

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150-AI41

[NRC-2008-0263]

[PRM-50-91]

Technical Specifications – Restoring the Original Paragraph Designations

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to resolve an administrative issue raised in a petition for rulemaking (PRM) submitted by the Strategic Teaming and Resource Sharing (STARS) Integrated Regulatory Affairs Group (PRM-50-91). In this final rule, the NRC is restoring the original paragraph designations as existed in 10 CFR 50.36 before the 2007 Part 52 final rulemaking. This final rule eliminates the need for licensees to expend resources on administrative redesignations that have no safety benefit.

DATES: Effective Date (**Insert date 30-days from the date of publication in the FEDERAL REGISTER**).

ADDRESSES: You can access publicly available documents related to this document using the following methods:

Federal e-Rulemaking Portal: Go to <http://www.regulations.gov> and search for documents filed under Docket ID [NRC-2008-0263]. Address questions about NRC dockets to Carol Gallagher 301-415-5905; e-mail Carol.Gallagher@nrc.gov.

NRC's Public Document Room (PDR): The public may examine and have copied for a fee, publicly available documents at the NRC's PDR, Public File Area O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

FOR FURTHER INFORMATION CONTACT: A. Jason Lising, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; Telephone 301-415-3220; e-mail jason.lising@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission is amending the regulations in 10 CFR Part 50 to revise 10 CFR 50.36, "Technical Specifications," and thereby resolve administrative issues raised in PRM-50-91 submitted by the STARS Integrated Regulatory Affairs Group.

On August 28, 2007, (72 FR 49351) the final rule for Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," redesignated § 50.36(c), (d), and (e) as paragraphs (d), (e), and (f), respectively, and added a new paragraph (c) to 10 CFR 50.36. The insertion of this new paragraph caused the paragraph for the technical specification criteria to be redesignated from 10 CFR 50.36(c) to 10 CFR 50.36(d). The redesignation of these paragraphs requires many licensees of operating nuclear power plants to modify their technical specifications, final safety analysis reports, and plant plans and procedures to correctly reference the redesignated § 50.36(d). This would require substantial expenditures of licensee resources with no corresponding benefit to public health and safety, common defense and

security, or protection of property from radiological events. By restoring the original paragraph designation, the final rule benefits all operating nuclear power plants by obviating the need for licensees to expend their resources on administrative corrections.

Petition for Rulemaking

On April 11, 2008, Mr. T. Moser, Chairman, STARS Integrated Regulatory Affairs Group, submitted a petition for rulemaking, docketed PRM-50-91. Mr. Moser requested that the NRC correct a paragraph numbering conflict introduced by a final rule "Licenses, Certifications, and Approvals for Nuclear Power Plants" (August 28, 2007; 72 FR 49351). The petitioner asserts that by granting the petition, potential error will be prevented by eliminating the need to identify and process conforming changes which reflect the redesignated paragraphs. There are many licensee and NRC documents affected such as Technical Specification Bases, implementing operation procedures, training programs, Technical Specification Task Force Travelers, NUREGs, Regulatory Guides, NRC office instructions, NRC Management Directives, and SECY papers. The petitioner asserts that significant industry and NRC effort to update documents to correct references to 10 CFR 50.36(c) is burdensome with no safety benefit.

Rule Change

The NRC has determined that the issue raised by PRM-50-91 can be resolved through an administrative rulemaking which restores the original paragraph designations. In this final rule, the NRC is restoring the original paragraph designations as existed in § 50.36 before the 2007 Part 52 rulemaking. In addition, the NRC is redesignating the new paragraph (c) which was adopted in the 2007 Part 52 final rulemaking as a new paragraph (a)(2). The existing text of paragraph (a) is being redesignated as paragraph (a)(1). The NRC believes that this redesignation of paragraph (a) will not result in any cross-referencing issues, inasmuch as any reference to § 50.36(a) will continue to be valid with the redesignation. The NRC also believes it is unlikely that any technical specifications, final safety analysis reports, or plant procedures

actually reference paragraph (a) given the subject matter of that paragraph. This final rule closes the docket on PRM-50-91.

Rulemaking Procedure

Because this amendment constitutes a minor administrative correction to the regulations, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(B).

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion under 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

The final rule does not contain information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information of an information collection requirement unless the requesting document displays a currently valid OMB control number.

Congressional Review Act

In accordance with the Congressional Review Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects for 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Part 50.

PART 50 - DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for part 50 continues to read as follows:

AUTHORITY: Secs. 102, 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109-58, 119 Stat. 806-810 (42 U.S.C. 2014, 2021, 2021b, 2111).

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5841). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and appendix Q also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80 - 50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

§ 50.36 [Amended].

2. Section 50.36 is amended by redesignating paragraph (a) as paragraph (a)(1), redesignating paragraph (c) as paragraph (a)(2), and redesignating paragraphs (d), (e), and (f) as paragraphs (c), (d), and (e), respectively.

Dated at Rockville, Maryland, this 5th day of September, 2008.

For the Nuclear Regulatory Commission.

/RA/

Bruce S. Mallett
Acting Executive Director for Operations.

§ 50.36 [Amended].

2. Section 50.36 is amended by redesignating paragraph (a) as paragraph (a)(1), redesignating paragraph (c) as paragraph (a)(2), and redesignating paragraphs (d), (e), and (f) as paragraphs (c), (d), and (e), respectively.

Dated at Rockville, Maryland, this 5th day of September, 2008.

For the Nuclear Regulatory Commission.

/RA/

Bruce S. Mallett
Acting Executive Director for Operations.

EDATS: NRR-2008-0017

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