



Florida Power

CORPORATION

Crystal River Unit 3

Docket No. 50-302

March 26, 1993
3F0393-11

U. S. Nuclear Regulatory Commission
Attention: Document Control Desk
Washington, DC 20555

Subject: Technical Specification Administrative Controls

References: A. FPC to NRC Letter, 3F0887-07, dated August 10, 1987
B. FPC to NRC Letter, 3F0293-08, dated February 8, 1993

Dear Sir:

My February 8, 1993 letter to Dr. Murley identified a number of key issues that Florida Power Corporation (FPC) anticipated addressing in 1993. One of the reasons for my letter was to outline opportunities to reduce O&M costs without adversely affecting nuclear safety. I also included a discussion of those issues potentially affecting implementation of the Improved Technical Specifications (ITS) in that correspondence. One of those issues was the need to identify and define any legal limitations on relocating aspects of plant administrative controls that are more appropriately addressed elsewhere.

On March 3, 1993, FPC and NRC met to discuss this issue. Representatives of Technical Specification, Quality Effectiveness and Projects Branches, along with the Office of General Counsel (OGC) participated in the meeting. (A summary of the FPC presentation is attached.) The meeting provided a good opportunity for an exchange of technical information and seemingly confirmed our previous understanding that there are no significant technical issues. Unfortunately, the fundamental legal issue was not resolved. In order to provide appropriate legal guidance to support future discussions between our technical staffs, it was determined that FPC would formally request an OGC interpretation of the applicable regulation(s).

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Therefore, pursuant to 10 CFR 50.3, FPC hereby requests that 10 CFR 50.36(c)(5) be formally interpreted as not requiring that Technical Specifications explicitly address each of the subjects referred to in the rule. Rather, we propose that the language be interpreted as providing examples of the kinds of activities that might be included in an appropriate set of administrative controls. As discussed at the meeting, the construction of 10 CFR 50.36(c), the Statements of Considerations associated with publication of this regulation in 1968, applicable Atomic Safety and Licensing Appeals Board decisions, proposed rulemakings, and the 1987 Commission Policy Statement, all support such an interpretation. In fact, as we explained at the meeting, the more restrictive interpretation produces either a conflict in the regulations or an inappropriate attack on the adequacy of other related regulatory requirements such as 10 CFR §50.54 and Appendix B. FPC is providing a detailed supplement supporting such an interpretation.

NRC also asked FPC to address the O&M cost benefits of this proposal. The proposal basically eliminates duplication, so there are few, if any, direct cost-savings. However, since FPC and NRC must finalize the content of the Administrative Controls Chapter as part of ITS implementation, there are essentially no incremental costs in approving this request. While there are few immediate cost-savings, there are significant opportunities for future cost reductions. These would be realized through process enhancements that would be more easily implemented under the change control process associated with the QA Plan. Two examples follow:

- 1) The procedure review process is among the most resource intensive efforts challenging licensees. The equivalent of several full-time positions are dedicated to this process. The effective cost is several hundred thousands of dollars annually. Even minor enhancements could produce substantial savings. The kinds of changes we would anticipate would include: (a) more fully utilizing the guidance addressed in NSAC-125; (b) more fully utilizing the qualified reviewer process currently licensed at CR-3; etc.
- 2) The existing responsibilities of the on-site and off-site review committees reflect concepts that may no longer be the most appropriate means of achieving the intended purpose(s). Currently we expend the equivalent of several full-time positions just attending the on-site and off-site review committees, and associated subcommittee meetings. Several of the participants already meet regularly in various staff meetings and have thoroughly discussed the issues re-addressed by the official review committees. There are much simpler means to gain input from those outside nuclear line management or outside the corporation. Further, being a single-unit utility limits the availability of in-house experience that is not already involved in key decisions. We do not envision eliminating all collegial reviews but many of the review requirements simply add very little value to the process. The ultimate purpose in such changes is not to eliminate or reduce the level of review, but is to focus it on areas where the benefits are greater. The types of reviews that could be addressed more thoroughly include Operability assessments, Program Changes, etc.

If OGC does not agree with the proposed interpretation and yet NRC management agrees with the objective of eliminating duplication, FPC requests that our 1987 exemption request (Reference A) be expeditiously reviewed and approved. The scope of the current proposal is substantially less than the previous request and the standards of 10 CFR 50.12 continue to be met.

FPC respectfully requests expedited resolution of this issue. The publication of the formal interpretation need not occur on any particular schedule and may best be included in the proposed Final Policy Statement soon to be published for comment. Nevertheless, substantive resolution is necessary so the implementation schedule for the Crystal River Unit 3 ITS will not be adversely affected. We agree with the Technical Specification Branch that such resolution must occur in the April 1993 time frame to avoid having an undesirable impact. FPC will draft its plant-specific markups based on the resolution that we are proposing. It should be noted, as outlined in the meeting summary, that the substantive issues being addressed were raised generically in the early 1980's and again on a plant specific basis in 1987.

Sincerely,



P. M. Beard, Jr
Senior Vice President
Nuclear Operations

PMB:KRW
Attachments

xc: Regional Administrator, Region II
Senior Resident Inspector
NRR Project Manager

ATTACHMENT 1

SUMMARY FPC/NRC MEETING - MARCH 3, 1993

I. PURPOSE

For several years, FPC has pursued approval to eliminate requirements in current (and proposed) Administrative Controls chapter of Technical Specifications which are duplicated in other more appropriate documents. NRC management has been very receptive to the merits of the proposal; however, the legal mechanism for approval must be more clearly identified.

II. BACKGROUND

Since 1968 the rule (10 CFR 50.36) has required that the following categories of requirements be addressed in Technical Specifications: safety limits; limiting safety settings; limiting conditions for operation; surveillance requirements; design features and administrative controls.

The Atomic Safety and Licensing Appeal Board (in ALAB-531, Trojan Rerack appeal) established a threshold for TS content. The NRC staff argued, and the Board agreed, that TS should be reserved for those aspects of plant operation that give rise to an immediate impact on safety. The NRC Staff has initiated several efforts to implement this interpretation of 10 CFR 50.36 even before the ongoing TSIP efforts. In 1980 the NRC published an advanced notice of proposed rulemaking and in 1982 a proposed rulemaking was published. Both of those efforts, which addressed overall technical specification content including administrative controls, were encouraged by the industry including the active involvement of FPC. These were addressed by rulemaking because of the radical nature of the proposed alternative (the establishment of various forms of "supplemental specifications").

In the early 1980's the NRC also published 10 CFR 50.54(a) which gave the QA plan "license condition standing". This plan (either a stand alone plan, topical report or part of the FSAR) is required to implement all of 10 CFR 50, Appendix B. A very rigid threshold for change (reduction of commitment) is established to identify those changes requiring NRC approval. All plants have approved plans meeting this rule. FPC considers this action to have provided an opportunity equivalent to the earlier rulemaking, as far as administrative controls are concerned, by generating a QA Plan with license condition status.

These two regulations address very similar obligations (Administrative Controls Chapter of TS and QA Plan). The rule requires that "administrative controls necessary to assure safe operations" must be addressed. If valid, controlled and enforceable requirements exist elsewhere, their duplication is not required. In fact, to imply such a need is tantamount to an "attack on the regulations" in that it presumes the inadequacy of 10 CFR 50.54(a).

In 1987 FPC proposed an exemption which was deferred to TSIP. The TSIP effort deferred consideration until a later phase of the effort which is where we now have found ourselves.

III. CURRENT PROPOSAL

FPC has proposed to relocate all administrative controls not necessary to implement the improved Technical Specifications. Such a relocation will be part of the approval of the CR-3 ITS and would have potential generic implications (other ITS conversions are likely to take advantage of it).

These include a substantial portion of those aspects addressed in the current CR-3, the 'old' STS and the improved STS Administrative Control Chapters. The only aspects that we believe should be retained are the TS referenced Programs and Plans (including the Safety Function Determination Program, Bases Control Program and the two programs that are called Reports (COLR and PTLR)). There are a couple of other requirements (Shift Manning and Reports referenced in the ITS) that may also need to be retained. FPC proposes the attached list be relocated/retained as indicated.

The original proposal clearly required an exemption from the regulations. FPC had requested the relocation of all of the Design Features and Administrative Control "Chapters" of the Technical Specifications. However, the evolution of TSIP has produced a need for some Administrative Control Technical Specifications (Programs and Plans). Further, some Design Features were retained as well. Therefore, FPC no longer believes an exemption is needed although the standards of 10 CFR 50.12 are clearly met. If the NRC Staff concludes that an exemption is warranted; that means of resolution is clearly acceptable to FPC.

IV. BASIS FOR APPROVAL

FPC believes the proposal should be approved based on the following:

- (1) Duplication is always counter-productive.

There now are two (to four) sets of words (TS, Appendix B, QA consensus standards and approved plan) addressing many activities. Most companies have different interpretation contacts (QA and Licensing). This always leads to varying degrees of confusion.

- (2) These processes are resource intensive to implement. The procedure change process, records retention requirements, standing review committees, etc., are all very resource intensive. The standard TS approach represents only one of several means of achieving similar objectives. Picking the most limiting of 2 to 4 upper tier document requirements is potentially even more resource intensive than any one program requirement contemplated.

- 3) The QA Plan, and other similar plans, are quite enforceable.

One of the arguments put forth in previous discussions was that items were located in the Technical Specifications to enhance their enforceability. This is not one of the criteria for Technical Specification content and is not necessary. The NRC Staff certainly can enforce Generic License Conditions (10 CFR 50.54) or direct obligations under the rules.

- 4) The QA Plan, and other similar documents, are within the purview of the base inspection program.

Another argument put forth in previous discussions was that the important administrative requirements were put in the Technical Specifications to enhance 'visibility' and familiarity. In our judgment, the resident inspectors and others are and should be familiar with and already enforcing the requirements of the QA program and other such plans.

- 5) Control over other programs is more effective.

The control process established by 10 CFR 50.54 is more effective than 10 CFR 50.59/50.90. The control elements were established to address the kinds of issues contained in a QA Plan and thus, are more relevant and as restrictive.

The proposal is also consistent with the Interim Policy Statement and previous rulemaking efforts published by the NRC staff.

ADMINISTRATIVE CONTROLS
FROM NUREG-1430

The following is a summary of possible alternate locations of consolidated requirements. The location would be highly plant specific.

5.1	RESPONSIBILITY	QA PLAN
5.2	ORGANIZATION*	QA PLAN
5.3	UNIT STAFF QUALIFICATIONS	QA PLAN
5.4	TRAINING	QA PLAN
5.5	REVIEWS AND AUDITS	QA PLAN
5.6	TS BASES CONTROL	RETAINED
5.7	PROCEDURES, PROGRAMS AND MANUALS**	RETAINED
5.8	SAFETY FUNCTION DETERMINATION PROGRAM	RETAINED
5.9	REPORTING REQUIREMENTS	RETAINED***
5.10	RECORD RETENTION	QA PLAN
5.11	HIGH RADIATION AREA	RP STANDARD

*Minimum Shift Crew Composition is addressed in 5.2.2.a. This may be appropriate for retention in the Tech Specs.

**We would propose to consolidate procedural aspects into the QA Plan.

***Any reporting obligation originating in the technical specifications that is not completely addressed elsewhere would need to be retained (e.g., safety limit violation). It may be more appropriate to consider the PTLR and COLR as plans rather than reports.

ATTACHMENT 2

PROPOSED INTERPRETATION OF 10 C.F.R. § 50.36

Section 182a of the Atomic Energy Act of 1954, 42 U.S.C. § 2232(a), requires that each operating license application provide "technical specifications" but does not specify the information to be included. However, Section 182a explicitly delegates authority to the Commission to adopt rules specifying the information to be included, with the only limitation being that the information be "deem[ed] necessary" for common defense and security and public health and safety. The Commission, acting pursuant to this statutory authority, adopted 10 C.F.R. § 50.36. This rule, in pertinent part, states:

(c) Technical specifications will include items in the following categories:

* * * *

(5) Administrative controls. Administrative controls are the provisions relating to organization and management, procedures, recordkeeping, review and audit, and reporting necessary to assure operation of the facility in a safe manner.

As a general rule, regulations, like statutes, should be interpreted consistent with their precise language. When the language used is clear and unambiguous on its face, it should be given effect. In this case, the introductory language in Section 50.36(c) provides that the Technical Specifications are to include items in certain "categories." Administrative controls are listed as being one of six such categories. The placement of the period immediately after the category heading (i.e., "Administrative controls.") and the use of the words "relating to" indicate that the language to follow was not intended to be a specific enumeration of items required to be included in Technical Specifications, but rather was intended to provide examples to assist in determining the type of information that may be included under this general category. It lists five examples of information that should be considered as candidates for inclusion but clearly limits each example with the requirement that the information be that which is "necessary to assure operation of the facility in a safe manner."

The most natural reading of the section, as a whole, is that "Administrative Controls" is a general category of information that must be addressed within technical specifications. In determining what should specifically be covered under this category, licensees and the NRC are to make essentially a technical judgment as to what "Administrative Controls" are truly necessary for safe operation of the facility. They are to look to the five examples of information listed in the provision, but only to the extent that the information is deemed "necessary to assure operation of the facility in a safe manner." Thus, it is possible that a particular class of information may or may not contain provisions meeting this threshold determination. Fundamentally, this process calls for a technical review and evaluation.

Of course, the language of a regulation must be read in a manner consistent with the purpose/intent of the Commission in adopting the regulation. The substantive provisions of § 50.36 were adopted on December 17, 1968. 33 Fed. Reg. 18610. The statement of considerations (SOC) for the rule indicates that the purpose for revising § 50.36 was to "establish a revised system of technical specifications which focuses attention on items more directly related to public safety." 33 Fed. Reg. 18610 (emphasis added). The SOC also notes that the degree of detail previously required for technical specifications was not "necessary for purposes of public safety." 33 Fed. Reg. at 18610.¹ Thus, the Commission's rationale for adopting the rule was to reserve the level of detailed information in technical specifications to that information "necessary" for public safety.

This same conclusion was reached by the Atomic Safety and Licensing Appeal Board in March 1979. In the Matter of Portland General Electric Company (Trojan Nuclear Plant), ALAB-531, 9 NRC 263 (1979), the Appeal Board explored the "function served by technical specifications" (9 NRC at 271). In pertinent part, the Appeal Board noted (9 NRC at 273):

it seems quite apparent that there is neither a statutory nor a regulatory requirement that every operational detail set forth in an applicant's safety analysis report (or equivalent) be subject to a technical specification Rather, as best we can discern it, the contemplation of both the Act and the regulations is that technical specifications are to be reserved for those matters to which the imposition of rigid conditions or limitations upon reactor operations is deemed necessary to obviate the possibility of an abnormal situation or event giving rise to an immediate threat to the public health and safety.

Thus, the Appeal Board in Trojan construed § 50.36(c) to require only that information deemed "necessary" to assure safe operation of the facility. Regarding administrative controls, the task is to determine what information may be fairly construed as "necessary." This, of course, should be a technical determination made by the licensee and the NRC and not artificially constrained through a mechanical reading that treats the examples in § 50.36(c)(5) as a specific enumeration of requirements.

¹

Before 1968, § 50.36 required that technical specifications include "those significant design features, operating procedures and operating limitations which [were] considered important in providing reasonable assurance that the facility [would be] constructed and operated without undue hazard to public health and safety." See 47 Fed. Reg. at 13370. This standard proved difficult to organize, unduly restricted flexibility of reactor operation, and necessitated the processing of many changes that were not significantly related to safety.

A review of Commission policy in this area indicates that a flexible approach was intended. In 1972, the Commission adopted the Standard Technical Specification (STS) program to counteract the increasing level of divergence in technical specification content from plant to plant. 47 Fed. Reg. at 13370. The STS program was implemented in October 1974 and all subsequent operating licenses were issued using the appropriate STS as the basis for the plant-specific technical specifications adopted. NUREG-0800, § 16.0, at 1.

In 1982, the Commission, in recognition of the "substantial growth in both the number of items and in the detail of the requirements contained in technical specifications since the STS were instituted," published a notice of proposed rulemaking on § 50.36. 47 Fed. Reg. at 13370. The Commission further indicated a general concern that while certain requirements have greater immediate importance than others, this relative importance may be diminished by the sheer number of requirements now included in technical specifications.² 47 Fed. Reg. at 13370.

The notice proposed that administrative controls be divided into two subtypes: (1) one pertaining to shift staffing and responsibilities (important for the immediate operation of the plant) and (2) the other pertaining to management overview and control of plant changes and operation. The first subtype would be addressed within the Administrative Controls section of technical specifications. The second subtype (drawn from the remainder of the information regarding organization, record-keeping, review and audit, and reporting) would be contained in "supplemental specifications" that would not be part of the license and could be modified by the licensee under § 50.59. 47 Fed. Reg. at 13372, 13373.

NRC resource limitations and difficulties in defining the criteria for dividing the current categories of technical specifications into subcategories (i.e., "technical specifications" and "supplemental specifications"), caused the Commission to drop the proposed rule in favor of a Commission Policy Statement. 52 Fed. Reg. 3788, 3789 (Feb. 6, 1987). However, there is no indication that the proposed changes to the Administrative Controls section were controversial.

The 1987 Commission Policy Statement affirmed the views expressed in the proposed rulemaking regarding the need to modify technical specifications to reduce the volume of detailed information while preserving that information "necessary to obviate the possibility of an abnormal situation or event giving rise to an immediate threat to the public health and safety" 52 Fed. Reg. at 3790 (emphasis added). In this regard, the Commission adopted the standard set forth in the Trojan Appeal Board decision. The Policy Statement further "encouraged" licensees to implement a program to upgrade their technical specifications consistent with this purpose, stating "[r]equirements which would be relocated

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In addition, it was recognized that the increased detail in technical specifications had led to a large number of proposed change requests, increasing the paperwork burden on both licensees and the NRC with an unquantifiable but real adverse safety impact. See 47 Fed. Reg. at 13370.

from Technical Specifications to another licensee-controlled document (e.g., the FSAR and 10 C.F.R. § 50.59 Operating Procedures, the QA Plan, or the Fire Protection Plan) may be changed or deleted in conjunction with the filing of the revised STS or of [an] individual license amendment request to implement this Policy Statement." 52 Fed. Reg. at 3791 (emphasis added). Therefore, the Commission's Policy Statement interprets § 50.36 to allow for a technical evaluation to determine the specific provisions under each "category" of information (including "Administrative Controls") that are necessary to be included in technical specifications.