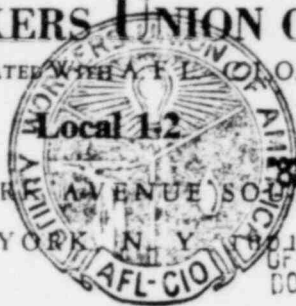


# UTILITY WORKERS UNION OF AMERICA

AFFILIATED WITH AFL-CIO



386 PARK AVENUE SOUTH  
NEW YORK, N.Y.

532-7110



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(47 FR 35996)

FRANCIS R. OWENS  
*Business Manager*

JOSEPH L. ZUMMO  
*Assistant Business Manager*

THOMAS M. CAULFIELD  
*Assistant Business Manager*

THOMAS F. KELLY  
*Assistant Business Manager*

PATRICK J. GALLAGHER  
*President*

JOHN G. CLANCY  
*Secretary-Treasurer*

ANTONIO SANCHEZ  
*Financial Secretary*

October 13, 1982

Secretary of The Commission  
United States Nuclear Regulatory Commission  
Washington, D. C. 20555

ATTENTION: Docketing and Service Branch

Dear Sir:

The Utility Workers Union of America, Local 1-2, would like to make the following comments and suggestions regarding the proposed NRC regulations of 10 CFR50-Applicability of License Conditions and Technical Specifications in an Emergency. We concur with this proposed change "that all Part 50 licenses may take reasonable action that departs from a licensed condition or technical specification in an emergency when such action is immediately needed to protect the public's health and safety" and that "Emergency situations can arise, though, during which a license condition or a technical specification could prevent necessary protective action by the licensee".

Our concern is that whether the interpretation of the phrase "the public health and safety" in the proposed section 50.54 (y) of 10CFR50 includes our members whom are employees of the licensee, that are working in Unit 2 of the Consolidated Edison Nuclear Power Plant.

Specifically our concern is in regard to the initiation of the containment spray as the result of an incident in the containment building which results in an over-pressurization of 28 PSI or greater. This containment spray which initially consists of a borated solution (Boric Acid) and after two minutes also includes a 50% mixture of sodium hydroxide.

In the event of such an emergency, the license conditions or technical specifications must permit the licensee to take the necessary protective actions to insure their safety.

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In addition the licensee should provide us with information, as the New York State Right to Know Act requires, regarding the necessary information on the effects of an exposure to an over-pressurization of 28 PSI problems associated with the possibility of an oxygen depletion in the environment of the spray and the associated toxic effects on critical organs in an environment of boric acid and sodium hydroxide. We would appreciate a comment from you regarding either OSHA's or NIOSH's responsibilities in enforcing non-nuclear safety matters at facilities licensed under 10 CFR50.

Your attention to this matter will be greatly appreciated.

Yours truly,

*Joe Zummo*

Joseph Zummo

Assistant Business Manager

*Philip Lorio*

Philip Lorio

Technical Consultant



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USNRC

ARKANSAS POWER & LIGHT COMPANY  
POST OFFICE BOX 551 LITTLE ROCK, ARKANSAS 72203 (501) 371-4000

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October 15, 1982

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Secretary of the Commission  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555

DOCKET NUMBER PR-50  
PROPOSED RULE (47 FR 35996)  
(15)

SUBJECT: Arkansas Nuclear One - Units 1 and 2  
Docket Nos. 50-313 and 50-368  
License Nos. DPR-51 and 50-368  
Comments on Proposed Amendments to  
10 CFR Part 50 (47 Fed. Reg. 35996)

Gentlemen:

On August 18, 1982 the NRC proposed several amendments to 10CFR Part 50 which would clarify that Part 50 licensees may take reasonable action that departs from a license condition or technical specification in an emergency when such action is immediately needed to protect the public health and safety (47 Fed. Reg. 35996). Arkansas Power & Light hereby submits the following comments on the proposed rule.

Arkansas Power & Light believes that the proposed rule would be useful in assuring that licensees need not be constrained by excessively detailed technical specifications when licensee action is needed immediately during an emergency to protect the public health and safety. AP&L especially agrees with the approach reflected in the proposed rule that a licensee need not secure the concurrence of, or approval by, the NRC prior to departure from a license condition or a technical specification. AP&L believes that it is appropriate for NRC to remain removed from operational decisions and that a contrary approach would involve NRC directly in such decision-making.

The Commission particularly solicited comments on the fact the proposed rule does not provide significant guidance for identifying those situations in which deviations from license conditions or technical specifications may be undertaken. AP&L believes the proposed rule should be left general in this regard to allow maximum latitude for emergency decisions. In addition, to provide such specific guidance may inadvertently undercut the effectiveness of the proposed rule by limiting out-of-license or out-of-technical specifications operations in an unforeseen emergency, even when such actions may clearly enhance public health and safety.

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The Commission also was interested in receiving comments on the lack of standards governing whether enforcement actions would be taken against licensees who deviate from license conditions or technical specifications in emergency situations. In general, AP&L believes that enforcement actions create an adversary situation which does nothing to enhance public health and safety. However, because NRC does in fact use this practice, it must delineate the types of licensee actions which may result in enforcement actions.

AP&L, therefore, recommends that an additional sentence be added to proposed Section 50.54(y) setting forth the standard NRC will use when determining if a deviation from license conditions and/or technical specifications could result in enforcement action. That addition would state, as follows:

No enforcement action will be taken against a licensee departing from a license condition or a technical specification pursuant to this section if the actions were taken in good faith and were reasonable, based on the licensee's assessment of relevant information existing at the time the actions were taken.

Given the training emphasis on operations within procedures and technical specifications and the obvious high visibility of NRC regulations, AP&L feels that the operating staff would be reluctant to invoke the proposed rule under any circumstances if their actions were to invite an enforcement response.

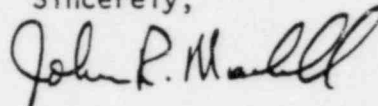
AP&L notes that Section 50.54(z) of the proposed rule, would allow a licensed operator to take action permitted by Section 50.54(y) provided that, as a minimum, the concurrence of a licensed senior operator is obtained. Such concurrence is generally part of the normal chain-of-command in most facilities and amounts to a de facto decision by the licensed senior operator. In this situation, Section 50.54(z) may be unnecessary. In any case, AP&L supports Commissioner Gilinsky's belief that the decision to operate outside of technical specifications should be made by a senior operator for the reasons he cites.

Lastly, it is apparent that the Commission intends in proposing this change to Part 50 to provide licensees with the option of deviating from license conditions or technical specifications in an emergency situation. AP&L assumes that the Commission does not intend to require such deviations or that, based on its after-the-fact review, the Commission will second-guess licensees and conclude that a licensee could have avoided an emergency situation by invoking the rule and taking a particular action outside of license conditions or technical specifications. AP&L therefore suggests that the Commission emphasize the permissive nature of proposed Section 50.54(y) by specifying in the Statement of Considerations accompanying the final rule that the application of Section 50.54(y) is totally

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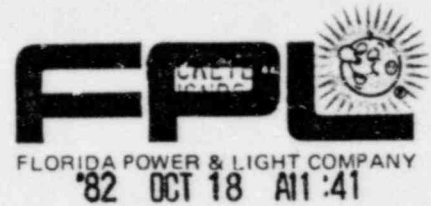
discretionary, that licensees need not invoke Section 50.54 (y) even in an emergency, and that failure to invoke the rule will not constitute a violation of any NRC requirements for which an enforcement action may be brought.

Sincerely,



John R. Marshall  
Manager, Licensing

JRM:JK:rd



OFFICE OF SECRETARY  
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October 14, 1982  
L-82-444 BRANCH

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Secretary of the Commission  
U. S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Attn: Docketing and Service Branch

DOCKET NUMBER PR-50  
PROPOSED RULE (47 FR 35996)

Dear Sir:

In response to the notice of proposed rulemaking published in the Federal Register on August 18, 1982 (47 FR 35,996), the following comments are herein submitted by Florida Power and Light Company. The proposed rule would clarify that all Part 50 licensees may take reasonable action that departs from a license condition or technical specification in an emergency when such action is immediately needed to protect the public health and safety. The proposed rule is felt to be beneficial in the promotion of safe operation of nuclear power plants and is thereby supported fully, with consideration of the following additional comments.

The Supplementary Information portion of the published notice provided that,

"The proposed rule does not require that departure from a license condition or technical specification have the concurrence of the most senior licensee and NRC personnel available at the time before the departure. . . . The proposed rule specifies only that a licensed operator should obtain the concurrence of a licensed senior operator and does not go into further detail as to which additional persons should be involved if time permits or which persons should be involved under other circumstances." 47 FR 35,997 (emphasis added).

As proposed, however, the specific language of section 50.54 (z) states:

"A licensed operator taking action permitted by paragraph (y) of this section shall, as a minimum, obtain the concurrence of a licensed senior operator prior to taking action. 47 FR 35,998 (emphasis added).

Though we agree that, as noted in the Supplementary Information portion, the concurrence of a senior reactor operator may be desirable, we believe that the rule should provide flexibility with respect to precise implementation and should not absolutely require such approval. Consistent with the discussion in the Supplementary Information portion, therefore, the word "shall," now contained in the proposed section 50.54(z), should be changed to "should". The notice also states (47 FR 45,997) that,

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Page 2  
October 14, 1982  
Secretary of Commission  
U. S. Nuclear Regulatory Commission

"The proposed rule does not provide significant guidance to Part 50 licensees for identifying those situations in which deviations from license conditions or technical specifications are allowable." In addition, the proposed rule and the supplementary information does not contain standards to be used by the NRC Staff in determining whether to take enforcement action against Part 50 licensees who deviate from license conditions or technical specifications ..."

It is not felt that additional guidance is either necessary or appropriate at this time. Because of organizational and other variations among utilities, we believe that maximum flexibility should be preserved in order to enhance the preferable development of site specific procedures. If additional guidance should appear to be needed in the future, it can be provided through further amendments.

Additionally, it is not felt that detailed standards for determining the appropriateness of enforcement action are desirable in cases where improper deviations from license conditions or technical specifications might have occurred. Since numerous circumstances could be involved, the specification of precise criteria would not be practical. NRC regulations already contain, in 10 C.F.R. 50.59 for example, provisions for licensee deviations from certain requirements without detailed standards for appropriate enforcement action having been necessary. The philosophy expressed in the notice, whereby "enforcement action for a violation of the rule would not be taken unless a licensee's action was unreasonable considering all the relevant circumstances having to do with the emergency" (47 FR 35,997) appears beneficial and practical. Accordingly, the incorporation of detailed specifications into the rule at this time, is not felt to be appropriate.

Sincerely,



Robert E. Uhrig  
Vice President  
Advanced Systems and Technology

REU/DAC/cab

cc: Michael A. Bauser (Lowenstein, Newman, Reis & Axelrad)



**PUBLIC  
SERVICE  
INDIANA**

S. W. Shields  
Senior Vice President  
Nuclear Division

Mr. Samuel J. Chilk  
Secretary of the Commission  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555

ATTENTION: Docketing and Service Branch

REFERENCE: 47 FR 35996, "Applicability of License Conditions and Technical Specifications in an Emergency," August 8, 1982 Federal Register

Dear Mr. Chilk:

Public Service Company of Indiana, Inc. (PSI) wishes to comment on the proposed rule, 10 CFR 50.54(y) and (z) - Applicability of License Conditions and Technical Specifications in an Emergency, published in the August 18, 1982 Federal Register. This proposed rule would allow licensees to take reasonable action that departs from a license condition or technical specification in an emergency when such action is needed to protect the public health and safety. PSI supports and encourages the adoption of this proposed rule for the following reasons:

- 1) Nuclear power plant operators are more effective at diagnosing and coping with emergency situations than when the technical specifications rule (10 CFR 50.36) was developed and adopted in the 1960's. Since that time, there has been increased emphasis by both the industry and the NRC on operator selection and training. In addition, the nuclear industry has gained many years of operational experience. This improved training and increased experience has resulted in operation staffs who are able to take decisive and appropriate actions to protect the health and safety of the public in an emergency.
- 2) Although reactor protection systems and plant procedures can compensate for almost all plant transients, a transient can take a course different from that visualized when plant designs and emergency procedures were developed. In this situation, the licensee must depend on a skilled and well trained operations staff to take the appropriate corrective action.

DOCKET NUMBER  
PROPOSED RULE PR-50

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October 13, 1982  
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Mr. Samuel J. Chilk  
Page 2

October 13, 1982

However, NRC regulations do not presently permit deviations from license conditions or technical specifications. The adoption of this proposed rule would give the operator the authority to take these actions.

PSI concurs with the NRC decision not to identify those situations in which deviations from license conditions or technical specifications are allowable. Since this rule will only be used during those unanticipated circumstances where immediate action is required, the specification of all allowed situations would be impractical. The development of very detailed criteria is also inappropriate because this rule should rarely be used.

Commissioner Gilinsky requests comments on whether the senior reactor operator (SRO) should make the decision on when to deviate from the technical specification or license conditions. The intent of this question is not clear. The proposed rule already states that a licensed reactor operator (RO) "shall, as a minimum, obtain the concurrence of a licensed senior operator prior to taking such action."

However, PSI agrees that an SRO should at least verify the RO's decision to deviate in an emergency. Although some licensees do train their ROs on the basis and importance of technical specifications, this training is only required for SROs by 10 CFR 55.21 and 22.

PSI appreciates the opportunity to comment and compliments the NRC on proposing a rule that could significantly improve the operator's ability to protect the health and safety of the public during an emergency. If any clarification or discussion of these comments is desired, please contact me.

Sincerely,

S. W. SHIELDS

SWS/MEN:1j1



**Consumers  
Power  
Company**

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USNRC

82 OCT 18 A11 <sup>20</sup> J Vandewalle  
Nuclear Licensing Administrator

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

General Offices: 1945 West Parnall Road, Jackson, MI 49201 • (517) 788-1636

October 13, 1982

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(47 FR 35996)

Samuel J Chilk  
Secretary of the Commission  
US Nuclear Regulatory Commission  
Washington, DC 20555

Att: Docketing and Service Branch

Consumers Power Company has reviewed the NRC's proposed rule changes to 10 CFR Part 50, Sections 50.54 and 50.72 concerning "Applicability of License Conditions and Technical Specifications in an Emergency" as noticed in the Federal Register of August 18, 1982 (47 FR 35996). Consumers Power Company agrees with the need to revise NRC regulations to specifically permit licensees to take reasonable action that departs from a license condition or technical specification in an emergency when such action is immediately needed to protect the public health and safety. We believe the proposed rule which clarifies that the licensee is permitted to deviate from a Part 50 license condition or technical specification will serve to further ensure the protection of public health and safety.

The following specific comments are submitted for your consideration on future revision of the proposed rule:

1. Since the proposed rule does not provide significant guidance to Part 50 licensees for identifying those types of situations in which deviations from license conditions or technical specifications are allowable, we believe that an industry standard endorsed by the NRC should be developed. Without such guidance, the subjectivity of Post-deviation NRC review will tend to discourage operator use of this provision until much further into an accident than may be intended by invoking this rule. Furthermore, such specificity is important guidance that would be beneficial in the operator training process.
2. Concerning standards to be used by the NRC Staff in determining whether to take any enforcement action against Part 50 licensees who unreasonably deviate from license conditions or technical specifications in an emergency situation, we believe that a standard should be developed by the NRC and industry which (1) addresses the NRC's view of "unreasonable deviations" and (2) delineates the standard process by which the NRC will review any licensee's use of the rule. This guidance could be specified

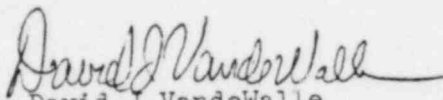
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in the above-mentioned industry standard on identifying appropriate use.

3. Concerning the level of licensee personnel making the decision to operate outside the technical specifications and Commissioner Gilinsky's comments, we concur that the decision should be made at a senior reactor operator (who are trained on both the basis and importance of the Technical Specifications) or higher level.

Consumers Power Company appreciates the opportunity to comment on this proposed rule and requests that these comments be considered in the NRC's future deliberations.



David J. Vandewalle  
Nuclear Licensing Administrator

C-E Power Systems  
Combustion Engineering, Inc.  
1000 Prospect Hill Road  
Windsor, Connecticut 06095

Tel. 203/688-1911  
Telex: 99297

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October 15, 1982  
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DOCKET NUMBER  
PROPOSED RULE PR-50  
(47 FR 35996)

Secretary of the Commission  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

ATTN: Docketing and Service Branch

Subject: Proposed Rule - Applicability of License Conditions and Technical Specifications in an Emergency (47 FR 35996)

Dear Sir:

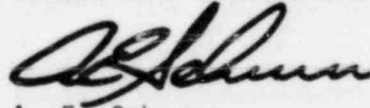
Combustion Engineering (C-E) has reviewed the proposed rule, noticed in the August 18, 1982 Federal Register (47 FR 35996), on license condition and technical specification applicability during emergency conditions. Comments based upon that review are provided in the enclosure.

In general Combustion Engineering endorses the efforts of the Nuclear Regulatory Commission (NRC) in acknowledging and dealing with this important issue. It is our position that it is not only important that the operator be aware of the consequences of his actions but that he have the authority, as well as the responsibility, to maintain his plant in a safe state, or restore it to one, by appropriate means. This rule change gives him the authority to take necessary action in unusual circumstances to protect the public health and safety.

If the staff should have any questions concerning our comments, they may feel free to contact myself or Mr. J. B. Kingseed of my staff at (203)688-1911, Extension 3797.

Very truly yours,

COMBUSTION ENGINEERING, INC.



A. E. Scherer  
Director  
Nuclear Licensing

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AES:ctk

Enclosure

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COMMENTS ON PROPOSED RULE

General Comments

The Commission has requested comments on a number of the proposed rule's provisions. Comments in each area are provided below.

- 1) NRC Proposal: The proposed rule does not contain standards to be used by the NRC staff in determining whether to take enforcement action against Part 50 licensees who deviate from license conditions or technical specifications.

C-E Comments: The unusual circumstances during which a licensee would take action allowed by this proposed rule make it difficult at best to write any specific enforcement policy. In reality any enforcement policy would probably be unable to address all possible scenarios that may arise. Any attempt to do so, furthermore, could actually limit the operators actions during those very unusual situations when the deviation from licensing conditions or technical specifications is the most critical. It is Combustion Engineering's position, therefore, that no specific enforcement policy be included in this rule. Enforcement against a licensee should more appropriately be based on the very specific circumstances of the event. This mandates a flexible enforcement policy.

C-E does believe, however, that anticipation of an overly critical evaluation of the licensee's conduct may, in fact, cause the operator to hesitate to take what he believes to be prudent and necessary action. C-E recommends that in the accompanying "Statement of Considerations" the Commission, in reviewing potential enforcement actions, states its explicit intent to give great weight to the operator's perception of the circumstances at the time.

- 2) NRC Proposal: The proposed rule does not provide significant guidance to Part 50 licensees for identifying those situations in which deviations from license conditions or technical specifications are allowable.

C-E Comments: Any attempt to identify each and every circumstance where a deviation from a license condition or technical specification would be tolerated is probably futile and not in the best interests of public health and safety. As indicated in the proposed rule, it is the special circumstances that can arise during emergencies such as multiple equipment failures, coincidental accidents, accidents not taking the course visualized, etc. that generate the need for this proposal. Such potential situations are, by their nature, unpredictable. It is the position of Combustion Engineering that this rule must be flexible in order to accommodate all possible scenarios necessitating deviation from license conditions or technical specifications. Such circumstances require reliance on the operator's good judgement, training, and experience to ensure that the public's health and safety is maintained.