

February 20, 2004

Mr. Dale E. Young, Vice President
Crystal River Nuclear Plant (NA1B)
ATTN: Supervisor, Licensing &
Regulatory Programs
15760 West Power Line Street
Crystal River, FL 34428-6708

SUBJECT: FLORIDA POWER CORPORATION'S CRYSTAL RIVER UNIT 3 - PROPOSAL
FOR MANUAL OPERATOR ACTIONS FOR FIRE PROTECTION
(TAC NO. MC1588)

Dear Mr. Young,

In a letter dated September 5, 2003, Florida Power Corporation (FPC) submitted information regarding the integration of proposed corrective actions for Crystal River Unit 3 (CR3). These actions are related to a non-cited violation (NCV) of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, Appendix R, Section III.G.2 described in the Nuclear Regulatory Commission's (NRC's) Inspection Report 50-302/02-06. In the letter, you described the actions taken to validate the identified unapproved manual actions.

Licensees not in compliance with 10 CFR Part 50, Appendix R, Section III.G.2 require fire protection of safe shutdown capability. Section III.G.2 requires that circuits that could prevent the operation or cause misoperation of redundant trains of safe shutdown equipment have one of the specified fire protection features. Manual actions to respond to misoperations are not listed as an acceptable method for satisfying this requirement. However, the NRC has previously accepted plant-specific manual actions in formal exemption/deviation requests and in safety evaluation reports.

Based on inspection results and industry comments, the NRC determined that licensees have, without request for exemption/deviation from 10 CFR Part 50, Appendix R, Section III.G.2, implemented manual actions where the specified requirements of Section III.G.2 cannot be met. The NRC staff concluded that rulemaking would be required to allow licensees committed to Appendix R to substitute manual actions in lieu of Section III.G.2 compliance. While the NRC proceeds with rulemaking, licensees using unapproved operator manual actions would be in non-compliance until the rulemaking is processed and the regulations and guidance are formally revised. The NRC staff expects that licensees will continue to review and document the feasibility of operator manual actions. As you are aware, the rulemaking in progress will not suspend NRC staff inspection and findings of non-compliance, nor avoid potential enforcement proceedings and the related potential for exemption or deviation requests associated with operator manual actions. The NRC staff issued a fire protection Inspection Procedure 71111.05, "Fire Protection," dated March 6, 2003, to provide guidance for inspectors to consistently document inspection findings.

For an interim period while rulemaking is in progress, the NRC staff determined that acceptance criteria can be developed that would facilitate evaluations of certain manual actions.

Initially draft language for the fire protection operator manual action acceptance criteria was published in a *Federal Register* Notice (68 FR 66501) in October 2003. As a result of various stakeholder input, the criteria was revised and published again in the *Federal Register* on December 15, 2003. To address the potential unnecessary regulatory burden during the interim rulemaking period from a large number of exemption requests, the NRC staff intends to issue an interim enforcement policy to allow discretion and will refrain from taking enforcement action for those licensees that rely on unapproved operator manual actions, provided these licensees have documented the feasibility of their operator manual actions in accordance with the NRC staff's proposed preliminary generic acceptance criteria.

The NRC staff reviewed your submittal and, based on the above, determined that FPC should review those unapproved manual actions against the acceptance criteria published for comment in the December 2003 *Federal Register* Notice [ADAMS Accession ML033430017]. For those unapproved manual actions that fall outside the proposed acceptance criteria, the NRC staff expects FPC to correct the nonconformances or request an exemption from 10 CFR 50, Appendix R, Section III.G.2 in accordance with 10 CFR 50.12, "Specific Exemptions." Pursuant to 10 CFR 50.12, the Commission may, upon application, grant exemptions from the requirements of 10 CFR Part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security, and (2) special circumstances are present. These include the special circumstance that application of the regulation is not necessary to achieve the underlying purpose of the rule.

Per your submittal, the information presented above was discussed with Mr. Sidney Powell of your staff on December 19, 2003, and again with Mr. Jeffrey Ertman during a public meeting on January 7, 2004. If you have any questions, please feel free to contact Ms. Eva Brown at (301) 415-2315 or myself at (301) 415-2020.

Sincerely,

/RA/

Brenda Mozafari, Senior Project Manager, Section 2
Project Directorate II
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-302

cc: See next page

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Division of Licensing Project Management
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