

WISCONSIN PUBLIC SERVICE CORPORATION



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BUCKET NUMBER PR-50  
PROPOSED RULE (47 FR 38135)

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USNRC

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DOCKETING & SERVICE  
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September 27, 1982

Mr. Samuel Chilk, Secretary  
U. S. Nuclear Regulatory Commission  
1717 H. Street, NW  
Washington, D.C. 20555

Gentlemen:

Docket 50-305  
Operating License DPR-43  
Kewaunee Nuclear Power Plant  
Comments on Proposed Rule Requiring Increased Shift Staffing

Reference: 47 FR 168, pp 38135-38137 proposed 10CFR50.54 (m)(2);  
published August 30, 1982

This provides Wisconsin Public Service Corporation's (WPSC) comments on the above referenced proposed rule. The proposed 10CFR50.54 (m)(2) would require WPSC to provide a licensed Senior Reactor Operator in the control room of the Kewaunee Nuclear Power Plant when the plant is operating. For the purposes of this rule, operating is defined as any condition in which the average coolant temperature is above 200°F. The proposed rule also requires the minimum shift size to include two Senior Reactor Operators, which would require WPSC to add an additional SRO on each shift.

These comments are divided into two categories--administrative and technical. They deal with the proposed schedule as well as the substantive requirement which would require WPSC to increase our on-shift staff.

Administrative Comments

WPSC notes that the proposed rule was published in the Federal Register on August 30, 1982 with the comment period ending September 27, 1982. This amounts to a 28-day comment period during which there is a national holiday--Labor Day. The statutory minimum comment period for notice and comment rule-making is 30 days, under 5 U.S.C. section 553(d) (1976). It concerns WPSC that the NRC is apparently violating the Administrative Procedure Act on such an important subject. Indeed, in WPSC's opinion, this proposed rule deserves an even longer comment period to allow for full and proper public participation. In light of the passage of time during which this subject has been discussed, the unseemly haste in so short a comment period and allowing so little time for implementation seem unjustifiable.

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The Preliminary Value/Impact Statement supporting this rule notes that the decision to use the rulemaking process as the procedure for promulgating this requirement was made

...Since a regulation is the most appropriate way of establishing a requirement for a large group of licensees (i.e., all operating nuclear power plants), and because it provides a better way for the public and industry to participate in the Commission's imposition of requirements. (Section 3.3 of Preliminary Value/Impact Statement).

Further, in light of the recent statements by the United States Court of Appeals for the D.C. Circuit concerning the NRC's rulemaking procedures, the Commission's good faith in seeking and considering public comments may be doubted.

"The process of notice and comment rulemaking is not to be an empty charade. It is to be a process of reasoned decisionmaking. One particularly important component of the reasoning process is the opportunity for interested parties to participate in a meaningful way in the discussion and final formulation of rules." Connecticut Light & Power Co. v. NRC, CCH Nuc. Reg. Rptr. pp. 20,216 (1982).

The NRC's actions in this matter can only encourage the court's suspicion that the Commission considers the rulemaking process to be nothing more than a charade, making arbitrary imposition of unjustifiable regulatory requirements.

#### Schedule

The proposed effective date of this rule is January 1, 1983. This effective date appears to be purely arbitrary, with no correlation to safety. Commissioner Asselstine requested comments on the schedule: WPSC refers him to our docket, on which we have informed you on numerous occasions of our reluctant commitment to this requirement, but also to our proposed schedule for implementation. Specifically, in letters dated April 13, 1981, September 10, 1981 and June 7, 1982, WPSC informed you that we could not commit to providing a second SRO on shift until January 2, 1984. Additionally, WPSC met with members of your staff on November 23, 1981 to discuss our schedule and the justifications for it. To date, WPSC has not had a response. The staff's indifferent approach to this subject, exemplified by its failure to respond, also belies the need for haste incorporated in the rule.

WPSC's reasons for a longer rational implementation schedule are based on the time it takes to hire, train and license operators. To maintain fairness and consistency in our promotional policies, WPSC established a program which will ultimately allow our most experienced operators to become the second SRO on shift. In order to do this and develop licensed personnel for a sixth shift, WPSC had to first hire and train many new potential reactor operators to allow them in turn to relieve existing operators for SRO training. This process has certain necessary administrative time limits, due to WPSC's established policies for determining the readiness of operators to assume shift-responsibility. There are further restraints due to the NRC's requirements for experience prior to licensing.

WPSC strongly encourages the Commission to reconsider the effective date of this rule. Imposing an arbitrary date has the potential for serious safety consequences. It is most important to assure that operators of nuclear power plants are fully qualified to assume the responsibility of operating the plant. An arbitrary date forces the utility to expedite all phases of achieving this goal, including hiring, training and gaining operational experience. This has the effect of diluting the overall

experience level of the operating staff, as well as creating the possibility of a flawed training and hiring program. If a utility is forced to license a certain number of operators by an arbitrary date, the temptation exists for the license candidate to study to "pass the exam", and not necessarily to operate the plant. Additionally, if the candidate is not allowed an adequate amount of time to absorb the information he is learning, his retention of that material may be decreased. Both of these possibilities have obvious safety consequences. WPSC has tried to minimize these concerns by establishing a rational schedule which allows an adequate amount of time to train license candidates.

The dilution of the overall experience level is of great concern to us. Prior to this requirement, WPSC's operational staff consisted of five shifts, with one SRO (the shift supervisor) and two RO's per shift. (WPSC also maintains an STA on site when the unit is above cold shutdown.) The experience level of these personnel was excellent, due to the extremely low rate of attrition which we have been able to maintain. For example, in March of 1979, every shift supervisor and licensed operator on shift had pre-operational experience at the Kewaunee Plant, even though we had been operating for five years at that time. The value of this experience cannot be over-emphasized. The control room operators are, in part, the first to respond to alarms and abnormal conditions in the control room. The insight into the workings of the plant that these personnel have gained from pre-operational experience is extremely valuable.

However, as a result of the proposed requirement for a second SRO, WPSC has been forced to take steps which will virtually eliminate all pre-operational experience "on the panels". WPSC acknowledges that this experience cannot be maintained throughout the life of the plant, however, under normal conditions the turnover of personnel would be much slower, allowing for a timely and more complete transfer of information and experience among the operators.

WPSC also acknowledges that this experience will not be totally lost, since present operators that will be upgraded to SRO's will be acting supervisors in the control room. Keep in mind, however, that the actual manipulation of controls rests with the control room operators (RO's), and these operators will be the first to respond to abnormal conditions.

Another negative aspect of the proposed effective date is the potential it creates for "pirating" of operators in the industry. An arbitrary shift manning requirement, with an arbitrary effective date, will increase the temptation for utilities to recruit qualified operators from operating power plants, causing a further reduction in overall experience levels.

Finally, with respect to an arbitrary completion date, WPSC would like you to realize the potential it would create for a contradiction with another one of your guidelines. Generic Letter 82-12 (June 15, 1982) informed all utilities of your guidelines concerning working hours for nuclear plant operating staffs. These guidelines limit the amount of overtime and consecutive days that operators should be allowed to work. The imposition of an arbitrary date when an increased staff size would be required could result in a forced overtime situation which in turn would result in the violation of your working-hour guidelines at those facilities which have traditionally operated successfully with small operating staffs. This would unreasonably place the utility in a "no-win" situation.

#### Technical Justification for Increased Staff Size

As justification for the increase in operating staff size which would be required by the proposed 10CFR50.54 (m)(2), the NRC has stated that "... studies and investigations have recommended changes in the numbers, qualifications, and organization of nuclear power plant personnel. .... These studies concluded that, among other things, current shift staffing requirements should be upgraded." Here, once again, WPSC finds history repeating itself. The NRC has not given any justification for the requirement with this statement, but has referred the reader to a set of other documents. This is exactly the practice for which the NRC was admonished by the Court of Appeals for the District of Columbia in their decision on the Fire Protection Requirements (Docket 81-1050, March 16, 1982).

WPSC feels that this continuing disregard for the requirements of the Administrative Procedure Act only serves to undermine NRC licensee's and the public's confidence in the rulemaking process.

WPSC has reviewed several of the reports and documents referenced in the proposed rule. Unlike the Commission, WPSC does not feel that these reports recommend an increase in the staff size of operating plants, as discussed below.

#### Kemeny Report

The report of the President's Commission on Three Mile Island (The Kemeny Report) includes recommendations for improvements in several areas, ranging from the NRC itself to Emergency Planning and Response. In reviewing these recommendations, WPSC has not been able to identify any that specifically recommend an increase in the on-shift staff at nuclear power plants. Perhaps the recommendations of the President's Commission that come the closest to this proposed requirement are those regarding training. However, these recommendations do not require an increase in the number of operators, but an upgrade in the training of operators. In WPSC's opinion, this proposed rule runs exactly counter to these recommendations by imposing an arbitrary date of implementation, thus undermining the objective of improved training (as discussed above).

WPSC's conclusion that the Kemeny Report does not recommend an increase in operating staff size is supported by Volume 2 of NUREG 0660, NRC Action Plan Developed as a Result of the TMI-2 Accident. Pages 3 through 26 of Volume 2 provide a cross reference of the President's Commission's recommendations to the Action Plan items. Item 1.A.1.3, Shift Manning, does not appear on this cross reference.

#### Bulletins and Orders Task Force

The report of the Bulletins and Orders Task Force is also referenced in the proposed rule as justification for increased staffing. Again, WPSC's review of this report has been unsuccessful in providing technical justification for this proposed rule. In fact, footnote (1) of the proposed rule suggests that NUREG 0660 be used to glean further technical information on this requirement. WPSC has found that the Bulletin and Orders Task Force report is not even referenced in Volume 2 of NUREG 0660 (see above).

#### NRC Special Inquiry Group (SIG)

WPSC's review of the report of the Special Inquiry Group (Rogovin Report) provided a repeat of our other reviews. Again, the report recommends an "upgraded set of requirements" concerning shift staffing, but falls short of suggesting an increase in the number of licensed senior reactor operators on site until appropriate analyses

are completed. The Rogovin report suggests that the qualifications of the utility's staff be certified to insure the management and technical qualifications of utility personnel. (pp 106-107 of the Rogovin Report)

In reviewing the recommendations of the SIG as summarized in NUREG 0660 WPSC could only identify a weak link between the SIG's recommendations and the actual requirement to increase the staff size. For example, recommendation 9 (page 75, volume 2 NUREG 0660) suggests that:

Until recommendation 8 can be implemented, the NRC should require that all hot operations shifts be manned by a minimum of one SRO, two CRO's and one additional individual with demonstrated and tested capabilities in abnormal system diagnosis. Two of these individuals should be required in the plant control room at all times (C.2.a, C.3.a).

Recommendation 8 suggests that research be performed to determine what an appropriate staff size should be. WPS has met the requirements of recommendation 9. It is our understanding that task analyses are being performed by INPO, among others; while this work is continuing our shift staff is made up of one SRO (Shift Supervisor), two RO's, one Shift Technical Advisor, one equipment operator and one auxiliary operator.

Similarly, recommendation 2 (page 76, Volume 2, NUREG 0660) suggests that "on-shift manning levels be increased to levels determined to be needed by the results of accident response task analyses." Again, it is premature to proceed with rulemaking on this topic until the appropriate research is completed.

Referring finally to NUREG 0737 and the preliminary value impact statement associated with this proposed rule, WPSC at last discovered an attempt to justify this requirement. The latter document states that this requirement is necessary (1) to ensure the presence of a person with a senior operator license in the control room at all times that a nuclear power unit is operating; and (2) to provide a minimum number of licensed personnel on each shift at all times.

NUREG 0737 states essentially the same purposes for this rule, with the justification that it would allow for the movement of key individuals (presumably, the shift supervisor) about the plant.

While WPSC agrees with the concept of mobility for the shift supervisor, we do not understand the reasoning that there should always be an SRO in the control room. WPSC's experience has shown that current staffing levels are adequate to provide for the health and safety of the public. In our off-normal experiences at the Kewaunee Plant, WPSC has shown that two qualified RO's, under the direction of the shift supervisor, can adequately handle the plant. Furthermore, since serious accidents at nuclear power plants are slow developing (e.g.: TMI-2), the shift supervisor can be allowed to move about the plant with assurance that he can return to the control room within minutes, if necessary.

WPSC has not been able to determine adequate technical justification in the referenced documents to require that an SRO be in the control room at all times. This requirement appears to have been assumed by the NRC, thus providing the basis for increasing the staff at nuclear power plants. Based on our eight years of operational experience, it is WPSC's opinion that such a requirement is not necessary.

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In fact, WPSC feels that there are potential safety concerns in increasing staff sizes to a level where individuals become nonproductive. If the staff level is raised to such a point, the nonproductivity of the personnel will breed inattentiveness, which in turn can have serious safety consequences. WPSC recommends that this proposed rule be delayed to allow for the completion of appropriate research which will define the need for such a rule.

In WPSC's opinion, the safety of nuclear power plants is best served by highly qualified personnel. The number of personnel on shift will add little or nothing to safety if those personnel are not adequately prepared for their job responsibilities. WPSC feels that the NRC should not concentrate on numbers as much as on the proper selection, qualification and continual requalification of personnel. By imposing arbitrary completion dates for a rule such as this, the NRC is only undermining the key component in the safety of a nuclear power plant.

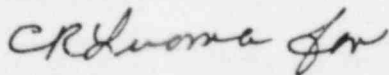
Such a generalized statement of purpose, unsupported by specific technical justification, is an insufficient basis for imposition of a costly, inefficient and potentially counterproductive staffing requirement. The method of proposed implementation and lack of expressed justification suggest that the rule is being proposed more for its appearance of increasing safety than for its substance.

In summary, WPSC recommends that the commission not adopt the proposed rule for the following reasons:

1. The proposed rule violates the procedures and intent of the Administrative Procedure Act.
2. The proposed effective date is arbitrary; impositions of this arbitrary date could have severe safety consequences.
3. The commission has not provided adequate technical justification for the rule.
4. WPSC's experience at the Kewaunee Nuclear Power Plant has demonstrated the acceptability of our existing staff size.
5. The rulemaking should, at a minimum, be postponed until the appropriate analyses considering shift manning are completed. Paraphrasing the words of the Court of Appeals, the NRC has treated the safeguards of the administrative process too cavalierly, making it impossible for the public (or a reviewing court) to discern that the agency action has indeed furthered the public safety.

As always, WPSC would be happy to discuss these comments with you, and would appreciate your reply.

Very truly yours,



C. W. Giesler  
Vice President - Nuclear Power

js

cc - Mr. Robert Nelson, US NRC  
Mr. David Baker, Foley & Lardner



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September 27, 1982

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Secretary of the Commission  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Attention: Docketing and Service Branch

Subject: NRC Proposed Rule 10 CFR 50  
Licensed Operator Staffing at  
Nuclear Power Units

DOCKET NUMBER  
PROPOSED RULE PR-50  
(47 FR 38135)

13

Dear Sir:

The ANS-3 Standards Subcommittee for reactor operation wishes to provide the following comments regarding the proposed rule on "Licensed Operator Staffing at Nuclear Power Units". The committee recognized that the staffing of each nuclear power plant is presently specified by the NRC in the facility license-Technical Specifications. Recent guidance from the NRC indicates new staffing requirements which are to be implemented in the near future. Most utilities that do not already meet the increased staffing recommendations have developed programs to add additional operations personnel and qualify them to the levels recommended by NRC guidance. These programs vary from utility to utility based on that facility's specific needs and the experience level of the operators presently on shift. This proposed rule, which if implemented, will require increased reactor licensed operator staffing levels by January 1, 1983. This does not take into consideration other NRC guidance and the desire on the facility's part to provide sufficient experience outside the control room to an individual before permitting him to take part in a licensing program and qualifying him as a reactor operator.

The NRC has previously published working hour guidelines, which are intended to reduce the fatigue to individuals operating the nuclear plant. These guidelines are intended to reduce overtime requirements. Industry response to this guidance has been to increase operator staffing. Upgraded staffing also provides the man hours necessary to implement the increased requalification training programs which have been implemented as a result of NRC guidance. Those facilities increasing staffing have, of course, increased the need for licensed reactor operators. The requirement to increase the number of licensed operators on each shift in some cases adversely affects the facility's programs design to increase the number of crews, increase the requalification training, and reduce overtime. The proposed rule, if adopted, can only result in increased operator overtime, decreasing the scope and time allowed for requalification training programs, or reducing the number of crews available. The benefits of this proposed rule

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Secretary of the Commission

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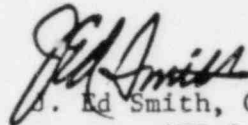
September 27, 1982

must be weighed against the benefits of the other guidance provided by the NRC in the recent past. ANS-3 Standards Subcommittee believes that the present industry direction of staffing with experienced qualified operators in a programmatic manner to attain a strength which eventually meets the NRC guidance, is more conducive to nuclear plant safety than implementation of a rule requiring a particular crew size by January 1, 1983.

This proposed rule which requires licensees of a nuclear power plant unit to provide a minimum number of licensed personnel on shift at all times and to require the presence of a senior operator license in the control room at all times is another example of an unnecessary regulation.

This amendment is unnecessary because the NRC already has the authority to specify shift staffing and has, as a practice, exercised this authority in the Technical Specification of licensed units. The members of ANS-3 look upon this as another unnecessary attempt to obtain safety through regulation, a practice looked upon in disfavor by the Presidential Commission on TMI.

Sincerely,



J. Ed Smith, Chairman  
ANS-3

JES/kk

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Lynne Goodman  
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9-25-82

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Secretary of the Commission  
U.S. NRC  
Washington, DC 20555

DOCKET NUMBER  
PROPOSED BULE PR-50

(47 FR 38135)

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Dear Mr. Chalk:

The following are my comments  
on the proposed rule on licensed  
operator staffing at nuclear power  
units, published in Vol. 47, No. 168, p 38135  
of the Federal Register.

One of the main side effects  
I see of this rulemaking  
would be cheapening of the value  
of a reactor operator's license. In a period  
of increased requirements for training,  
qualifications, and examinations, the  
reactor operator would be told  
he or she no longer can handle  
the reactor controls, except in  
the presence of a senior reactor  
operator. I agree that an  
SRO should be in charge of

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add: E W Mischoff 5650NL

Acknowledged by card... 9/30/82 cmf

and at the facility at all times. I do not see any need for an SRO to be in the control room at all times. What many utilities will do is probably push their people faster, so as to have more SRO's, but not necessarily better qualified operators.

I think it ridiculous to require the utilities to have any extra licensed operator per shift for relief. The SRO can relieve the RO for the short times relief is necessary.

I do feel that if there are to be transition points - non-operating to operating, the proposed transition points make sense.

What does not make sense is that all units would be required to have the same minimum complement of licensed personnel, regardless of size. Why should a 50 MWe BWR

require the same staffing as a 1000 MWe PWR, or vice versa is the staff of a 50 MWe plant sufficient to run a 1000 MWe unit?

The last comment I have is in regards to the implementation schedule. As with many other ~~for~~ NRC recommendations (requirements minimum shift staffing has changed somewhat since originated. Many utilities are hesitant to commit resources to meet NRC requirements until they appear in their final form. Since this rule is still in the proposal stage, there will be very limited time between the final rulemaking and the implementation date. I feel considerably more time is needed. Perhaps, January 1, 1984 would be more realistic.

Yours truly,  
Lynne Gooden