POLICY ISSUE
(Notation Vote)

May 21, 1996 SECY-96-112

FOR: The Commissioners

FROM: James M. Taylor
Executive Director for Operations

SUBJECT: TEN-YEAR LICENSE TERMS FOR URANIUM RECOVERY LICENSEES

PURPOSE:

To obtain Commission approval of the U.S. Nuclear Regulatory Commission's staff proposal to extend the license term for uranium recovery facilities from the current five-year period to a ten-year period.

CATEGORY:

This paper covers a significant matter requiring Commission consideration.

DISCUSSION:

In the past several years, the staff has been investigating ways it can reduce the regulatory burden of uranium recovery licensees. As part of its continuing efforts, the staff has considered lengthening the term of uranium recovery licenses. There is precedent for such action in the Commission decisions to increase the license terms for major fuel cycle facilities to ten years, and more recently, to extend, on a one time basis, the terms for qualified materials licensees for periods up to ten years. Since uranium recovery facilities are the only major types of material facility that remain on the five-year license cycle, the staff believes that the term for uranium

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recovery licenses should be extended to ten years. The current five-year cycle was a policy decision, and changing it to ten years would not require rulemaking.

Several factors were considered in developing the recommendation to extend the license terms. These included: 1) the risk associated with the regulated facilities; 2) technological stability of the regulated industry; 3) regulatory stability; 4) institutional stability; and 5) the impact the extension would have on the public health and safety.

Risk Associated with Uranium Recovery Facilities

Uranium recovery facilities present risk to the short- and long-term health of the public from exposures to radiation and other hazardous substances. These risks, however, have been addressed and minimized through NRC's 10 CFR Parts 20 and 40, and U.S. Environmental Protection Agency's (EPA's) 40 CFR Parts 190 and 192 regulations. In addition, the facilities are generally located in remote areas away from population centers, so potential exposures are fairly limited. Thus, it is generally accepted by the staff that the risk from a regulated uranium recovery facility is fairly low when compared with other licensees' operations.

Stable Technology

The uranium recovery industry has been deriving large quantities of materials since the late 1940s and early 1950s, and is a mature industry. For the most part, the licensed activities are stable and predictable from a technological standpoint. The processes and operations at both the conventional mills, where uranium ore is extracted from rock, and the in situ leach facilities (ISLs), where the uranium is leached underground have been in use in the industry for decades. In addition, operations affecting licensed activities have not changed much in the last decade, and are not expected to change significantly in the foreseeable future.

Regulatory Stability

Uranium recovery activities have been and continue to be conducted in a fairly stable regulatory environment. The facilities are regulated by NRC, EPA, and by the relevant states. The NRC regulations that apply to uranium recovery activities have been in place essentially in their current form since the mid 1980's. In addition, staff has considerable routine licensing and inspection involvement with the uranium recovery licensees. NRC also requires that uranium recovery licensees submit annual monitoring reports and semi-annual as low as reasonably achievable reports. This constant exchange of operational information between the licensees and the staff contributes to regulatory stability. When the information provided by licensees in the required reports is coupled with the staff's licensing and inspection activities, the staff is able to continuously monitor how well licensees are operating their facilities.

Institutional Stability

For uranium recovery licensees, establishing financial assurance requirements has helped to ensure stability through the licensing, decommissioning, and reclamation of their facilities. 10 CFR Part 40, Appendix A, Criterion 9, requires that uranium recovery licensees establish a surety to cover the anticipated costs of decommissioning and reclamation of their facilities. Licensees are also required to reevaluate their surety on an annual basis and submit an annual surety update to NRC to prove that the appropriate funds will be available when needed.

In addition, recent indications are that there will be a shortage of uranium world-wide. The industry has reported that domestic producers expect to expand operations at several facilities, resume operations at mills in stand-by, and develop new capability. This expansion in activity should allow those companies operating mills and ISLs to become more financially sound, thus helping to ensure stability.

Performance/Inspection History

Uranium recovery licensees as a group have an excellent performance record. The staff has conducted routine announced, routine unannounced, and reactive inspections of the various uranium recovery facilities. Most licensees have had only minor violations, generally not exceeding Severity Level IV. Licensees generally have responded quickly to cited violations and have enacted appropriate corrective measures in a timely fashion.

Impacts from Extending to Ten Year License Term on Public Health and Safety

Extending the license term for uranium recovery facilities to ten years would not change the health and safety requirements currently in licenses. An extended license would grant the same authorizations and have the same conditions as a five-year license. Thus, given the relatively low level of risk involved in the current operations of these facilities, and their historical performance, staff believes that extending the license terms from five to ten years should not adversely impact the protection of the public health and safety.

Proposed Action

Based on the above information, the staff has concluded that there would be no adverse impact if uranium recovery licenses were extended. Therefore, the staff proposes to extend the license term for all qualified uranium recovery licenses from five years to ten years. Qualified licensees would consist of those that have performed well, had successful inspections with no violations more serious than Severity Level IV, and no serious operational problems or reports during the previous two years (currently could apply to up to nine licensees, five of which are currently on stand-by and would need authorization to restart). Uranium mills currently undergoing reclamation (17) would not be subject to the extension because these are possession-only licenses that do not have a specific term of renewal.

The qualified licenses, including those in stand-by, would be extended in one of two ways. Licensees could request a ten-year license through the normal amendment process. All authorizations or other conditions would remain the same. This approach would be used in those situations where the license has just been renewed or is not near renewal. For licenses that are currently in the renewal process, the staff would issue the new license for a ten-year duration. Any generic or new requirements that must be added to the ten-year licenses during the course of their terms would be added through the normal amendment process or by order, as necessary.

Advantages

The main advantage to this proposal is that extending the license term to ten years would reduce the frequency of the license renewal cycle. This means that the administrative burden associated with the license renewal process for both NRC staff and the uranium recovery licensees will be correspondingly reduced. Licensee fees should also be significantly reduced. Extending the license term for these facilities would also bring their license terms into line with those of the other major categories of material licensees, and on a revised regulatory schedule more commensurate with their level of risk. Finally, extending the license terms for the uranium recovery licensees will serve to support NRC's goal of streamlining the licensing process.

Disadvantages

By extending qualified licenses to the ten-year term, NRC would be deciding that the operations will be the same over the additional time, that the environmental concerns require no additional review, and that health and safety demonstrations would also remain constant. The staff believes that these are reasonable assumptions, but intervenors could see the action as arbitrary. In addition, NRC would not have an opportunity to evaluate the complete operation of the facility as frequently. Routine, yearly inspections would help the staff gain insight into some operational aspects, but the insight would be limited to the areas covered by the inspection.

Interactions/Impact on Other NRC Actions

The staff has reviewed the proposed action to ensure that extending the term of uranium recovery licenses will not impact the implementation of timeliness of decommissioning requirements in 10 CFR 40.42. Under 10 CFR 40.42, licensees must begin decommissioning of their facilities within 2 years after the facility has stopped its primary activity. The time period within which decommissioning must begin can be extended by the staff if certain requirements specified in the rule are met. However, the staff does not plan to extend the requirements for timeliness of decommissioning as part of extending the license duration.

Whether under a five-year or ten-year license, a licensee would still be required to begin decommissioning of the facility consistent with 10 CFR 40.42. Any request for an extension of the time requirements of the decommissioning rule would be handled as a separate licensing matter. The staff will articulate this in any license duration correspondence transmitted

to licensees. This should help ensure that licensees understand that they are still subject to the time limits imposed by the decommissioning rule.

RECOMMENDATION:

That the Commission approve the policy of increasing the license term for qualified uranium recovery licensees from the current five-year period to a ten-year period.

COORDINATION:

The staff coordinated this paper with the Office of the General Counsel and they have no legal objection.

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Commissioners' comments or consent should be provided directly to the Office of the Secretary by COB Wednesday, June 5, 1996.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT May 29, 1996, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional review and comment, the Commissioenrs and the Secretariat should be apprised of when comments may be expected.

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