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**Florida
Power**
CORPORATION

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BRANCH

October 4, 1982
#3F-1082-05
File: 3-0-3-a-3

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

DOCKET NUMBER
PROPOSED RULE PR-50
(47 FR 33980)

Attention: Docketing & Service Branch

Subject: Crystal River Unit 3
Docket No. 50-302
Operating License No. DPR-72
Personnel With Unescorted Access to Protected Areas;
Fitness for Duty Proposed Rule

Dear Mr. Chilk:

Based on the significant impact this proposed rule of the Nuclear Regulatory Commission (NRC), published in the Federal Register August 5, 1982, Volume 37, Number 151, Page 33980, entitled "Fitness for Duty", would have on the Nuclear Industry, Florida Power Corporation (FPC) submits the following comments. Florida Power Corporation is an investor-owned electric utility serving 32 counties in the State of Florida. Various existing programs of FPC are designed to support and to provide an indication of "Fitness for Duty" of all persons granted unescorted access to the Protected Area. Therefore, FPC has a substantial interest in the issues raised by the proposed rule.

FPC is extremely concerned about the potential threat of drug and alcohol abuse throughout our system, as are the companies identified in NUREG 0903. FPC's continuous Behavioral Observation Program developed under 10 CFR 73.55, ANSI N18.17 (1973), ANSI/ANS 3.3 (1982), and FPC Security Plan are designed to have supervisors detect aberrant behavior and would address any of the concerns upon which this rule was founded. If the Commission determines that further action must be taken in this area, the issuance of a general policy statement, rather than a rule, is a more effective and practical approach.

There are several features of the proposed rule which present serious problems that we would like to bring to the attention of the Commission.

- 1) The proposed rule would require FPC to "assure" that personnel with unescorted access are fit for duty. This would require FPC to guarantee (or assure) that each individual who enters the Protected Area is in all regards fit for duty. This is virtually impossible. Drugs in the human body can only be

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detected by laboratory analysis of body fluids. It is clearly unreasonable to require analysis of body fluids each time an individual enters the Protected Area. It is equally unreasonable and, in fact, impossible to guarantee that an individual is not "otherwise unfit for duty" because of mental and/or temporary physical impairment that would affect their performance in any way contrary to safety. The proposed rule would place upon FPC a responsibility which is impossible to fulfill to the fullest. Furthermore, a survey of clinical laboratories reflects that a comprehensive toxicology analysis, to include qualitative analysis and quantitation, would cost approximately \$90.00 per test. Less extensive examinations would range from \$22.00 for a routine screen, to \$55.00 for qualitative drug profile. The cost for this facility for one test of all personnel with unescorted access would be \$82,500.00. This cost would be increased by the frequency of examinations. These figures do not include additional labor cost incurred by FPC due to delay time for processing prior to granting unescorted access. Consequently, it should not be adopted as it is presently written. If the Commission decides to proceed with issuance of a rule, and if the rule is in the form of a general descriptive regulation, the regulation's objectives should be reasonably attainable. Therefore, the word "assure" should be deleted and replaced by the words "provide reasonable assurance."

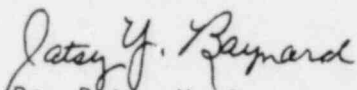
- 2) The rule addresses the issue of personnel "otherwise unfit for duty because of actual or temporary physical impairments that could affect their performance in any way contrary to safety." The "guarantee" burden of meeting the "otherwise unfit for duty" portion of the proposed regulation is equally impossible. We know of no type of medical or psychological examination which can be validated as being able to "assure" or guarantee that an individual has no "mental or temporary physical impairments that could affect their performance in any way contrary to safety." Implementation of this Section would most practically be accomplished by means of continual observation by individual supervisors, as presently required by 10 CFR 73.55, ANSI N18.17 (1973), and ANSI/ANS 3.3 (1982).
3. The subject of this proposed rule is important to the industry; however, this program should cover all persons granted unescorted access. The NRC and others not specifically covered by this regulation should apply the program to its own personnel and certify to the licensee that its personnel meet the requirements established in these guidelines, similar to present procedures under 10 CFR 73.55. We would be willing to cooperate and assist the NRC and others with their program in any way.
4. The proposed rule would require that FPC maintain written records for the life of the plant. We believe that maintaining records in accordance with 10 CFR 73.70 ("Records") is adequate. FPC personnel records will continue to be maintained in accordance with existing FPC personnel policies.

Samuel J. Chilk
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If the NRC proceeds in the promulgation of this regulation and decides to include detailed specifications for compliance, it would be useful and productive for NRC staff to first meet with knowledgeable industry security personnel. The issues involved in developing a rule containing specific, detailed, and yet flexible requirements are complex. There has been no previous formal or informal NRC-industry dialogue on the issues covered by this proposed rule. The purpose of a meeting (or series of meetings) with industry security personnel would be to explore the nature, extent, and most effective means of dealing with the issues addressed by this proposed rule. FPC would join with the NRC and other industry representatives to discuss current company fitness for duty policies and programs, as well as to aid in the evaluation of specific program requirements.

Finally, since this rule has been proposed in general terms without details as to specific requirements, if the NRC determines that a rule containing specific program requirements is appropriate, it should reissue a proposed rule as reformulated to enable FPC to comment in an informal and complete manner on the details of that proposed rule.

Very truly yours,



Dr. Patsy Y. Baynard
Assistant to Vice President
Nuclear Operations

Knoll(M02)C5-1

cc: Mr. J. P. O'Reilly
Regional Administrator, Region II
U. S. Nuclear Regulatory Commission
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October 5, 1982

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(51)

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

DOCKET NUMBER
PROPOSED RULE PR-50

(47 FR 33980)

Attention: Docketing and Service Branch

Re: Personnel with Unescorted Access to
Protected Areas; Fitness for Duty

Dear Sir:

Pacific Gas and Electric Company is pleased to have the opportunity to comment on the proposed rule for "Fitness for Duty" described in the Federal Register of August 5, 1982 (47 FR 33980).

Very truly yours,

Philip A. Crane, Jr.

Enclosure

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add: to Murchoff
5650 N.L.

Acknowledged by card 10/18/82 emp

ENCLOSURE

PGandE Comments on Proposed Rule, Personnel With
Unescorted Access to Protected Areas; Fitness for Duty

General Comment

We agree that persons under the influence of drugs or alcohol or who are otherwise unfit for duty should not be granted unescorted access to a nuclear power plant, or escorted access for that matter. We do not believe, however, that a specific fitness for duty rule is necessary to ensure that persons unfit for duty as a result of alcohol, drugs or other reasons are excluded from nuclear power plants. Furthermore, any type of fitness rule which would require breath or chemical tests of nuclear professionals and skilled technicians may be counterproductive to safety and inconsistent with fitness rules established for safety in other safety critical industries.

Comment 1

The fitness for duty criteria in the referenced 14 CFR 91.11(a) for the Federal Aviation Administration (FAA) is a codification of standard industrial or business practices. It is our understanding that long before the FAA rule existed all commercial airlines had similar and often more stringent rules and procedures in this area. This is also true of the utility industry. We know of no utility which does not prohibit the use of alcohol or drugs, or being under their influence, while on the job. This is because the industry is well aware of the ramifications of allowing persons unfit for duty to be allowed in an environment such as a power plant. In addition to the detrimental effects such persons could have on the efficient operation and maintenance of complicated and expensive equipment, the adverse effects they could create in terms of safety and subsequent liability are well understood. Therefore, we believe that the proposed rule is not necessary.

Comment 2

Current screening requirements encompass background investigations, psychological tests and behavioral observation programs. Employee awareness programs and employee assistance programs, while not required by regulation, are common in the industry and appear close to being universally accepted and utilized. Thus, the majority of implementation methods identified as examples in the proposed rule are already either required by regulation, or are in common industry practice. In addition, accepted supervisory practices and methods constitute the greatest deterrent to persons unfit for duty from being permitted to work in a nuclear facility. Another existing deterrent, present in all nuclear plants, is access controls. While these controls are designed to disclose contraband and to exclude unauthorized personnel from nuclear plant protected areas, by their very nature they also subject all persons entering the plant to the close scrutiny of members of the security organization whose duties include refusing admittance to persons observed to be under the influence of alcohol or drugs. Furthermore, the search process associated with access control discourages the carrying of alcohol and drugs into a plant due to the high probability of discovery.

With reference to breath or chemical tests of employees, it should be pointed out that even under the FAA Regulation 14 CFR 91.11, no such tests are required of flight crews. Individuals working at a nuclear plant consider themselves professionals, an attitude which in and of itself constitutes significant assurance of proper personnel conduct. Breath or chemical tests could seriously erode this perception. This could actually result in loss of morale and subsequent poor employee performance, causing substandard workmanship to the point where safety may in fact be adversely affected by the enactment of the rule. In addition, subjecting employees to tests of this nature could seriously erode the mutual trust and confidence that presently exists between manager and employee.

For the foregoing reason, we strongly disagree with the promulgation of any type of fitness rule which would require breath or chemical tests of employees.

Comment 3

As indicated in our General Comments section, we disagree with the need for the rule. Should a rule be promulgated, however, we see no reason for a distinction between vital and protected areas.

Comment on Commissioner Gilinsky's Request

If promulgated, the rule should certainly apply to NRC personnel. With reference to setting specific blood alcohol limits, due to the variability of persons and their tolerance for alcohol, it would seem that any amount of alcohol detected should be grounds for refusal of admittance to a plant. We would also like to point out that, to our knowledge, no breath test exists for the detection of various drugs. Therefore, chemical tests would also be necessary, the results of which are not available until after analysis. Thus, a person with perhaps a very low quantity of alcohol in his blood would not be allowed access, while a person with a significant amount of drugs in their system could theoretically gain access and not be detected until the analysis results were known.

Conclusion

We acknowledge the fact that drug and alcohol abuse exists within our society. We believe, however, based upon the small number of incidents, the nuclear industry is doing a good job of controlling the problem. Further, for the reason cited, we believe that a fitness of duty rule would not result in any increase in safety and might, in fact, have the opposite effect.



Nuclear Fuel Services, Inc. ERWIN, TENNESSEE 37650

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October 4, 1982

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

Attention: Docketing and Service Branch

Reference: Proposed Rule, 10 CFR 50 - Personnel
with Unescorted Access to Protected
Areas; Fitness for Duty

DOCKET NUMBER
PROPOSED RULE

52
PR-50
(47 FR 33980)

Dear Sir:

Although the referenced rule does not apply to Part 70 licensees, NFS-Erwin has reviewed the regulation and offers its comments for your consideration.

The proposed rule requires the licensee to establish, document, and implement procedures designed to deny access to the protected area to anyone (1) under the influence of alcohol, (2) using drugs that affect their faculties in any way contrary to safety, or (3) otherwise unfit for duty because of mental or temporary physical impairments that could affect their performance in any way contrary to safety.

The primary problem with establishing and implementing such procedures is the lack of definition of such terms as "under the influence," "any drugs that affect their faculties in any way contrary to safety" and "mental impairment that could affect their performance in any way contrary to safety."

First, in regard to "under the influence," the Commission must be well aware of the variety of tests which state governments have established for determining blood-level standards for driving under the influence. *The Commission must assume its responsibility of setting forth a specific definition of this requirement. Secondly, it is uncertain what criteria will be utilized to determine which drugs may have an effect on the user. This regulation does not define whether it is limited to controlled substances or whether it includes all medicines (both across the counter or prescribed by a physician). If the regulation is directed to all medicinal drugs, employees will need to receive guidance as to whether reliance on manufacturer's warnings is sufficient or whether a physician's opinion will be required before using any medication. Medications can have vastly different effects on different individuals. Developing a universal rule regarding utilization of medicinal drugs would be a very difficult task.

*In order to assure uniformity in approach and guidance to licensees in its application.

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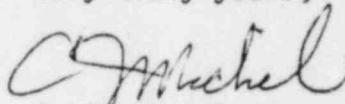
Acknowledged by card 10/21/82 emp

October 4, 1982

Even more problemsome for a licensee will be the establishing and implementing a program regarding "mental impairment." The law has for centuries made various attempts to develop a standard for what constitutes mental impairments for legal responsibility for one's act. Such a determination as required by this proposed regulation raises difficult unanswered medical/legal questions. Again, before promulgating this requirement on licensees, the Commission must develop workable, practicable and objective standards which a licensee can effectively utilize. Finally, the regulation must be amended to include the acceptable methods of detecting the employees who should be denied access for any of the reasons cited in the proposed regulation.

Unless the regulation defines the above terms, specifies the methods of determining the defined terms and methods of detection, we believe the NRC is transferring a responsibility and legal liability which belongs within the regulatory agency. We, therefore, recommend that the proposed regulation be changed to include the above or be withdrawn, with the control of fitness for duty remaining in the existing 10 CFR 10 and 10 CFR 25 which detail the investigation procedures for access authorization to classified material and in 10 CFR 11 for access to and control over Special Nuclear Material.

Very truly yours,



C. J. Michel
Administrative Manager

CJM:vh