

Florida Power

CORPORATION
Crystal River Unit 3
Docket No. 50-302

May 3, 1996
3F0596-07

U. S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, D. C. 20555

Subject: Interpretation of the Status of an Exemption from 10 CFR 70.24,
Criticality Accident Requirements

Reference: 1. AEC[NRC] to FPC letter, 3N0673-03, dated June 20, 1973
2. FPC to AEC[NRC] letter, 3F0871-01, dated August 23, 1971
3. FPC to NRC letter, 3F1176-14, dated November 24, 1976

Dear Sir:

In Reference 1, Crystal River Unit 3 (CR-3) was granted an exemption to 10 CFR 70.24, Criticality Accident Requirements. Florida Power Corporation (FPC) believes the conditions of the CR-3 Operating License dealing with Part 70 requirements imply that this exemption has not expired. We request that the NRC confirm this interpretation of CR-3's Operating License is correct, so that the regulatory record for CR-3 remains accurate. Since this exemption was developed many years ago, we are providing the background about this issue and a suggested resolution.

BACKGROUND

Reference 2 is FPC's initial application for license to own, acquire, receive, possess, and store special nuclear material for CR-3. In that application under Section 3.2.5.3, FPC requested exemption from the requirements of 10 CFR 70.24. Reference 1 is AEC Material License No. SNM-1275 which granted FPC authorization for receipt, possession, inspection, storage, and packaging for transport of enriched uranium in the form of reactor fuel assemblies, and the receipt, possession, and storage only of americium-beryllium-curium neutron sources. SNM-1275 also contains the following as Condition No. 10, "The licensee is hereby exempted from the requirements of Section 70.24, 10 CFR 70, to the extent that this section applies to material covered under this license." The NRC, thereby, granted FPC's request for exemption from Part 70.24.

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The original expiration date of SNM-1275 was qualified as "December 31, 1974 or upon conversion of Construction Permit CPPR-51 to an operating license whichever is earlier." FPC has researched the CR-3 historical correspondence docket and we note several FPC/NRC letters between 1973 and 1976 which discuss changing the expiration date of SNM-1275 to account for changes in the construction schedule for CR-3, however, there are no discussions concerning removal of the Part 70.24 exemption. The last FPC letter discussing this expiration issue is Reference 3.

The CR-3 Operating License was issued on December 3, 1976 and the Indemnity Agreement No. B-54 which accompanied the operating license specified that SNM-1275 became DPR-72 at 12:01 a.m. on December 3, 1976. Again the revised Indemnity Agreement did not remove the Part 70.24 exemption. Based upon this qualification, FPC believes the exemption to Part 70.24 remains a part of the CR-3 Operating License.

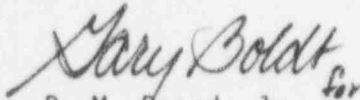
RESOLUTION

FPC's understanding of the 10 CFR 50 regulations pertaining to licensing of nuclear power plants is that issuance of an operating license under the provisions of Parts 50.56 and 50.57 supersedes any previously issued construction permit and/or special nuclear material license. In the absence of good cause shown to the contrary, the operating license contains any pertinent exemptions which carryover from either the construction permit or special nuclear material license. We view such a circumstance exists with the exemption from Part 70.24.

Section 2.B(3) of the CR-3 Operating License states that FPC is authorized to receive, possess, and use special nuclear material as reactor fuel in accordance with Part 70. In view of this provision, FPC believes the previously issued exemption should not be considered to have expired and no further exemption is necessary. Also no changes are required in the CR-3 Operating License. We request NRC concurrence with this interpretation.

Please note that the NRC has already provided such an interpretation to the Tennessee Valley Authority (TVA) for the Browns Ferry Nuclear Plant, Units 1, 2 and 3 in a NRC to TVA letter dated May 11, 1988.

Sincerely,


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

PMB/JWT:ff

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