments on these issues.

PAPERWORK REDUCTION ACT STATEMENT: Pursuant to the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the NRC will submit to the Office of Management and Budget for its consideration of any potential or new reporting, record-keeping, or information collection requirements contained in the proposed rule.

REGULATORY FLEXIBILITY CERTIFICATION: In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(5), the Commission hereby certifies that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities. These proposed regulations affect licensees that own and operate nuclear utilization facilities licensed under sections 103 and 104 of the Atomic Energy Act of 1954, as amended. The amendment serves to clarify the applicability of license conditions and technical specifications in an emergency. The clarification would be incorporated as a condition of the respective operating licenses, and would require no action on the part of licensees. Accordingly, there is no new, significant economic impact on these licensees; nor do these licensees fall within the definition of small businesses set forth in section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 13 CFR Part 121.

For the reasons set out in the preamble and pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendment to 10 CFR Part 50 is contemplated.

PART 50 -- DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for 10 CFR Part 50 reads as follows:

Authority: Sec. 161i., 68 Stat. 948 [42 U.S.C. 2201(1)].

2. A new paragraph (y) is added to §50.54 to read as follows:

§50.54 Conditions of licenses.

(y) A licensee may take reasonable action that departs from a license condition or a technical specification (contained in a license issued under this part) in an emergency when such action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent.

(z) A licensed reactor operator taking action permitted by paragraph (y) shall, as a minimum, obtain the concurrence of a licensed senior reactor operator prior to taking such action.

3. A new paragraph (c) is added to §50.72 to read as follows:

§50.72 Notification of significant events.

(c) Each licensee licensed under §50.21 or §50.22 shall notify the NRC Operations Center by telephone of emergency circumstances requiring it to take any protective action that departs from a license condition or a technical specification, as permitted by §50.54(y). When time

permits, the notification shall be made before the protective action is taken; otherwise, notification shall be made as soon as possible thereafter. The Commission may require written statements from a licensee concerning its actions after use of this provision of the rule.

Dated at Washington, D.C. this _____ day of _____, 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk
Secretary of the Commission

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Meeting Title: Affirmation Discussion Session

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1. <u>Manuscript</u>	<u>1</u>		<u>1</u>		
2. <u>Proposed Rule</u>	<u>2</u>			<u>1</u>	
3. _____					
4. _____					
5. _____					

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