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Florida Power & Light Company, P. O. Box 14000, Juno Beach, FL 33408-0420

64FR 61142

Nov. 9, 1999

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Mr. David L. Meyer  
Chief, Rules and Directives Branch  
Division of Administrative Services  
Office of Administration  
Mail Stop T6D59  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

RULES & DIR. BRANCH  
US NRC

**Re: Florida Power & Light Company Comments  
Revision of the NRC Enforcement Policy  
64 Fed. Reg. 61142 (Nov. 9, 1999)**

Dear Mr. Meyer:

Florida Power & Light Company (FPL), the owner and operator of the St. Lucie Nuclear Plant, Units 1 and 2, and the Turkey Point Nuclear Plant, Units 3 and 4, hereby submits the following comments on the above-referenced revision to the NRC's Enforcement Policy.

1. In summary, FPL supports the NRC's transition to a process that more objectively focuses enforcement on the actual consequences of violations. Such a process will reduce the regulatory burden on licensees and will enhance safety by encouraging licensees to focus their resources on issues that have safety significance.
2. FPL supports the NRC's use of the concept of potential consequences as a consideration in the significance assessment process. As revised, NRC will consider the realistic likelihood of a violation affecting safety, and will use risk insights to determine the final enforcement sanction. FPL believes that this will focus the enforcement process on those violations that could have credibly resulted in actual consequences for the public health and safety.
3. FPL supports the Commission's decision to eliminate the concept of "regulatory significance" in the context of assessing the significance of violations in the enforcement process. FPL is concerned, however, with the retention of some of the concepts relating to "regulatory significance" as retaining some of the subjectivity that caused certain enforcement actions to focus on matters that had no actual or credible impact on the public health and safety. For example, while FPL has no quarrel with NRC considering violations that actually impact the NRC's ability to carry out its statutory mission (i.e., violations of 10 CFR 50.59, 50.72 and 50.73), the retention of violations that could have the potential to impact the NRC's ability to carry out its statutory mission is similar to the subjectivity inherent in the use of the term "regulatory significance." Such subjectivity allows for speculation and supposition concerning whether a violation might have created an impact on the regulatory process. FPL recommends that such matters be addressed outside of the enforcement process.

PDR ADOCK

an FPL Group company

4. In this same regard, FPL suggests that NRC clarify and specifically list only those violations that NRC believes would directly affect its ability to carry out its regulatory mission. The revised Enforcement Policy provides examples of such violations, but does not purport to include a comprehensive list. This category of violations should be carefully constrained so it does not become a de facto catch-all category for those violations which involve no actual or potential safety consequences but would previously have been termed as having “regulatory significance.”<sup>1</sup>
5. FPL is also concerned that NRC would consider enforcement for failure to “maintain a safety conscious work environment,” as suggested at 64 Fed. Reg. 61143. In 1998, NRC declined to pursue rulemaking that would have codified the attributes of a safety conscious work environment. The Commission concluded (63 Fed. Reg. 6235 (1998)) that existing requirements and policies were sufficient to address issues involving safety-conscious work environments. FPL suggests clarification that alleged failures to maintain a safety-conscious work environment will not be the subject of enforcement actions.

We appreciate the opportunity to comment on the revised NRC Enforcement Policy.

Sincerely yours,



Thomas F. Plunkett  
President  
Nuclear Division

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<sup>1</sup> FPL provides the same comment for the interim enforcement policy for use during the NRC Power Reactor Oversight Process Pilot Plant Study (i.e., violations not evaluated by the SDP and those having actual consequences).