

DOCKET NUMBER
~~PROPOSED RULE~~ PR-73 (5)
(51 FR 40438)

DOCKETED
U.S. NRC

'86 DEC -8 A10:59

**Florida
Power**
CORPORATION

OFFICE
DOCKET
UNIT

December 5, 1986
3F1286-10

Secretary of the Commission
Attention: Docketing and Service Branch
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Subject: Crystal River Unit 3
Docket No. 50-302
Operating License No. DPR-72
Requirements for Criminal History Checks
as Published in the Federal Register
Volume 51, Number 216, Page 40438

Dear Sir:

Florida Power Corporation (FPC) offers the following comments on the requirements for criminal history checks.

1. A backfit analysis in accordance with 10 CFR 50.109 is necessary regardless of legislative mandate. In developing the backfit rule, there was never any consideration to not performing a backfit analysis when a requirement was required by the legislative branch. The NRC must evaluate the most cost-effective means to implement the law. The OMB clearance request for FD-258 stated it would require 86,666 responses involving over 31,000 manhours to implement. This rule will have significant impact on the industry, and this method of implementation needs to be proven. FPC estimates approximately four additional new positions per utility will be required to implement the final rule.
2. The proposed rule states it will be effective upon publication in the Federal Register (FR). We disagree with this time schedule because of the tremendous administrative burden the rule will impose. To allow the industry time to develop a program that is based upon the final rule, we request at least a minimum 90-day effective date after publication in the FR be provided.

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add K. Gangochian, 13055

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December 5, 1986

3F1286-10

Page 2

3. The purpose of the \$15.00 required by Part 73.57(d)(3) is not clear in the proposed rule. The discussion in the "Supplementary Information" is contradictory. The legislative history indicates the FBI will charge an additional fee for processing record checks, whereas the NRC position is the fee will be utilized to offset NRC and FBI costs. FPC assumes the NRC interpretation of the language in the law is the correct one. The \$15.00 fee is the only charge we can expect.
4. The proposed rule does not recognize any utility efforts which are already in place to accomplish the same objective. FPC investigates all potential employees to determine whether they are suitable for employment at CR-3. The proposed rule could impose a restriction on use of personnel pending the official check by the FBI. FPC suggests a provision be added to the final rule to allow the utility's investigative program to serve as the basis for determining unescorted access for a grace period of 90 to 180 days in order to permit processing and receipt of the FBI report with minimal adverse impact on licensees. We believe our investigative program is at least as complete as the FBI's, and our program will satisfy the intent of the public law.

FPC also suggests the rule allow for the collection and initial evaluation of fingerprint information to be done by non-licensees. Where a licensee allows a separate entity to collect and evaluate the information, the licensee will maintain responsibility for the collection and evaluation of individuals with unescorted access. Such a provision will allow the licensee to have contractors supply fingerprint data and make a determination whether or not to even consider a request of the licensee to allow unescorted access. Where the contractor recommends unescorted access, the licensee will require the fingerprint data and the FPC report in order to verify or audit the contractor's evaluations.

Additionally, FPC suggests the rule endorse the NUMARC "Industry Guidelines for Nuclear Power Plant Access Authorization Programs" as sufficient to meet Rule requirements, with revisions to the proposed Rule to assure there are not conflicts.

5. Part 73.57(a)(2) should state ". . . fingerprint cards shall be submitted for those individuals who have access to Safeguards Information or require access authorization." This change would make this section consistent with 73.57(b)(1) and 73.57(d)(1).

6. Parts 73.57(b)(1) and (b)(2) - The rule is not clear regarding use of employees while the criminal history check is underway. During a refueling outage, FPC employs large numbers of temporary employees who may not have worked at another nuclear power facility. These employees have an average length of employment of two months. FPC believes that the turnaround time expected for the FBI check will normally exceed the employment time. As previously stated, the rule should provide licensees the opportunity to allow unescorted access to the facility pending receipt of the FBI check.

Providing escorted access to many refueling outage work items is not realistic because of increased radiation exposure. This approach would be a negative influence on the ALARA program. If the NRC believes the "grandfathering" provision of this section is acceptable for security interests, then FPC believes it is appropriate to allow unescorted access during the period of the FBI check. FPC, as stated earlier, supports the recommendations of NUMARC "Industry Guidelines for Nuclear Power Plant Access Authorization Programs".

The last sentence of Part 73.57(b)(1) is unclear. As written, it implies all individuals who do not have unescorted access must be fingerprinted. This is clearly not the intent of the Rule as explained in the supplemental information. FPC suggests the following as a replacement.

"Ninety days after (date of Rule issuance), individuals desiring unescorted access or access to Security Safeguards Information shall be fingerprinted. The licensee may grant temporary unescorted access for up to 180 days provided the fingerprint card has been submitted to the NRC and all other Security Plan requirements for unescorted access have been satisfactorily completed."

7. Part 73.57(e) should clearly define the obligation of the licensee to provide for an administrative appeals process for job applicants where the licensee has denied unescorted access (and, therefore, employment) to the external job applicant.

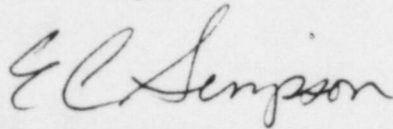
The same standard specified in Rev. 8, NUMARC "Industry Guidelines for Nuclear Power Plant Access Authorization Programs", Section 7.1, "Review Process", should be recognized, i.e., a review process will only be required for a permanent employee of a utility.

8. Part 73.57(f)(3) details under what circumstances a criminal history check may be transferred. The criteria (iii), that any termination must have been favorable, has no basis in the Omnibus Diplomatic

December 5, 1986
3F1286-10
Page 4

Security and Anti-Terrorism Act of 1986. If the intent of this requirement is protection of individuals from misuse of criminal history records, this requirement is unnecessary. It should be up to the individual to decide if a prior employer can transfer the information. This requirement (iii) could be unnecessarily penalizing a terminated employee by requiring additional criminal history checks.

Sincerely,

A handwritten signature in cursive script, appearing to read "E. C. Simpson".

E. C. Simpson
Director, Nuclear Operations
Engineering and Licensing

JWT/feb