

AA61-2

PDR

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TO: STEPHEN SCOTT
 NUCLEAR REGULATORY COMMISSION
 WASHINGTON, D.C., 20555

ACTION DATE

Nuclear Regulatory Commission

03/22/83

ON 03/04/83, YOU REQUESTED APPROVAL OF THE FOLLOWING INFORMATION COLLECTION:
 TITLE: 10 CFR 50, DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION
 FACILITIES
 AGENCY FORM NOS.:

IN ACCORDANCE WITH THE PAPERWORK REDUCTION ACT, WE HAVE TAKEN THE FOLLOWING
 ACTION ON THIS INFORMATION COLLECTION:

APPROVED FOR USE THROUGH 04/30/85. OMB NO. 3150-0011.

THIS NUMBER AND EXPIRATION DATE MUST APPEAR IN THE UPPER RIGHT-HAND CORNER OF
 THE FIRST PAGE OF THE REPORT FORM OR THE FIRST PAGE OF THE REGULATION, MANUAL,
 OR OTHER DOCUMENT INCORPORATING THE INFORMATION COLLECTION UNLESS OTHER
 INSTRUCTIONS ARE IN "REMARKS" BELOW.

EFFECT ON BURDEN:	RESPONSES	REPORTING HOURS
PREVIOUS STATUS	8,507	5,927,105
NEW STATUS	9,107	5,929,505
DIFFERENCE	600	2,400

EXPLANATION OF DIFFERENCE:

ADJUSTMENTS

CORRECTION-ERROR	0	0
CORRECTION-REESTIMATE	0	0
CHANGE IN USE	0	0
PROGRAM CHANGES		
INCREASE	600	2,400
DECREASE	0	0

REMARKS:

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OMB NO. 3150-0011

ABSTRACT:

UNDER AN NRC INTERIM FINAL RULE, "NOTICE AND STATE CONSULTATION," A LICENSEE OF A NUCLEAR POWER PLANT OR OF A TESTING FACILITY WOULD HAVE TO PROVIDE TO THE NRC AND THE STATE IN WHICH ITS FACILITY IS LOCATED ITS AMENDMENT APPLICATION AND ITS ANALYSIS ABOUT THE ISSUE OF SIGNIFICANT HAZARDS.

ALLOWANCE LETTER: NO	FUNCTION: ENERGY INFORMATION, POLICY, AND REGULATION	
ON PLAN: NO	EXCEED BUDGET: NO	3504(H): N/A
NO. OF FORMS: 1	USE: PUBLIC	REQUEST: REVISION
RESPONDENTS: 78	RESPONSES: 9,107	HOURS: 5,929,505
AFFECTED PUBLIC: BUSS/INST		
SMALL BUSINESS: NO	ACTIVITY TYPE: 483	
PURPOSE: REG/COMP		
FREQUENCY: OCCAS		
COLLECTION METHOD: MAIL S/A		
RETENTION:	COLLECTION AGENT: POSTING DPT/AGCY	CONFIDENTIALITY: NO
COMPULSORY STATUS: MANDATORY		
FEDERAL COST: \$300,000	PUBLIC COST:	
REVIEWER: JEFFERSON B. HILL		

ACTION	!AUTHORIZING OFFICIAL	!TITLE: DEPUTY ADMINISTRATOR	!DATE
APPROVED BY:	!/S/NATHANIEL SCURRY FOR!	!OFFICE OF INFORMATION	!03/22/83
	!	!AND REGULATORY AFFAIRS	!

IMPORTANT: BECAUSE THIS INFORMATION COLLECTION HAS BEEN APPROVED, PLEASE SEND TO THE C.M.B. AS SOON AS AVAILABLE: ONE COPY OF THE FINAL PRINTED (OR OTHERWISE REPRODUCED) REPORT FORM, OR REPORTING OR RECORDKEEPING REQUIREMENT, TRANSMITTAL LETTER, INSTRUCTIONS, AND ANY DOCUMENT BEING SENT TO EACH RESPONDENT.

AA61-2 PDR

cc T Dorian

MAR 4 1983

MEMORANDUM FOR: William J. Dircks
 Executive Director for Operations

FROM: Guy H. Cunningham, III
 Executive Legal Director

SUBJECT: REVISED REGULATIONS TO IMPLEMENT LEGISLATION ON
 (1) TEMPORARY OPERATING LICENSING AUTHORITY AND
 (2) NO SIGNIFICANT HAZARDS CONSIDERATION (THE
 "SHOLLY AMENDMENT") - SECY-83-16 AND 83-16A

The enclosed Commission paper, SECY-83-16B, responds to the Commission's questions and concerns raised at the meeting on February 22, 1983, in connection with SECY-83-16A.

[Faint stamp]

[Signature]
 Guy H. Cunningham, III
 Executive Legal Director

Enclosures:
 As stated

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TRANSCRIPT ISSUES

<u>Page in Transcript</u>	<u>Commissioner</u>	<u>Question</u>	<u>Resolution: Statements at Commission Meeting and Changes in SECY-83-16A</u>
6-9	Asselstine	Re p. 8 of the proposed TOL rule, what additional procedures are envisioned other than formal adjudicatory ones?	We said that rule has opportunity or requirement for affidavit from applicant and opportunity for public to respond-- no further requirement. Could have public meeting, if Commission so chose. Left that to case-by-case resolution. See p. 19.
8	Asselstine	Re p. 11 of proposed TOL rule, could TOL remain in effect beyond Commission's authority to issue TOL which end on December 31, 1983?	We said we will explain in statement thirty. See pp. 11-11a.
9	Agearbe	Same question.	Same resolution.
9	Asselstine	How would TOL amendment be handled beyond that date?	We said we will look into it. See 11a.
10	Malsch	What about suspensions beyond that date?	We said we have authority. Made a change. See pp. 8, 11a, and 19.
11-13	Gilinsky	Did not like preamble with respect to delays. Gave us his changes. At meeting Ahearne agreed and Asselstine reserved judgment. Roberts did not disagree.	Received changes re pp. 3-4. Made changes which were revised by Case. Roberts disagrees with changes on p. 3 which are almost all Gilinsky's words.
14	Ahearne	To what plant's might TOL apply?	We said Shoreham and Perry.

<u>Page in Transcript</u>	<u>Commissioner</u>	<u>Question</u>	<u>Resolution: Statements at Commission Meeting and Changes in SECY-83-16A</u>
14-16	Ahearne	<p>Re p. 18 section (c), why is there such finality in statement that Commission will not issue TOL until all significant safety issues are resolved, etc.? How does it compare to OL?</p> <p>Staff should put that phrase in or cross-reference. Asselstine agrees. Malsch asked why have standards like this in Part 2, including why have section (d). Ahearne said it could be deleted. Roberts did not disagree.</p>	<p>We said this means that issues have to be resolved to Commission's satisfaction, though cannot prejudice the outcome. See pp. 6 and 18.</p> <p>We said we will look at this and tinker with it. See pp. 15 and 18.</p>
16 - 19	Malsch	Would licensee with low power OL have to refile for a low power TOL in order to request full power TOL?	Malsch did not have an answer. Case thought it might apply to Shoreham. Malsch thought it might apply to Diablo Canyon. Asselstine was unsure. We said we would think about it. See pp. 5-5a for resolution.
<u>SHOLLY STANDARDS</u>			
20	Asselstine	If none of the 3 criteria are met then it is not a significant hazard?	Correct.
21	Ahearne	Which of the 3 criteria fit reracking? If it was in Senate report does it have to be in regulation?	<p>Congress asked it be included. It was done at request of Senate Report. Malsch was unsure of the answers. We made no changes. See p. 176.</p> <p>Ahearne suggested that if reracking does not fit 3 criteria he would add a fourth. Case said he would add the example itself. Ahearne requested that staff look at the legislative history. In light of this comment and Ahearn'es and Asselstine's later comments, on clarity and predictability, NRR and OGC said examples shouldbe in rule. They now are.</p>

Page in
Transcript

Commissioner

Question

Resolution: Statements at Commission Meeting and Changes
in SECY-83-16A

23-31

Gilinsky

What is the meaning of "involves a significant consequence of an accident previously evaluated". Does it involve an issue which has the possibility of significantly increasing the probability or consequences of an accident previously evaluated? Is language tied to issue or to problem?

We said no. It involves operation of facility in accordance with the proposed amendment. Explanation of issue in light of attempting to separate procedural issue from merits. Guy thought to problem, Case to issue. Guy then agrees. Gilinsky would tie it to problem. There was a long discussion about it and apparent agreement that Gilinsky's hypothetical would be caught by one of the criteria.

31

Roberts

How many license amendments are there per year?

Said 600.

What percentage involves no significant hazards consideration?

Said high 90s. Two percent were significant.

31-37

Asselstine &
Ahearne

Are criteria as clear and predictable as they can be? Why not put out criteria once more as a proposed rule? Do criteria respond to the explicit request for clarity in the Conference Report?

Said it depends on what do we Sholly Amendment. Some consideration is being given to making it interrimly effective. Guy and Case felt that we have been as responsive as we can be. Asselstine and Ahearne felt we could do more. Asselstine would republish criteria for public comment. See Conference Committee transcript. See p. 3, et seq., now interim final rule. See pp. 15, 17, 17a re precision.

37

Asselstine

Re example 9 in likely class, does it mean that in "all cases" where an amendment permits a significant increase in effluents emitted by a power plant that that would be dispositive of whether a significant hazards consideration is involved?

We said it has to be likely. Usually it's a prima facie case.

<u>Page in Transcript</u>	<u>Commissioner</u>	<u>Question</u>	<u>Resolution: Statements at Commission Meeting and Changes in SECY-83-16A</u>
38	Ahearne	Were authors of example 9 familiar with the Commission's TMI positions?	We said yes. We were not backing away.
	Asselstine	Did authors look at Conference Report when drafting example 9?	Yes. Discussed it with Congressional staff. Asselstine would reserve on example 9. See 19a - 196.
	Ahearne	Was example 9 discussed with NRR?	Yes.
41	Asselstine	Can there be a proposed amendment, which, if adopted, would permit a significant increase in the amount of effluents or radiation emitted from a plant? Might that not be determined to involve no significant hazards consideration?	We said unlikely, but possible. Should not confuse this with TMI example.
42-43	Ahearne	Would TMI venting fit example 9?	No. Asselstine said he would provide Congressional floor discussion. We agreed to go back and look.
43-46	Ahearne	If standards were published as a final rule, would they be modified later with respect to procedures?	Now published as interim final rule. It isn't necessary as a matter of how to change § 50.58 in the rule though it isn't ill advised. There are already many Part 2 changes floating around and these can pick up such changes.
46-48		What about § 50.58 with respect to "such notice"?	Malsch said that OGC was trying to fit examples into the standards, and needed time for a closer look.

SHOLLY PROCEDURES

<u>Page in Transcript</u>	<u>Commissioner</u>	<u>Question</u>	<u>Resolution: Statements at Commission Meeting and Changes in SECY-83-16A</u>
48-49	Ahearne	Wasn't it Commission's interpretation under current law that it could issue an amendment if it made a no significant hazards finding?	Yes. But legislation changed that law.
50	Ahearne	Doesn't applicat now submit an analysis about no significant hazards consideration?	No.
52-54	Ahearne	Will licensees say 98% of the time that no significant hazards considerations are involved and will commentors agree with that? Is it assumed that most of the time a detailed analysis and a conclusion won't be required?	No; there won't be many comments on the subject. Only when a hearing is requested; and those instances would be few.
54	Ahearne	Is it correct that the rule is written so that the State will contact NRC if it is interested?	Yes.
55		Is that consistent with Congrerence Committee Report? Should it there be one more step to make it appear that consultation rather than comment is involved.	Nothing said, thought staff nodded. See pp. 20 and 28b.

<u>Page in Transcript</u>	<u>Commissioner</u>	<u>Question</u>	<u>Resolution: Statements at Commission Meeting and Changes in SECY-83-16A</u>
56-57	Ahearne	What was meant by last sentence in Enclosure 5?	That NRR is not using all the examples. Some are new.
57	Ahearne	What is the response with respect to Comment C on p. 2 of Enclosure 9?	We'll look at it and make it clearer. Enclosure 9 has been revised.
58-59	Malsch	Is it possible to notice all amendments, but to prenotice significant hazards considerations if a hearing request is received?	We were trying to save time using the dual notice procedure.
59-60		Can proposed determination be avoided and made only if a hearing request is received.	We didn't do this because of the stringent emergency criterion.