

AA61-2 PDR

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



~~Mr. Oumstead~~
Tom Donan

NOTE TO: Guy Cunningham
FROM: Harold R. Denton
SUBJECT: TEMPORARY OPERATING LICENSING AUTHORITY AND THE "SHOLLY AMENDMENT"

This is in response to your August 16 request for comments on the subject rule changes.

Enclosure 1 addresses the NRR resource impact associated with the various regulatory changes.

Enclosure 2 contains our comments on the proposed changes.

Harold R. Denton

Enclosures: As stated

Mark H. Williams
528

cc sent Mark Williams
4-23-80

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Enclosure 1

Resource Estimates

1. Proposed rule re: temporary operating license authority.

As we understand it, the temporary operating license (TOL) option is:

- a. Available only for cases in which there is a public hearing.
- b. Available only until December 1983.
- c. Available only in cases where the hearing process is delaying operating authority for a plant that is otherwise licensable.
- d. Available only after staff issuance of the ACRS SSER, the FES, and the filing of an emergency preparedness plan.

With these constraints and based on the latest Bevill schedule, it appears that the following plants might have the opportunity (or need) to petition for a TOL:

Shoreham 1, Midland 2, and Byron 1.

Assuming all three petition for two temporary licenses (5% and 50%), and that each action requires about 1 man-month, the total resource impact of this rule will be about 0.5 PMY.

2. Final Rule on Standards for no significant hazards consideration -

No resource impact.

3. Proposed rule - Criteria for Notice and Public Comment -

- a. Monthly FR notice: 2 man-weeks/notice, or about 0.5 PMY per year.
- b. Notice of "proposed action": no additional resources.
- c. Post-notice: no additional resources.
- d. Notice to States: one man-week/amendment; three amendments per license per year; equals $76 \times 3 = 228$ man-weeks/year, or about 4.4 PMY per year.

Enclosure 2

Comments

1. Temporary Operating License

- a. The legislation (and, accordingly, the proposed rule) is unclear regarding one of the prerequisite filings that are required before submitting an initial petition - i.e., item (4) which calls for filing of "a State, local, or utility emergency preparedness plan for the facility." As drafted, a licensee would only have to file a utility plan -- and it would not necessarily have to be acceptable. The proposed rule should strengthen this requirement.
- b. On page 9 of Enclosure 2, it states that the Commission can approve higher power levels (i.e., above 5%) if it "determines that such action is necessary." The legislation does not require this finding.

2. Standards re: no significant hazards consideration

- a. Page 12, Enclosure 3: The rationale for rejecting the comment that suggested a threshold level for the second criterion is not clear. The comment should be reconsidered.
- b. Page 24, line 4 - change "immediate" to "immediately."

3. Criteria for notice and public comment (Enclosure 4)

- a. Requiring licensees to provide their analyses regarding "significant hazards consideration" is a new requirement that requires CRGR review.
- b. Page 12: reference to §2.104(a) should be §2.104(e).
- c. Page 14, para 3: delete "after consideration of public comments"; we should retain flexibility to prenotice without waiting for the close of the comment period.
- d. Page 15, para. (b)(1). Requiring licensees to notify states of all amendment requests is a new requirement that should receive CRGR review.
- e. Page 16, para. (2) - the phrase "attaching its evaluation" implies a separate paper. The evaluation referred to is already in the FR notice. Delete the phrase.
- f. Page 16, para (5) - Requires staff to send copy of all issued amendments to the state. This is not required in the legislation and should be deleted. The phrase "as prescribed in §2.104" is misleading.

*No change
to
legislation*

- ① Procedures are not understood from this writing.
- ② Is the Commission appropriately shielded [7590-01] against responsibility for ~~accident~~ costs of accidents in plant with temporary license?
- ③ After reading I'm left with feeling that there should be ^{upper limit(s)} for temporary licenses, i.e. MW-days and/or MW

Denton

NUCLEAR REGULATORY COMMISSION
10 CFR Parts 2 and 50

C.W.M.
08/30/82

Temporary Operating Licenses

wording needs to be improved e.g. "authority" is not correct

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Final rule.

SUMMARY: The Commission has adopted amendments to its "Rules of Practice for Domestic Licensing Proceedings" in 10 C.F.R. Part 2 and to its

regulations in 10 C.F.R. Part 50, "Domestic Licensing of Production and Utilization Facilities," to reflect the ^{authority to issue temporary} ~~enactment of temporary operating~~ licensing authority on _____, 1982. ~~The~~ ^{ew} authority amended

operating licenses for nuclear power plants

section 192 of the Atomic Energy Act of 1954, as amended (the Act), to authorize the NRC to issue temporary operating licenses for nuclear power plants. Section 192, initially added to the Act on June 2, 1972, authorized the Atomic Energy Commission to issue temporary operating licenses for nuclear power reactors under certain prescribed circumstances. The authority under the original section 192 expired, however, on October 30, 1973. To the extent that the amended section 192 is in substance the same as the original section, the implementing regulations in the amendments to Parts 2 and 50 likewise are similar in substance to the now expired regulations which were published in 1972 to implement the section initially. The amendments to Parts 2 and 50 set

- ④ It is not obvious that anyone, including the applicant, benefits from this rule. Since it is for such a short time period the non-implementation alternative may be appropriate.

08/27/82

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Comments regarding rule that would authorize
NRC to issue TEMPORARY OPERATING LICENSE (50.57)

(Part 2)

- Based upon current Beil schedule and estimated completion dates of plants in the post CP/OL stages, it seems that only a few plants might find some benefit from proposed rule making - assumption is that plant would be completed within the year or so set aside for hearing process after S522 is issued. Experience is showing plant completion is still ~~being~~ beyond this time! (know of no plant really complete within the year of S522 looking at the '83 - 84 and up plants) EXPIRATION DATE 31 Dec 83!
*(SEE ENCLOSED ANALYSIS)
- The proposed rule does not speak of the role of the hearing board in any action dealing with the issuance of a temporary OL - is there any?
- It is not clear how Commission will be able to rule on issuing temporary OL in view of ex. parte activities since the hearing is still going on and a decision pending.
- Specific comments indicated pgs 14, 18 - 21; 4, 8; 10

ANALYSIS

IMPACT OF PROPOSED RULE

<u>PLANT</u>	<u>COMPLETION</u>		<u>IMPACT</u>
	<u>BEVILL</u>	<u>STAFF</u>	
SAN ONOFRE 3 *	11/82	02/83	NONE
ST LUCIA 2 *	10/82	03/83	NONE
SHOBBHAM 1	09/82	12/82	POSSIBLE
LASALLE 2 *	01/83	01/83	NONE
WATERFORD 3 *	01/83	05/83	NONE
MCGUIRE 2 *	04/83	04/83	NONE
FIRMI 2 *	06/83	12/83	NONE
CALLAWAY 1	06/83	12/83	DOUBTFUL
COMMACHE PEAK	06/83	12/83	NONE DOUBTFUL
MIDLAND 2	07/83	10/83	DOUBTFUL
DELO UENOS 1 *	08/83	11/83	NONE
BYRON 1	08/83	10/83	DOUBTFUL
WATTS BAR 1 *	08/83	08/83	NONE
WIND 2 *	09/83	02/84	NONE
PERRY 1	11/83	12/83	DOUBTFUL
WOLF CREEK 1	12/83	06/84	> 12/83
MIDLAND 1	12/83	04/84	> 12/83

* INDICATES EITHER: NO HEARING
HEARING COMPLETED

SUMMARY

- WITH PRESENT PROPOSED DATE FOR 12/31/83, SHOREHAM MIGHT BE ONLY PLANT TO BENEFIT
- FIVE OTHER PLANTS COULD WELL BE COMPLETED ON OR ABOUT 12/83 REALISTICALLY - THUS IF DATE OF EFFECTIVE NEES EXTENDED BEYOND 12/83 TO 06/84 - WOULD BE BETTER