

Mr. James Knubel
Chief Nuclear Officer
Power Authority of the State of
New York
123 Main Street
White Plains, NY 10601

April 12, 1999

SUBJECT: ISSUANCE OF AMENDMENT FOR JAMES A. FITZPATRICK NUCLEAR POWER
PLANT (TAC NO. M95521)

Dear Mr. Knubel:

The Commission has issued the enclosed Amendment No. 252 to Facility Operating License No. DPR-59 for the James A. FitzPatrick Nuclear Power Plant. The amendment consists of changes to the Technical Specifications (TSs) in response to your application of May 16, 1996, with additional information provided on September 9, 1997. The amendment revises TS Section 6 to delete requirements for Plant Operating Review Committee review of the fire protection program and implementing procedures, and deletes redundant requirements for fire protection program inspections and audits.

On October 28, 1998, the NRC staff denied an amendment request for the Indian Point Nuclear Plant Unit 3 on this same topic. Based on its evaluation of the FitzPatrick amendment, the staff believes a similar amendment could be authorized for Indian Point Unit 3. Therefore, you are encouraged to submit such a request for Indian Point Unit 3 if you believe a similar amendment would be beneficial.

A copy of the related Safety Evaluation is enclosed. A Notice of Issuance will be included in the Commission's next regular biweekly Federal Register notice.

Sincerely,

Original signed by:

Joseph F. Williams, Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-333

Enclosures: 1. Amendment No. 252 DPR-59
2. Safety Evaluation

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DATE	04/12/99		04/12/99		04/01/99	04/12/99	04/08/99

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AMENDMENT NO. 252 TO FACILITY OPERATING LICENSE NO. DPR-59-FITZPATRICK

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G. Hill (2), T-5 C3

W. Beckner, 013/H15

ACRS

J. Rogge, Region I

R. Norsworthy (e-mail SE only, RCN)

cc: Plant Service list



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

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Sincerely,

A handwritten signature in black ink, reading "Joseph F. Williams", is positioned above the typed name.

Joseph F. Williams, Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-333

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cc: Plant Service list

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of New York

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Power Plant

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Lycoming, NY 13093



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

POWER AUTHORITY OF THE STATE OF NEW YORK

DOCKET NO. 50-333

JAMES A. FITZPATRICK NUCLEAR POWER PLANT

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No. 252
License No. DPR-59

1. The Nuclear Regulatory Commission (the Commission) has found that:
 - A. The application for amendment by Power Authority of the State of New York (the licensee) dated May 16, 1996, with additional information provided on September 9, 1997, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations set forth in 10 CFR Chapter I;
 - B. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;
 - C. There is reasonable assurance (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;
 - D. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public; and
 - E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.
2. Accordingly, the license is amended by changes to the Technical Specifications as indicated in the attachment to this license amendment, and paragraph 2.C.(2) of Facility Operating License No. DPR-59 is hereby amended to read as follows:

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P PDR

(2) Technical Specifications

The Technical Specifications contained in Appendix A, as revised through Amendment No. 252 , and the Environmental Protection Plan contained in Appendix B are incorporated into Facility License No. DPR-59. PASNY shall operate the facility in accordance with the Technical Specifications and the Environmental Protection Plan.

2. This license amendment is effective as of the date of its issuance, to be implemented within 30 days of issuance.

FOR THE NUCLEAR REGULATORY COMMISSION



S. Singh Bajwa, Chief, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Attachment: Changes to the Technical
Specifications

Date of Issuance: April 12, 1999

ATTACHMENT TO LICENSE AMENDMENT NO. 252

FACILITY OPERATING LICENSE NO. DPR-59

DOCKET NO. 50-333

Revise Appendix A as follows:

Remove Pages

249

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Insert Pages

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6.5.1.3 Alternates

Alternative members shall be appointed in writing by the PORC Chairman to serve on a temporary basis.

6.5.1.4 Meeting Frequency

Meetings will be called by the Chairman as the occasions for review or investigation arise. Meetings will be no less frequent than once a month.

6.5.1.5 Quorum

A quorum of the PORC shall consist of the Chairman or a Vice-Chairman and five members including designated alternates. Vice-Chairmen may act as members when not acting as Chairman. A quorum shall contain no more than two alternates.

6.5.1.6 Responsibilities

The PORC shall be responsible for the:

- a. Review of 10 CFR 50.59 safety and environmental impact evaluations associated with procedures and programs required by Specification 6.8, and changes thereto.
- b. Review of proposed tests and experiments that affect nuclear safety.
- c. Review of proposed changes to the Operating License and Technical Specifications.
- d. Review of proposed changes or modifications to plant systems or equipment that affect nuclear safety.
- e. Investigation of violations of the Technical Specifications. The PORC shall prepare and present a report covering the evaluations and recommendations to prevent recurrence to the Site Executive Officer, who will then forward the report to the Chief Nuclear Officer, the Director Regulatory Affairs and Special Projects, and to the Chairman of the Safety Review Committee.
- f. Review of plant operations to detect potential safety hazards.
- g. Performance of special reviews and/or investigations at the request of the Site Executive Officer.
- h. Review of all reportable events.
- i. Review of the Process Control Program and the Offsite Dose Calculation Manual (ODCM) and changes thereto.

6.12 INDUSTRIAL SECURITY PROGRAM

An industrial security program shall be maintained throughout the life of the plant in accordance with the provisions of the Plant Security Plan.

6.13 EMERGENCY PLAN

THIS SECTION PURPOSELY BLANK

6.14 FIRE PROTECTION PROGRAM

THIS SECTION PURPOSELY BLANK

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

RELATED TO AMENDMENT NO. 252 TO FACILITY OPERATING LICENSE NO. DPR-59

POWER AUTHORITY OF THE STATE OF NEW YORK

JAMES A. FITZPATRICK NUCLEAR POWER PLANT

DOCKET NO. 50-333

1.0 INTRODUCTION

On May 16, 1998, the Power Authority of the State of New York (the licensee, also known as the New York Power Authority) submitted proposed changes to the Technical Specifications (TSs) for the James A. FitzPatrick Nuclear Power Plant. The proposed changes consisted of revisions to TS Section 6, deleting requirements for Plant Operating Review Committee (PORC) review of the fire protection program and implementing procedures. The licensee also proposed deletion of redundant fire protection program inspection and audit requirements. In response to a June 25, 1997 request from the NRC staff, the licensee provided additional information on September 9, 1997. This additional information did not affect the NRC staff's proposed finding of no significant hazards consideration, and was within the scope of the amendment application as noticed.

2.0 SUMMARY AND JUSTIFICATION OF PROPOSED CHANGES

The changes proposed by the licensee and their basis are summarized below.

2.1 PORC Review Responsibilities

TS Section 6.5.1 describes the function, membership, and responsibilities for the FitzPatrick PORC. The licensee has proposed to delete TS 6.5.1.6.j, which contains one of the responsibilities of the PORC, and currently reads as follows:

- j. Review the FitzPatrick Fire Protection Program and implementing procedures and changes thereto.

Presently, as stated in TS 6.5.1.6.j, the PORC is required to review all changes to the fire protection program and implementing procedures. The licensee believes that this requirement represents an unnecessary administrative burden on the PORC, since the large majority of changes reviewed are not safety-significant. The licensee states that its proposal makes PORC review responsibilities for fire protection issues more consistent with the other responsibilities given in TS 6.5.1.6.

PORC responsibility for review of fire protection requirements was added by Amendment 218, which included relocation of fire protection program requirements in accordance with the guidance of Generic Letter (GL) 88-12, "Removal of Fire Protection Requirements from the Technical Specifications." Thereafter, FitzPatrick Amendment 222 established a new review and approval process for procedures required by TS 6.8, which includes fire protection program procedures. This process requires that procedures be reviewed by qualified individuals, and approved by appropriate plant management. If safety and/or environmental evaluations are required, the PORC is required to review those evaluations. It is the licensee's position that this process provides for appropriate PORC review of changes when safety and/or environmental evaluations are required. Otherwise, less significant changes which do not impact safety or environmental considerations can be made without imposing an unnecessary administrative burden on the PORC.

The licensee states that there are several mechanisms in place which ensure the effectiveness of the fire protection program will be maintained. First, Amendment 218 revised the Facility Operating License to include a license condition which states, in part:

The licensee may make changes to the approved fire protection program without prior approval of the Commission only if those changes would not adversely affect the ability to achieve and maintain safe shutdown in the event of a fire.

The fire protection program is also included in the FitzPatrick Final Safety Analysis Report, Section 9.8.5, so the provisions of 10 CFR 50.59 apply. This regulation prohibits changes to the facility without prior NRC approval if it is determined that the change constitutes an unreviewed safety question. The licensee also notes that TS 6.5.2.9 requires the Safety Review Committee to inspect and audit the fire protection program.

In summary, the licensee believes that PORC review of all fire protection program and implementing procedure changes is unnecessary, and that safety is assured by the rigor of the procedure review and approval process, and other license requirements as discussed above.

2.2 Fire Protection Program and Audit Requirements

The fire protection program is the subject of TS Section 6.14. The licensee proposes deletion of TS 6.14.A and 6.14.B, which currently read as follows:

- A. An independent fire protection and loss prevention inspection and audit shall be performed annually utilizing either qualified licensee personnel or an outside fire protection firm.
- B. An inspection and audit by an outside qualified fire consultant shall be performed at intervals no greater than 3 years.

The licensee proposes to replace TS 6.14.A and 6.14.B with the statement "THIS SECTION PURPOSELY BLANK."

The licensee states that these specifications are redundant to TS 6.5.2.9, and can be removed without reduction in fire protection program effectiveness.

3.0 EVALUATION

3.1 PORC Review of Fire Protection Program and Procedure Changes

On June 25, 1997, the NRC staff requested additional information regarding the proposed changes. The staff requested:

1. A description of the screening process used for the fire protection program and procedure changes, and the criteria used to determine if a safety and/or environmental evaluation is needed,
2. For fire protection program and procedure changes that do not require a safety or environmental impact evaluation, a description of how the changes are documented, reviewed, approved, and implemented, including a discussion of process procedures and organizational responsibilities, and
3. An itemized summary of fire protection program changes reviewed by PORC for the previous 2 years. The licensee was asked to determine whether or not a given change would have required PORC review if the proposed TS had been in place, and to note if the PORC recommended changes providing a safety benefit.

The licensee provided the information requested on September 9, 1997.

The licensee provides procedural controls that require TS-related procedures to be screened for safety and environmental impact. TS 6.8.(A).3 requires written procedures and administrative policies to implement the fire protection program. The licensee's September 9, 1997, submittal describes controls which ensure implementation of this requirement, and also describes the procedure used to screen changes to determine if a safety and/or environmental impact evaluation is required. Changes are screened to determine if the activity is described in the final safety analysis report (FSAR), affects systems, structures or components described in the FSAR, or involves a test. If so, then the activity is assessed to determine if it is consistent with the FSAR requirements. If the activity is not consistent with the FSAR, a safety evaluation is completed in accordance with 10 CFR 50.59. Changes are also assessed for environmental impact, and an environmental impact evaluation is completed, if required. If the TS are affected by the proposed change, a license amendment is initiated to address the issue. Safety and environmental screening, and any required safety or environmental evaluations are completed and approved by qualified individuals.

The licensee documented that only a small portion of fire protection program and procedure changes over a 2-year period would have required PORC review if the proposed change had been in place. This documentation demonstrates that a substantial administrative burden on the PORC could be avoided without affecting facility safety. Furthermore, the proposed change sets a review standard for the fire protection program that is consistent with other issues which also have significant safety implications for the facility.

The NRC staff finds that this process for review and approval of fire protection program and procedures will provide for technical reviews by appropriately qualified individuals, and will ensure PORC attention is properly focused on more safety significant procedures and program changes. The staff also finds that the remaining regulatory controls on the fire protection program (the license condition, 10 CFR 50.59, and TS requirements for fire protection procedures and program audits) provide reasonable assurance of the continued effectiveness of the program. Therefore, the staff finds the proposed change acceptable. The staff also notes that the improved TS given in NUREG-1433 do not include any requirement for PORC review of fire protection procedures. Therefore, the proposed change is also consistent with the current regulatory standard for this activity.

3.2 Deletion of Redundant Fire Protection and Audit Requirements

The requirements of TS 6.5.2.9.g and 6.5.2.9.h are essentially the same as the requirements of TS 6.14.A and 6.14.B. The staff notes that TS 6.5.2.9.g presently includes an editorial error. This specification reads:

- g. An independent fire protection and loss of [emphasis added] prevention inspection audit shall be performed annually utilizing either qualified offsite licensee personnel or an outside fire protection firm.

The use of the word "of" is grammatically incorrect in this case; the phrase should read "loss prevention." However, the staff believes that the purpose of this specification is clear, and that the licensee is obligated to conduct the appropriate fire protection and loss prevention audits on the specified frequency. The staff finds that TS 6.14.A and 6.14.B represent requirements redundant to TS 6.5.2.9.g and 6.5.2.9.h. The deletion of TS 6.14.A and 6.14.B does not reduce the licensee's obligation to conduct appropriate fire protection audits. Therefore, the proposed change is acceptable.

4.0 STATE CONSULTATION

In accordance with the Commission's regulations, the New York State official was notified of the proposed issuance of the amendment. The State official had no comments.

5.0 ENVIRONMENTAL CONSIDERATION

This amendment changes recordkeeping, reporting, or administrative procedures or requirements. Accordingly, the amendment meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(10). Pursuant to 10 CFR 51.22(b) no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendment.

6.0 CONCLUSION

The Commission has concluded, based on the considerations discussed above, that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

Principal Contributor: J. Williams

Date: April 12, 1999