



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

JAN 0 0 1985

MEMORANDUM FOR: Jane Axelrad, Director
of Enforcement
Office of Inspection and Enforcement

FROM: Darrell G. Eisenhut, Director
Division of Licensing
Office of Nuclear Reactor Regulation

SUBJECT: IMPLEMENTATION OF ACTIONS REQUIRED BY NUREG-0737

We have reviewed your memo of April 12, 1984, regarding appropriate enforcement actions on our ordered dates, for NUREG-0737. You should be aware that the majority of dates ordered have been negotiated on a plant by plant basis. We expect licensees to complete implementation by the ordered dates. My recommendation is to inform the Regions that the bulk of NUREG-0737 items (except Supplement 1) should now be complete or very near complete. Enforcement action should be taken based on inspections conducted in the future. I would also encourage that an active inspection program to ensure the implementation of NUREG-0737 items be continued.

We are presently reviewing Technical Specifications for NUREG-0737 items covered by Confirmatory Orders. Technical Specifications on the large majority of these items have been imposed. The Technical Specifications on these items will aid the Regional Staff in verifying implementation of these items. There may be some cases which may require enforcement actions to be taken. The following guidance is suggested in such cases.

The dates established in orders are legal requirements just like Technical Specifications. The mere request for an extension of a date does not relieve the licensee from compliance unless a request is submitted to the staff well in advance of the due date and the request is granted prior to the ordered date. A number of factors might be considered in determining the necessity of enforcement action, as well as the severity of the action, for failure to meet an ordered date. Factors to consider include the potential harm by not meeting the requirement, reasonableness of compensatory measures, timeliness of the extension request, degree of effort taken in attempting to comply, and circumstances beyond the licensee's control.

We have also issued a large number of Confirmatory Orders for the items covered in Supplement 1 to NUREG-0737. Licensees should consider these orders as a strong commitment from their organization, and every effort should be made to meet the schedule dates. The dates contained in the Confirmatory Orders are enforceable, and the above discussion applies as to the necessity of enforcement action.

In summary, the majority of items covered by orders, which were issued prior to 1984, are now complete. The regional staff should use the factors presented above for any enforcement action in cases where noncompliance is found. In my judgment, enforcement actions should be considered as we move into the Second Quarter FY85.

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Jane Axelrad

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If you need any further information, please contact John Hannon of my staff.

Frank J. Miraglia
for Darrell G. Eisenhut, Director
Division of Licensing
Office of Nuclear Reactor Regulation

cc: J. Lieberman, SLO
G. Lainas
T. Novak



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EGM 85-05A

MEMORANDUM FOR: T. E. Murley, Regional Administrator, Region I
J. N. Grace, Regional Administrator, Region II
J. G. Keppler, Regional Administrator, Region III
R. D. Martin, Regional Administrator, Region IV
J. A. Martin, Regional Administrator, Region V

FROM: Harold R. Denton, Director
Office of Nuclear Reactor Regulation

James M. Taylor, Director
Office of Inspection and Enforcement

SUBJECT: RELIEF FROM TECHNICAL SPECIFICATION LCO'S

This memorandum supersedes EGM 85-05 dated July 15, 1985 on the above-captioned subject. Its purpose is to clarify that two paths exist to grant relief from technical specification limiting conditions for operation (TS LCO's) that would unnecessarily require shutdown or delay startup absent some relief.

EGM 85-05 described one path for granting relief. It applied to those situations in which a license amendment was required but could not be processed before the limiting condition for operations action statement time limit expired. Under those circumstances, the memorandum stated that a licensee could seek a temporary waiver of compliance with the TS LCO for a sufficient period of time to allow the staff to process an emergency license amendment. The responsible Assistant Director of the Division of Licensing in NRR, with the concurrence of the responsible Regional Division Director, may grant a temporary waiver of compliance with the requirement if the licensee has demonstrated in a written submittal provided before the TS LCO expires that the plant can safely continue to operate without compliance with the technical specification during the time it will take to process the amendment request. The waiver should be documented by the Division of Licensing, NRR and should be for a fixed period of time, normally not to exceed the two working days it takes to process an emergency amendment. Although the licensee is in technical non-compliance during the waiver period, enforcement action will not be taken for the period during which the waiver is in effect.

The responsible Assistant Director in the Division of Licensing in NRR should proceed to expeditiously process the amendment request, in accordance with existing procedures for emergency amendments. If it is determined during the processing of the amendment that it raises a significant hazards consideration, the amendment should not be granted without prior notice and an opportunity for a hearing. In addition, if during the processing of the amendment such a finding is made, any temporary waiver is to be immediately suspended and compliance with the action statement should be required.

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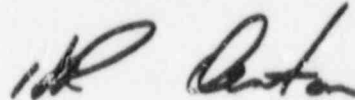
Regional Administrators

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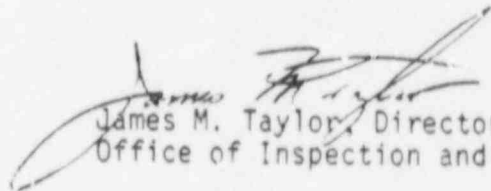
In addition to the situation described above, enforcement discretion may be used to grant relief from TS LCO's in certain limited circumstances in which a license amendment would not be appropriate. Use of such relief is expected to occur infrequently and should be for good cause. Under these limited circumstances a follow-up emergency license amendment is not normally needed. We are delegating the authority to grant such relief only to the Regional Administrator and the authority is not further delegable except to an Acting Regional Administrator. Furthermore, such relief should be given only if it is clear that operating in excess of the TS LCO action statement for the period of time that relief will be granted will not place the plant in an unsafe condition.

To enable the responsible program offices to monitor and evaluate the use of this approach, whenever enforcement discretion is used as described above to grant relief from TS LCO's, the circumstances should be documented and a copy of the documentation should be promptly sent to the Director, Office of Nuclear Reactor Regulation and the Director, Office of Inspection and Enforcement.

If a TS LCO will be exceeded before a license amendment can be granted, or if enforcement discretion is not exercised by the Regional Administrator to grant relief, the licensee must take the action required by the action statement accompanying the LCO. Of course, a licensee may depart from its technical specifications, pursuant to the provisions of 10 CFR 50.54(x), without prior NRC approval in an emergency when it must act immediately to protect the public health and safety.



Harold R. Denton, Director
Office of Nuclear Reactor Regulation



James M. Taylor, Director
Office of Inspection and Enforcement