

NON-CONCURRENCE PROCESS

SECTION A - TO BE COMPLETED BY NON-CONCURRING INDIVIDUAL

TITLE OF DOCUMENT TIA- Reevaluation of LCO 3.0.4a, "Mode Change Limitations," Palisades Plant (TIA2009-009)	ADAMS ACCESSION NO. ML091340595
DOCUMENT SPONSOR Stacey Rosenberg	SPONSOR PHONE NO. 301-415-2357
NAME OF NON-CONCURRING INDIVIDUAL John (Jack) Giessner	PHONE NO. 630-829-9619

DOCUMENT AUTHOR DOCUMENT CONTRIBUTOR DOCUMENT REVIEWER ON CONCURRENCE

TITLE Branch Chief	ORGANIZATION RHII, DRP
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REASONS FOR NON-CONCURRENCE
see attached dated 6/8/09 J. Giessner to S. Rosenberg

CONTINUED IN SECTION D

SIGNATURE 	DATE 6-8-9
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SUBMIT FORM TO DOCUMENT SPONSOR AND COPY TO YOUR IMMEDIATE SUPERVISOR AND DIFFERING VIEWS PROGRAM MANAGER

NON-CONCURRENCE PROCESS

TITLE OF DOCUMENT TIA- Reevaluation of LCO 3.0.4a, "Mode Change Limitations," Palisades Plant (TIA2009-009)	ADAMS ACCESSION NO. ML091340595
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**SECTION B - TO BE COMPLETED BY NON-CONCURRING INDIVIDUAL'S SUPERVISOR
(THIS SECTION SHOULD ONLY BE COMPLETED IF SUPERVISOR IS DIFFERENT THAN DOCUMENT SPONSOR.)**

NAME
Gary Shear

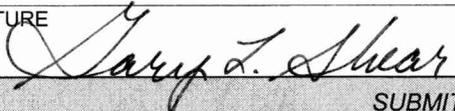
TITLE Deputy Director, Division of Reactor Projects, Region III	PHONE NO. 630-829-9679
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ORGANIZATION
USNRC Region III

COMMENTS FOR THE DOCUMENT SPONSOR TO CONSIDER

- I HAVE NO COMMENTS
- I HAVE THE FOLLOWING COMMENTS

CONTINUED IN SECTION D

SIGNATURE 	DATE 6/16/09
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SUBMIT THIS PAGE TO DOCUMENT SPONSOR

NON-CONCURRENCE PROCESS

TITLE OF DOCUMENT TIA-Reevaluation of LCO 3.0.4a, "Mode Change Limitations," Palisades Plant (TIA2009-005)	ADAMS ACCESSION NO. ML091340595
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SECTION C - TO BE COMPLETED BY DOCUMENT SPONSOR

NAME Stacey Rosenberg	
TITLE Chief	PHONE NO. 301-415-2357

ORGANIZATION
NRR/DPR/PSPB

ACTIONS TAKEN TO ADDRESS NON-CONCURRENCE (This section should be revised, as necessary, to reflect the final outcome of the non-concurrence process, including a complete discussion of how individual concerns were addressed.)

The TIA Program Manager and members of the Technical Specifications Branch have met in person and by phone with the non-concurring individual in order to come to a common understanding of the concerns expressed and potential means to address them. See attached documentation of the e-mail correspondence and summarization of concerns that formed the bases for discussion. The TIA has been revised to take the concerns into account to the extent possible.

CONTINUED IN SECTION D

SIGNATURE - DOCUMENT SPONSOR	DATE 09/21/2009	SIGNATURE - DOCUMENT SIGNER	DATE 09/22/2009
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NON-CONCURRING INDIVIDUAL (To be completed by document sponsor when process is complete, i.e., after document is signed):

- | | |
|---|---|
| <input type="checkbox"/> CONCURS | <input checked="" type="checkbox"/> WANTS NCP FORM PUBLIC |
| <input checked="" type="checkbox"/> NON-CONCURS | <input type="checkbox"/> WANTS NCP FORM NON-PUBLIC |
| <input type="checkbox"/> WITHDRAWS NON-CONCURRENCE (i.e., discontinues process) | |

MEMORANDUM TO: Stacey Rosenberg, Branch Chief NRR, PSPB
FROM:  John B. Giessner, Branch Chief DRP, RIII
SUBJECT: Non-Concurrence -Revised TIA 2008-002 (TIA2009-005)

Purpose

The purpose of this non-concurrence is to document a differing position that I have regarding revising TIA 2008-002. The position submitted is based on my assessment of the current Technical Specification with amplification using the Commission's Generic Letters. I stress, I do not have a safety concern, as the application of TS 3.0.4a essentially provides a layer of defense in a robust defense-in-depth scheme. That being said, the possible misapplication of TS 3.0.4 can lead to imprudent operations that could perhaps challenge the plant. The reversal of the original TIA essentially allows imprudent operations not, in my opinion, intended by the TS 3.0.4. Note this non-concurrence is not a stand alone document. It assumes the TIA and the GL 87-09 have been reviewed.

Discussion

The question the TIA tries to answer is this: does TS 3.0.4 a require the associated ACTION, that permits continued operation for Palisades plant (in TS 3.3.3 Action A.1) for an unlimited period of time, to be done before the mode transition occurs. The original TIA's conclusion was the associated ACTION (often called remedial action), does need to be completed before mode transition. The revised TIA reverses the position and determines that the action does NOT need to be done prior to the mode ascension.

The central reason the TIA was reversed was review of GL 87-09 by the staff at NRR. The staff asserted that the TIA was not aligned with the GL and that "key language from GL 87-09 was improperly translated during development of ISTS [Improved Standard Technical Specifications]." The key section is that the GL solution to unnecessary restrictions on mode changes by Specification 3.0.4 also resolved the problem of inconsistent application of exceptions to Specification 3.0.4 which delayed startup under conditions in which conformance to the Action Requirements establishes an acceptable level of safety for unlimited continued operation of the facility. Application of LCO 3.0.4a [improved or old format] STS was not intended to result in more restrictive requirements for individual specifications. TS 3.0.4a provided the allowance in one section of TS versus specific sections of TS allowing exceptions to TS 3.0.4.

I want to be quite clear, the GL argument has merit. Clearly in some cases at some other plants, the application of TS 3.0.4 (post change to ISTS) would have ended up being more restrictive. For example, I reviewed old TSs at Salem and DC Cook and found TS 3.0.4 exemptions in the specific instrumentation section of TS. The exemptions from TS 3.0.4 essentially said no action is required for the mode transition. But this is not true at Palisades. There were no TS 3.0.4 exemptions in safety instrumentation section of TS. Therefore the use of TS 3.0.4 in this section would be less restrictive.

The licensing basis is the TS, and its basis and interpretation. The GL appears to be given a position of hierarchy ahead of the TS. If the language from the GL was

improperly translated, correct it, but until then the TS is the document with standing. The GL can assist in determining the TS interpretation, but not in absence of other data. The GL never explicitly says that the action did or did not have to be done before the mode change occurs; it states "conformance to the Action Requirements establishes an acceptable level of safety for unlimited continued operation of the facility."

Let's review some of the key points of the TS which were part of the original TIA. The current TS and basis:

The applicable staff position for Palisades in LCO 3.0.4a states:

"When an LCO [Limiting Condition for Operation] is not met, entry into a mode or other specified condition in the Applicability shall only be made:

- a. When the associated ACTIONS to be entered permit continued operation in the MODE or other specified condition in the Applicability for an unlimited period of time;"

Although the Palisades LCO contains the future looking statement "to be entered" the Palisades LCO 3.0.4a Bases clarify the intent of the LCO by stating:

"Compliance with Required Actions that permit continued operation of the plant for an unlimited period of time in a MODE or other specified condition provides an acceptable level of safety for continued operation.... Therefore, in such cases, entry into a MODE or other specified conditions in the Applicability may be made in accordance with the provisions of the Required Actions."

I realize there is some lack of clarity in the TS (the future tense of "to be entered"), but one thing is certain: some remedial action needs to be taken. Now, the point of TS 3.0.4 is to allow mode changes, not to manage steady state operations. Mode changes or transitions have additional risk which must be managed. A type of Action requirement that allows a mode transition using TS 3.0.4 provides for remedial actions that permit continued operation not restricted by the time limits of Action requirements. In these cases conformance to the requirements provides that acceptable level of protection. The steady state conditions, or operations with no mode changes, are governed by the TS LCO and their action statements. For example, the second type of action requirement is termed a shutdown LCO (ie specifies a time limit for which the LCO must be met or the plant shutdown) may allow operation in certain modes for a time period, but TS 3.0.4 would not allow the transition between modes. The TS basis focuses TS 3.0.4a on the transition. So my strongest argument is this: if no action is taken before the mode transition, then the plant has not been afforded any additional safety DURING the mode transition. Since TS 3.0.4 was designed for the transition, the plant is in no different configuration until the action is taken. After the mode transition, taking the action serves no purpose other than require the plant to shutdown after a period of time if the action is not done (which would be required in a shutdown LCO anyway). This course of action would be NOT be aligned with the TS basis item which says "Compliance with Required Actions that permit continued operation of the plant for an unlimited period of time in a MODE or other specified condition provides an **acceptable level of safety for continued operation** [my emphasis]."

Conclusion

The GL is a licensing basis discussion of application to the ISTS. The GL does not supersede the intent and words in the TS. In this case, an action is required (tripping a bistable) to ensure an acceptable level of safety. It makes sense; and is implied in the TS basis as needing to be done to manage the risk in transitioning modes.

Recommendation /Discussion

Although not part of the non-concurrence process, I wanted to provide some insight in two areas. First, the staff opinion and the information provided in the TS basis and generic letters state that good practice should dictate that the plant should be started up with all equipment operable and that good judgment should be used. These statements, although honestly intended to provide a good framework, have no feasibility in enforcement space. Determining a standard that was not complied with is not objective; therefore, no performance deficiency would be found using the current oversight process. The licensee will follow the TSs, which they equate to sound judgment. So I take little consolation in thinking that "Palisades should have adopted the good practice of either restoring systems... or alternately established the basis for continued operation by placing the inoperable radiation monitoring channel in trip before mode transition [conclusion of the revised TIA]." The NRC would be hard pressed to enforce prudent operations.

The second item is related to a recommendation. If the revised TIA stands as written, then no remedial action would be required prior to the mode transition. Since mode transition could present a possible challenge, some action should be taken to provide the plant additional safety or at least evaluate the remedial action as not being needed. Without requiring the remedial action, it may be important to risk assess the specific condition prior to mode ascension. Simply, require plants to do TS 3.0.4 b (risk based) and delete TS 3.0.4a from the ISTS.

J. Giessner 6/8/09

Bowman, Eric

From: Eric Bowman
Sent: Wednesday, June 03, 2009 10:26 AM
To: John Giessner
Cc: Mahesh Chawla; Charles Petrone; Stacey Rosenberg
Subject: ACTION: Draft non-concurrence for TIA 2008-002 rev.
Attachments: Nonconcurrence for Revised TIA 2008-02 CSS commentsl.doc

Jack,

Carl Schulten and I have taken a look at your draft nonconcurrence and would like to see if you're available to discuss this further. Carl provided some comments as markups to your draft; I've traced the history of this LCO for Palisades in my e-mail to Carl below as well in order to supplement his comments. We appreciate your reasoning in the draft, but are a bit constrained by the current licensing basis as to what can be done in a TIA. I just want to be sure we are using the right process for addressing your concerns, particularly as they seem to be on a more generic level as opposed to the plant specifics we can address here. If we do go the nonconcurrence process way, the process is documented at <http://www.internal.nrc.gov/OE/nonconcur/DraftNon-ConcurrencePolicy.pdf> and would just require cutting and pasting from your draft to NRC Form 757 on InForms.

I'm available for a call through 2:00 our time this afternoon and anytime the rest of the week except 3:00 to 4:00 p.m. tomorrow.

Thanks!

Eric

Eric E. Bowman
U.S. Nuclear Regulatory Commission
Office of Nuclear Reactor Regulation
Division of Policy and Rulemaking
Special Projects Branch
301-415-2963
Eric.Bowman@nrc.gov

From: Carl Schulten
Sent: Wednesday, June 03, 2009 9:54 AM
To: Eric Bowman
Subject: RE: Draft non-concurrence for TIA 2008-002 rev.

Eric, your analysis is rock solid. Perhaps we (you, I and Holly) could talk with Jack later today and you could give him advice on issuing the nonconcurrence after he reads your assessment. Jack may also benefit from my markup comments to show some misunderstandings he has about the content of the GL and that 50.36 doesn't address steady state or transition conditions, just operations. Let me know how you want to proceed.

From: Eric Bowman
Sent: Wednesday, June 03, 2009 9:04 AM
To: Carl Schulten
Subject: FW: Draft non-concurrence for TIA 2008-002 rev.

Carl,

Mac Chawla forwarded me Jack Giessner's draft non-concurrence for the TIA revision. I took a closer look at Palisades TS history anticipating we would need to address this. Could you look it over and provide me with any feedback.

My read on the regulatory position for Palisades TS is that their LCO 3.0.4 prior to Amendment 189, which implemented NUREG-1432, Revision 1, read as follows:

3.0.4 Entry into a reactor operating condition or other specified condition shall not be made when the conditions for the Limiting Conditions for Operation are not met and the associated action requires a shutdown if they are not met within a specified time interval. Entry into a reactor operating condition or other specified condition may be made in accordance with action requirements when conformance to them permits continued operation of the facility for an unlimited period of time. This provision shall not prevent passage through or to reactor operating conditions as required to comply with action requirements. Exceptions to these requirements are stated in the individual specifications.

This is taken from Amendment 130, ADAMS Accession # ML020810199; I couldn't find any other changes to that part of the TS prior to Amendment 189. The basis for this was in a correction letter at ML020810440 and read:

Specification 3.0.4 establishes limitations on reactor operating condition changes when a Limiting Condition for Operation is not met. It precludes placing the facility in a higher operational condition when the requirements for a Limiting Condition for Operation are not met, and continued noncompliance to these conditions would result in a shutdown to comply with the action requirements if a change in plant conditions were permitted. The purpose of this specification is to ensure that facility operation is not initiated or that higher reactor operating conditions are not entered when corrective action is being taken to obtain compliance with a specification by restoring equipment to operable status or parameters to specified limits. Compliance with action requirements that permit continued operation of the facility for an unlimited period of time provides an acceptable level of safety for continued operation without regard to the status of the plant before or after a change in plant condition. Therefore, in this case, entry into a reactor operating condition or other specified condition may be made in accordance with the provisions of the action requirements. The provisions of this specification should not, however, be interpreted as endorsing the failure to exercise good practice in restoring systems or components to operable status before plant startup. When a shutdown is required to comply with action requirements, the provisions of Specification 3.0.4 do not apply because they would delay placing the facility in a lower plant condition of operation.

This amendment was the one that implemented GL 87-09. The first sentence of the LCO strikes me as clearly allowing a mode change unless a shutdown would be required unless the LCO was met, consistent with the regulatory position of GL 87-09. There doesn't seem to be a requirement for entry of the actions prior to a mode change, but merely compliance with the action requirements; i.e. entry of the actions within their specified times. The safety evaluation, also at ML020810199, for this amendment amplifies this understanding by stating that:

2.0 EVALUATION

Specification 3.0.4

GL 87-09 recognizes, in part, that Specification 3.0.4 unduly restricts facility operation when conformance to the action requirements provides an acceptable level of safety for continued operation in any operational condition. For an LCO that has action requirements permitting continued operation for an unlimited period of time, entry into an operational condition or other specified condition of operation should be permitted in accordance with those action requirements. The restriction on change in operational condition or other specified conditions should apply only where the action requirements establish a specified time interval in which the LCO must be met or a shutdown of the facility would be required or where entry into that operational condition would result in entry into an action statement with such time constraints.

However, nothing in the staff position stated in GL 87-09 should be interpreted as endorsing or encouraging plant startup with inoperable equipment. The GL 87-09 itself states that startup with inoperable equipment should be the exception rather than the rule.

This understanding does not rely on the portion of GL 87-09 that stated one of its desired aims was to avoid making TSs more restrictive than they had been prior to implementation of GL 87-09.

Amendment 189, ML993490085, changed LCO 3.0.4 to read:

LCO 3.0.4 When an LCO is not met, entry into a MODE or other specified condition in the Applicability shall not be made except when the associated ACTIONS to be entered permit continued operation in the MODE or other specified condition in the Applicability for an unlimited period of time. This Specification shall not prevent changes in MODES or other specified conditions in the Applicability that are required to comply with ACTIONS. Exceptions to this Specification are stated in the individual Specifications.

With a basis stating that:

LCO 3.0.4 establishes limitations on changes in MODES or other specified conditions in the Applicability when an LCO is not met. It precludes placing the plant in a MODE or other specified condition stated in that Applicability (e.g., Applicability desired to be entered) when the following exist:

- a. Plant conditions are such that the requirements of the LCO would not be met in the Applicability desired to be entered; and
- b. Continued noncompliance with the LCO requirements, if the Applicability were entered, would result in the plant being required to exit the Applicability desired to be entered to comply with the Required Actions.

Compliance with Required Actions that permit continued operation of the plant for an unlimited period of time in a MODE or other specified condition provides an acceptable level of safety for continued operation. This is without regard to the status of the plant before or after the MODE change. Therefore, in such cases, entry into a MODE or other specified condition in the Applicability may be made in accordance with the provisions of the Required Actions. The provisions of this Specification should not be interpreted as endorsing the failure to exercise the good practice of restoring systems or components to OPERABLE status before entering an associated MODE or other specified condition in the Applicability. The provisions of LCO 3.0.4 shall not prevent changes in MODES or other specified conditions.

Exceptions to LCO 3.0.4 are stated in the individual Specifications. The exceptions allow entry into MODES or other specified conditions in the Applicability when the associated ACTIONS to be entered do not provide for continued operation for an unlimited period of time. Exceptions may apply to all the ACTIONS or to a specific Required Action of a Specification.

Surveillances do not have to be performed on the associated inoperable equipment (or on variables outside the specified limits), as permitted by SR 3.0.1. Therefore, changing MODES or other specified conditions while in an ACTIONS Condition, in compliance with LCO 3.0.4 or where an exception to LCO 3.0.4 is stated, is not a violation of SR 3.0.1 or SR 3.0.4 for those Surveillances that do not have to be performed due to the associated inoperable equipment. However, SRs must be met to ensure OPERABILITY prior to declaring the associated equipment OPERABLE (or variable within limits) and restoring compliance with the affected LCO.

I believe the first paragraph of the basis makes it clear that the change in the wording of the LCO did not change the requirements. The safety evaluation for Amendment 189, ML993510369, classifies the change in the wording as an administrative change with the statement in Table A that "[t]he phrase 'and the associated action requires a shutdown if they are not met within a specified time interval' is deleted from CTS (CO) 3.0.4. This phrase is not necessary because another part of LCO 3.0.4 clarifies that entry can be made into a reactor operating condition (Mode in ITS) if actions permit continued operation for an unlimited period of time."

The current version of this LCO, now 3.0.4a, in the Palisades TS is as described in the TIA, "When an LCO Is not met, entry Into a MODE or other specified condition in the Applicability shall only be made ... [w]hen the associated ACTIONS to be entered permit continued operation In the MODE or other specified condition In the Applicability for an unlimited period of time...." This version was issued as Amendment 219, ML043220612. The safety evaluation for this amendment indicated that "the proposed LCO 3.0.4a retains the current allowance, permitting the mode change when the required actions allow indefinite operation."

None of the changes since the GL 87-09 implementation purported to make the LCO more restrictive or included a backfit analysis to support such a change, so if it should be more restrictive than it was, it would need to be accomplished through a backfit.

Eric

From: Mahesh Chawla
Sent: Tuesday, June 02, 2009 2:15 PM
To: Eric Bowman
Subject: FW: Draft non-concurrence for TIA 2008-002 rev.

From: John Giessner
Sent: Monday, June 01, 2009 7:32 PM
To: Robert Elliott; Carl Schulten; Mahesh Chawla
Cc: John Ellegood; Cynthia Pederson; Gary Shear; Robert Lerch; Diana Betancourt
Subject: Draft non-concurrence for TIA 2008-002 rev.

I will finalize when the TIA comes for concurrence. Please pass to the TIA branch.

Thanks
Jack

Bowman, Eric

From: Giessner, John
Sent: Thursday, June 18, 2009 11:20 AM
To: Bowman, Eric; Ellegood, John
Cc: Schulten, Carl
Subject: RE: TIA 2008-002

I did see this, but the key is not the LCO action time - the key is the mode ascension. Agree it is low probability, but so are other LCOs (which are S/D LCOs). The item in question is TS 3.0.4. If TS 3.0.4 was not applicable, the old TS would have said so. In the new TS my focus is on the action that gives you the assurance.

jack

From: Bowman, Eric
Sent: Wednesday, June 17, 2009 2:50 PM
To: Giessner, John; Ellegood, John
Cc: Schulten, Carl
Subject: TIA 2008-002
Importance: High

John/Jack,

I did a little further review of the Palisades TS in preparation for our phonecon on Tuesday and found the quote below in the bases for LCO 3.3.3 from Amendment 189, which I believe is the current revision to that LCO. I've also attached the extracted pages from that amendment, which is available in ADAMS at ML993510369; the bases is at page 655 of the file. If we revise the TIA to cite these bases, would it satisfy your concerns with the document? I realize it still leaves the question open regarding enforcement of prudence and best practices, but can't really address that in the TIA.

If one ESF channel is inoperable, startup or power operation is allowed to continue, providing the inoperable channel actuation bistable is placed in trip within 7 days. The provision of four trip channels allows one channel to be inoperable in a non-trip condition up to the 7 day Completion Time allotted to place the channel in trip. Operating with one failed channel in a non-trip condition during operations, places the ESF Actuation Logic in a two-out-of-three coincidence logic.

If the failed channel cannot be restored to OPERABLE status in 7 days, the associated bistable is placed in a tripped condition. This places the function in a one-out-of-three configuration.

In this configuration, common cause failure of the dependent channel cannot prevent ESF actuation. The 7 day Completion Time is based upon operating experience, which has demonstrated that a random failure of a second channel occurring during the 7 day period is a low probability event.

Thanks!

Eric

TIA 2009-005 as currently written	J. Giessner Non-concurrence concerns	J. Ellegood Non-concurrence concerns	Proposed way ahead to address concerns
<p>Quotes GL 87-09 statement that “The restriction on a change in operational modes or other conditions should apply only where the Action Requirements establish a specified time interval in which the LCO must be met or a shutdown of the facility would be required.”</p>	<p>GL 87-09 never explicitly says that the action did or did not have to be done before the mode change occurs; it states “conformance to the Action Requirements establishes an acceptable level of safety for unlimited continued operation of the facility.”</p>	<p>The GL does not clearly establish that Mode transition may occur prior to completion of required actions and the letter provides no argument to establish an interpretation of the GL 87-09 verbiage. The GL does state "Conformance with the action requirements establishes an acceptable level of safety for unlimited continues operation of the facility." This statement implies that GL intended to require completion of the action requirement, since, if not completed, an acceptable level of safety would not be established.</p>	<p>Revise the TIA to address the lack of clarity here. The fundamental difference between the way this regulatory position was expressed in GL 87-09 and how it is now expressed is that in the GL, and the Palisades amendment to implement it, the limitation on mode changes was expressed in a negative sense, i.e. “the restriction applies only where...,” while in the current version the limitation is phrased in a positive sense, i.e. “shall only be made when....” An Action Requirement that is within the limits of its associated Completion Time is not an Action Requirement with an established time interval in which the LCO must be met or shutdown of the facility would be required, and therefore the regulatory position of GL 87-09 would allow for conduct of a mode change under those circumstances.</p>

TIA 2009-005 as currently written	J. Giessner Non-concurrence concerns	J. Ellegood Non-concurrence concerns	Proposed way ahead to address concerns
<p>Uses the regulatory position of GL 87-09 and the changes in the STS/ITS conversion as an aid to interpretation of the current TS and bases.</p>	<p>1. The central reason the TIA was reversed was review of GL 87-09 by the staff at NRR. The staff asserted that the TIA was not aligned with the GL and that “key language from GL 87-09 was improperly translated during development of ISTS [Improved Standard Technical Specifications].” The key section is that the GL solution to unnecessary restrictions on mode changes by Specification 3.0.4 also resolved the problem of inconsistent application of exceptions to Specification 3.0.4 which delayed startup under conditions in which conformance to the Action Requirements establishes an acceptable level of safety for unlimited continued operation of the facility. Application of LCO 3.0.4a [improved or old format] STS was not intended to result in more restrictive requirements for individual specifications. TS 3.0.4a provided the allowance in one section of TS versus specific sections of TS allowing exceptions to TS 3.0.4.</p> <p>2. Licensing basis is TS, its bases and interpretation, not GL 87-09. GL 87-09 can only be used to assist in determining the TS interpretation.</p>	<p>A generic letter supersedes an approved license document. (That is, we have given greater weight to the regulatory position of GL 87-09 than to the current licensing basis for Palisades.)</p>	<p>Revise TIA to include Palisades’ amendment 130, which implemented GL 87-09, amendment 189 and its SER, and amendment 219 and its SER to show the traceability of the GL 87-09 regulatory position in the licensing documents for Palisades.</p>

TIA 2009-005 as currently written	J. Giessner Non-concurrence concerns	J. Ellegood Non-concurrence concerns	Proposed way ahead to address concerns
<p>To conform to the guidance in GL 87-09, the improved STS bases language should be interpreted to state that compliance with LCO 3.0.4a relies on both the Required Actions and associated Completion Times as they would apply to the discovery of inoperable equipment while operating in the applicable mode or other specified condition of an LCO.</p>	<p>1. The question the TIA tries to answer is this: does TS 3.0.4 a require the associated ACTION, that permits continued operation for Palisades plant (in TS 3.3.3 Action A.1) for an unlimited period of time, to be done <u>before</u> the mode transition occurs. The original TIA's conclusion was the associated ACTION (often called remedial action), <u>does need to be completed before mode transition</u>. The revised TIA reverses the position and determines that the action does NOT need to be done prior to the mode ascension.</p> <p>2. [M]y strongest argument is this: if no action is taken before the mode transition, then the plant has not been afforded any additional safety DURING the mode transition. Since TS 3.0.4 was designed for the transition, the plant is in no different configuration until the action is taken. After the mode transition, taking the action serves no purpose other than require the plant to shutdown after a period of time if the action is not done (which would be required in a shutdown LCO anyway). This course of action would be NOT be aligned with the TS basis item which says 'Compliance with Required Actions that permit continued operation of the plant for an unlimited period of time in a MODE or other specified condition provides an acceptable level of safety for continued operation [my emphasis].'</p>	<p>1. The letter states "key language in GL 97-09 was improperly translated." Implicit in this argument is the ISTS language does require completion of the required action prior to a mode change. Since GL cannot over ride a license requirement, it follows that the current license does require completion of the required action prior to a mode change.</p> <p>2. The letter also argues that since 3.0.4 uses future tense, no action need be taken prior to mode transition. However, the action is entered only when the LCO becomes applicable. Therefore, future tense would be used regardless of the intent of TS 3.0.4 since its use would be invoked prior to the planned mode change. In addition, the bases clearly states that "Compliance with the Required Actions that permit continued operation of the plant for an unlimited period of time in a MODE or other specified condition provides an acceptable level of safety for continued operation." It is important to note that in ISTS the Required Action is what must be done. The bases, therefore, clearly establishes that the acceptable level of safety is only achieved when the required action is complete.</p>	<p>Revise TIA to directly quote the wording of LCO 3.0.4a, "When the associated ACTIONS to be entered permit continued operation in the MODE or other specified condition in the Applicability for an unlimited period of time;" coupled with the definition of ACTIONS in Section 1.1 as "that part of a Specification that prescribes Required Actions to be taken under designated Conditions within specified Completion Times."</p> <p>The definition provided in the use and application section makes it clear that the translation from a two-column to three-column format did not actually change the coupling of Required Actions and their Completion Times that is implied by the improper translation of the bases. It also would serve to focus on the words of the LCO (ACTIONS) and their meanings rather than the vernacular use of the term remedial action.</p> <p>This still relies on the understanding of the phrases "to be entered" and "to be taken," which are in the future perfect tense, but the limitation on the time due to the phrase "within specified Completion Times" is consistent with that usage.</p>

TIA 2009-005 as currently written	J. Giessner Non-concurrence concerns	J. Ellegood Non-concurrence concerns	Proposed way ahead to address concerns
	<p>I realize there is some lack of clarity in TS in the use of the future tense for 'to be entered,' but one thing is certain: some remedial action needs to be taken. Mode changes have additional risk that must be managed.</p>		<p>Best addressed outside of TIA if the current licensing basis does not require the required action to be complete prior to a mode change.</p>
	<p>Clearly in <u>some</u> cases at <u>some</u> other plants, the application of TS 3.0.4 (post change to ISTS) would have ended up being more restrictive. For example, I reviewed old TSs at Salem and DC Cook and found TS 3.0.4 exemptions in the specific instrumentation section of TS. The exemptions from TS 3.0.4 essentially said no action is required for the mode transition. But this is not true at Palisades. There were no TS 3.0.4 exemptions in safety instrumentation section of TS. Therefore the use of TS 3.0.4 in this section would be less restrictive.</p>		<p>Need to discuss. The statements in GL 87-09 regarding the more or less restrictive effect after its implementation were brought up during earlier conversations and were included in earlier versions, but were removed from the TIA as they are not necessary to the analysis of the regulatory position. This concern may have already been addressed through earlier discussions.</p>

TIA 2009-005 as currently written	J. Giessner Non-concurrence concerns	J. Ellegood Non-concurrence concerns	Proposed way ahead to address concerns
	<p>[T]he staff opinion and the information provided in the TS basis and generic letters state that good practice should dictate that the plant should be started up with all equipment operable and that good judgment should be used. These statements, although honestly intended to provide a good framework, have no feasibility in enforcement space. Determining a standard that was not complied with is not objective; therefore, no performance deficiency would be found using the current oversight process. The licensee will follow the TSs, which they equate to sound judgment. So I take little consolation in thinking that "Palisades should have adopted the good practice of either restoring systems... or alternately established the basis for continued operation by placing the inoperable radiation monitoring channel in trip before mode transition [conclusion of the revised TIA]." The NRC would be hard pressed to enforce prudent operations.</p>		<p>As discussed in the non-concurrence, this is not suitable to address in the TIA, but will need to be addressed elsewhere.</p> <p>It is noted that "enforcement space" with the current ROP, differs remarkably from SALP program for enforcement which existed at the time the GL 87-09 was issued. The SALP process was very subjective and including guidance directing licensees to establish good practice and not startup with inoperable equipment would be much more significant than it is now, because the "best practice" could be enforced by assigning a poor score to reactor operations.</p>
	<p>Since mode transition could present a possible challenge, some action should be taken to provide the plant additional safety or at least evaluate the remedial action as not being needed. Without requiring the remedial action, it may be important to risk assess the specific condition prior to mode ascension. Simply, require plants to do TS 3.0.4 b (risk based) and delete TS 3.0.4a from the ISTS.</p>		<p>As discussed in the non-concurrence, this is not suitable to address in the TIA, but will need to be addressed elsewhere.</p>

TIA 2009-005 as currently written	J. Giessner Non-concurrence concerns	J. Ellegood Non-concurrence concerns	Proposed way ahead to address concerns
Includes statement that the mode change allowances of LCO 3.0.4a is premised on the reasonable expectation that the required actions will be taken within their completion times.		TIA proposes a standard to determine if mode change can be made as being a reasonable expectation that the required action can be completed in its specified completion time	Revise TIA to explain that, while this is not a requirement of LCO 3.0.4a, the reasonable expectation that required actions will be taken within their completion times is necessary to comply with the LCO 3.0.2 limitation on intentionally entering an ACTION for operational convenience.
TIA 2008-002 is superseded by this TIA.		The TIA should state that it is reversing a previously established staff position.	Revise the TIA to address the fact that this TIA does not reverse a previously established staff position, but instead restores the applicable regulatory position to its state prior to the errors in TIA 2008-002. The applicable regulatory position had been established in GL 87-09, as implemented for specific licensees. TIA 2008-002 fundamentally modified the applicable regulatory position to include a requirement for completion of required actions prior to mode changes when using LCO 3.0.4a of the ITS; this change was outside of the scope of actions that can be taken in a TIA as it did not allow for proper vetting of the change to the regulatory position through the CRGR and taking into account other stakeholders' input. The purposes of this TIA are to correct the problem of having modified a regulatory position using the mechanism of a TIA by cancelling that TIA (2008-002) and to explain that the previously established regulatory position of GL 87-09 is still applicable.
		"For the above reasons, in part, I do not concur on the letter"	Other concerns are implied by this that will need to be detailed in order to address.