



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
101 MARIETTA STREET, N.W.
ATLANTA, GEORGIA 30323

Report Nos.: 50-250 and 251/89-17, 50-335 and 50-389/89-12

Licensee: Florida Power and Light Company
9250 West Flagler Street
Miami, FL 33102

License Nos: DPP-67 and NPF-16,
and, DPR-31 and 41

Location: Corporate Offices, Juno Beach, Fla.

Inspection: April 10-12, 1989

Inspector: William J. Tobin
W. J. Tobin
Senior Security Inspector

May 19, 1989
Date Signed

Approved by: D. R. McGuire
D. R. McGuire Chief
Physical Security Section
Nuclear Materials Safety and Safeguards Branch
Division of Radiation Safety and Safeguards

5/19/89
Date Signed

SUMMARY

Scope: This special announced inspection was conducted to review the licensee's Fitness for Duty program which was compared against the NRC's Proposed Rule, Part 26, "Fitness-For-Duty Program" published on September 22, 1988.

Results: Since the NRC's original survey of this licensee's Fitness for Duty program in April 1986, noticeable improvements have been made in the chemical testing of employees and contractors. When compared to the NRC proposed criteria several strengths are noted:

- ° The licensee tests for barbiturates, benzodiazepines and methaqualone in addition to the five substances required by the Proposed Rule.
- ° With one exception, the cutoff limits used by the licensee are more restrictive than those required by the Proposed Rule.

Conversely, several weaknesses were also identified:

- ° Those individuals randomly chosen for testing may exercise a 45 day delay option prior to testing, and during that time (at the St. Lucie Nuclear Station) remain within the protected area



while undergoing treatment. The licensee's practice is to preclude all such randomly chosen individuals who fail or refuse the test from performing safety related duties or having access to Safeguards Information. The extent to which their prior work is audited is left to the discretion of the Plant Manager.

- ° The licensee randomly tests only individuals granted unescorted access to the vital areas, whereas the Proposed Rule calls for a greater percentage of the population granted access to the protected area to be eligible for random testing.

It would appear, in summary, that the licensee has directed its Fitness For Duty program to aggressively find the violator, yet be less punitive to the offender with an emphasis towards rehabilitation and recovery.

REPORT DETAILS

1. Persons Contacted

Licensee Employees

- *D. Sager - Vice President, Nuclear Energy Division
- *H. Habegger, Personnel Coordinator, Nuclear Energy Division
- *K. Wisniewski, Personnel Coordinator, Nuclear Energy Division
- *G. Smith, Personnel Manager, Nuclear Energy Division
- *D. Brodnick, Security Coordinator, Nuclear Energy Division
- *J. Velotta, Planning Manager, Nuclear Energy Division
- *G. Madden, Licensing Engineer, Nuclear Energy Division
- *R. Symes, Quality Assurance Supervisor, Nuclear Energy Division
- *J. Perkins, Nuclear Energy Analyst, Nuclear Energy Division
- *L. Rodriguez, Administrator, Employee Assistance Programs
- *P. Akin, Industrial Relations Department
- *L. Pugliese, Industrial Relations Department

*Denotes those present at the exit meeting

2. Florida Power and Light Company's Fitness for Duty (FFD) Program

A. Scope (Part 26.2)

In that the licensee's Emergency Operations Facility (offsite) would be staffed by various Corporate entities not within the Nuclear Energy Division i.e., District Offices, Risk Management, Telecommunications and the licensee's executive holding company, FPL Group, the licensee does not now apply it's FFD program to those organizations. This differs from that proposed Rule which would apply FFD programs to such employees.

By letter dated November 21, 1988, making specific comments on the Proposed Rule, the licensee took issue with the implementation dates stating that various contracts and union agreements would require about one year to renegotiate.

B. General Performance Objectives (Part 26.10)

It is the Policy of Florida Power and Light Company that all employees and contractors report for work drug and alcohol free, being mentally and physically able to perform their jobs in a safe, efficient and reliable manner. Furthermore, it is the licensee's Policy that any employee or contractor is subject to discharge for reporting to work under the influence of alcoholic beverages or drugs, or being under the influence of alcoholic beverages or drugs during working hours, or using or possessing illegal drugs while on or off the job.

Through the use of "Maintenance Agreements" the licensee has made this Policy contractually applicable to all of its vendors. Procedure #SQAD 1007, Special Quality Assurance Document titled "Contractor Fitness For Duty Program" implements those parts of the Policy for contractors that apply to training, drug testing, records and audits, as well as, contractor commitment and reporting requirements.

C. Program Elements and Procedures (Part 26.20)

The licensee's procedures and program address only its own Employees Assistance Program. To avoid a "a co-employer relationship" conflict the licensee requires its contractors to proceduralize their own Employee Assistance Programs with their own employees.

D. Policy Communication and Awareness Training (Part 26.21)

To help publicize its Policy the licensee uses the monthly newsletters sent to the employee's home, and weekly notices sent to its managers. Additionally, safety meetings, bulletin boards and union sponsored lectures help make employees and contractors aware of the FFD Policy.

Retraining is scheduled to be done every year. At Turkey Point training is part of the General Employee Training, whereas at St. Lucie training is a separate curriculum.

E. Training of Supervisors and Escorts (Part 26.22)

The licensee's training of supervisors (foremen and above) is conducted by a dedicated site FFD instructor, one per site, and assisted by a Corporate Personnel Coordinator. The inspector reviewed the training curriculum and it appeared to be adequate. Smaller contractors utilize the licensee's 5 to 8 hours training classes, whereas a few of the larger contractors use their own programs which have been audited and approved by the licensee.

The licensee does not offer additional training to escorts as proposed by the NRC Rule. The escorts receive only the training offered to employees and not the training offered supervisors. Supervisors are retrained every 2 to 3 years.

F. Contractors (Part 26.23)

As stated earlier in paragraph A, the licensee's FFD Policy is applicable to all contractors. The licensee audits the contractors FFD program to the extent that approximately 80 of the 200 vendors have been audited at least once, those remaining are staffed by 5 or

less employees. The contractors are required to use the same chemical testing laboratory as the licensee, namely Roche Biomedical Laboratory in Atlanta, GA., and Burlington, NC.

In accordance with its NRC approved Physical Security Plan, the licensee can authorize unescorted access to contractors without benefit of a full background/screening investigation. The Plan only requires 2 character references for contractors to be granted a clearance. In accordance with 10 CFR 73.57, criminal history checks are done through a fingerprint check which will reveal a prior arrest but not a prior dismissal from a utility for failing to meet a FFD program. In order for the licensee to meet the "suitable inquiry" requirements of the Proposed Rule the licensee has joined the industry wide clearance program sponsored by the Nuclear Employee Data System (NEDS).

G. Chemical Testing (Part 26.24)

The licensee has been conducting the following chemical tests:

- ° As of October 1983, all new employees of the licensee were tested as part of the pre-employment physical.
- ° As of August 1986, all licensee supervisors, foremen and managers within the Division of Nuclear Energy became subject to a random drug testing program.
- ° As of August 1987, all new contractor employees were tested as part of the "pre-access process".
- ° As of November 1987, all persons with valid unescorted vital area access badges were subject to random testing.
- ° As of April 1988, all persons (to include contractors) who transfer into the Division of Nuclear Energy facilities are tested prior to their transfer.

Additionally, the licensee conducts "for cause" testing which could include those individuals involved in industrial accidents or the subjects of credible allegations from local police departments, NRC, supervisors, co-workers or based upon behavior observation. The "for cause" testing is done by a Medical Doctor and includes blood and urine testing, as well as a physical. This program was officially recognized in May 1984.

The licensee compares to the NRC Proposed Rule by testing for the following substances using the below listed cutoff levels:

	<u>EMIT (SCREEN)</u>	<u>GC/MS (Confirmatory)</u>
Marijuana	20 ng/mL (100-NRC)	10 ng/mL (15 - NRC)
Cocaine	300 ng/mL (300-NRC)	150 ng/mL (150 - NRC)
Opiates	300 ng/mL (300-NRC)	300 ng/mL (300 - NRC)
Phencyclidine (PCP)	75 ng/mL (25 -NRC)	20 ng/mL (25 - NRC)
Amphetamines	300 ng/mL (1000-NRC)	500 ng/mL (500 - NRC)
Barbiturates	300 ng/mL *	200 ng/mL *
Methaqualone	300 ng/mL *	200 ng/mL *
Benzodiazepines	300 ng/mL *	150 ng/mL *

*NRC does not require these three substances to be part of the chemical testing program in the Proposed Rule.

A review of the above chart reveals that the licensee has more restrictive cutoff levels in 4 tests and one less restrictive level for PCP; the contract laboratories (Roche) have advised the licensee that the cutoff level for PCP is at a point that Roche can defend in a court of law.

With respect to "blind test specimens" being sent to the contract laboratories, the licensee does not submit such tests samples, however, Roche Laboratories are tested by both the College of American Pathologists and the Health and Rehabilitation Services of the State of Florida's Department of Public Health. These two tests are "proficiency" tests; Roche sends true "blind specimens" through its own laboratories as part of its own internal testing program.

It is the policy of the licensee to randomly test those individuals granted unescorted access to the vital areas and the Radiation Control Area, but not the protected area. This means that about 80% - 90% of the individuals allowed unescorted access to the facility are subject to random testing. This testing has routinely occurred four times a year, and on different dates for the two different facilities. In 1988 the licensee randomly tested a total of 843 individuals at both nuclear sites and found 16 examples of "positive" tests (failures) and 21 examples of "refusals". (See paragraph I for a discussion of the refusal clause). Cannabinoid and cocaine were by far the most common substances found.

The licensee's "pre-access" screening program has resulted in 465 contractors testing "positive" and being denied consideration for access to the two facilities.

H. Employees Assistant Program (Part 26.25)

An Employee Assistance Program Coordinator is available in Miami, Florida, to confidentially deal with employees (and members of their family) who are experiencing marital, financial or drug/alcohol problems. In accordance with a State of Florida law, this

coordinator is required to notify management within the licensee's Division of Nuclear Energy if an individual undergoing counselling could pose a threat to himself or the facility.

I. Management Actions and Sanctions to be Imposed (Part 26.27)

Currently, the licensee does not have a written statement from a prospective employee/contractor divulging a previous FFD violation, nor is the licensee prepared to divulge such information if it receives a written request from a prospective employer at another licensee.

A major weakness of the licensee's FFD program was identified in the practice of allowing an individual randomly chosen for testing to waive the test for up to 45 days. This practice is described as an informal agreement with the union so that random testing is not viewed as a punitive measure but rather as one emphasizing rehabilitation or recovery options. During this 45 day period the individual is still paid and utilized doing other than normal duties. At Turkey Point the individual is denied access to the protected area, whereas at St. Lucie the individual remains onsite but is denied vital area access. While not formally proceduralized, it is the Plant Manager's practice to deny the individual access to Safeguards Information and to assign the employee to duties that are not related to plant safety. There exist a "Drug Test Refusal and Positive Action Checklist" which is reviewed with the employee's Department Supervisor which documents the licensee's practice. At the discretions of the Plant Manager the employee's safety related work also receives an audit review, however, the extent and depth of that review is not formalized, nor, the Inspector was advised, is that review consistent in all cases in terms of percentage of work audited.

Furthermore, with respect to an employee's refusal to test for 45 days, if a person fails to submit a "clean" or negative specimen within the 45 day period then that individual has been in some cases allowed to resign (versus termination) which reduces the licensee's risk of having to go to an arbitration hearing.

J. Appeals (Part 26.28)

With respect to bargaining unit employees, the licensee uses the necessary appeals process as part of its grievance review procedure outlined in its collective bargaining agreement.

K. Protection of Information (Part 26.29)

The licensee has a system of files and procedures for the protection of personnel information.

It is the licensee's practice to disclose only name, dates of employment, title and eligibility for rehire to a prospective employer. The licensee does not release FFD information regarding a former employee.

L. Inspection, Records, Reporting (Part 26.70, 71, 73)

Although the licensee took exception with the proposed NRC Form containing FFD program performance data, it is adequately keeping such records and reports. The licensee's reporting or logging such FFD events is appropriate under the current 10 CFR 73.71.

M. Audits (Part 26.80)

Currently the licensee performs "internal assessments" of its FFD program on an annual basis by the Quality Assurance Department. Contractor programs are surveyed telephonically on an annual basis to determine if the programs have been revised. Contractors are scheduled to be audited every 3 years.

3. Exit Interview

The inspection scope and results were summarized on April 12, 1989, with those persons indicated in paragraph 1. The Inspector described the areas inspected and discussed in detail in the inspection results. The licensee stated that Plant management's discretion was used in its decision to review an individual's safety related work if the person was exercising the 45 days waiver of random testing or had failed the first random test.

