

**Florida
Power**
CORPORATION

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J. Lieberman

62FR 8785
Feb. 26, 1997
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RULES DIVISION
USNRC

ROY A. ANDERSON
SENIOR VICE PRESIDENT
NUCLEAR OPERATIONS

June 9, 1997
3F0697-34

Mr. David Meyer
Chief, Rules Review and Directives Branch
Division of Freedom of Information Publication Services
Office of Administration, Mail Stop T6D59
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: NRC's Request for Public Comments on Licensee Promotion of a "Safety-Conscious Work Environment," 62 Fed. Reg. 8785 (Feb. 26, 1997)

Dear Mr. Meyer:

This provides Florida Power Corporation's comments in response to the NRC's request for public comment on its proposed "strategies" to address the need for a safety-conscious work environment (62 Fed. Reg. 8785 (Feb. 26, 1997)). Florida Power appreciates the opportunity to comment on the proposed strategies and supports fully the comments submitted by the Nuclear Energy Institute on behalf of the nuclear energy industry. Because we believe that several points warrant particular emphasis, Florida Power submits these additional comments.

Florida Power certainly agrees that fostering the free flow of information and promoting a work environment in which employees feel free to raise safety concerns is key to the safe, reliable, economic and environmentally sound operation of nuclear power plants. Nevertheless, Florida Power strongly disagrees with the "strategies" proposed by the NRC, which would attempt to standardize the regulatory approach to address nuclear work place issues. As discussed below and detailed in NEI's comments, the

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RD-25 Nuclear Safety

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NRC's proposals are an unnecessary and impracticable attempt to regulate work force "culture," and will likely have unintended, adverse consequences. We therefore urge the Commission to take no further action on the strategies outlined in the Federal Register notice.

The NRC seeks to standardize the regulatory approach to address nuclear work place issues by either implementing a new regulation or issuing a policy statement. The regulation or policy statement would purport to (1) define the attributes of a safety conscious work environment, (2) identify the indicators the NRC will consider in determining emerging adverse trends at individual plants, and (3) identify the remedial actions the NRC could impose on licensees. These predetermined remedial measures include requiring a licensee to extend pay and benefits to employees who allege discrimination based upon the mere filing by the employee of an internal or Department of Labor complaint (i.e., the so-called "holding period").

Implementation of this proposed standardized approach, we believe, is misguided. As an initial matter, the proposed strategies are unnecessary. The NRC already has ample means to address problems if and when they occur, and has effectively and swiftly taken enforcement action to address such problems. In addition, existing statutes (Section 211 of the Energy Reorganization Act of 1974, as amended) and Commission regulations (10 CFR 50.7) already require that licensees guarantee that employees feel free to identify safety concerns without the fear of retaliation. The NRC, in its 1996 Policy Statement ("Freedom of Employees in the Nuclear Industry to Raise Concerns Without Fear of Retaliation;" 61 Fed. Reg. 24336, May 14, 1996), also has recently provided its clear expectations to the industry of the need to ensure that licensees promote the free flow of information within their work force.

These tools are flexible and more than adequately assure that licensees promote and maintain "safety-conscious" work environments. The industry's safety record during the last two decades supports this fact. There simply does not appear to be any credible evidence that situations exist which the existing regulatory framework has been or is inadequate to deal with.

Apart from the necessity of the proposed strategies, the attempt to impose a standardized approach to dealing with work force issues, ignores different and effective ways in which different licensees used to address and resolve employee safety concerns.

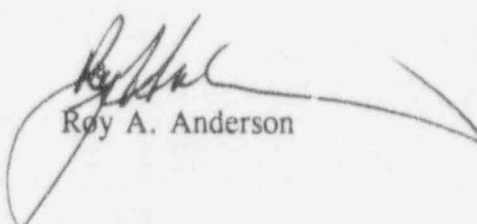
In this regard, requiring that all licensees adopt a "holding period" policy -- which the Commission only recently expressed reservations -- is particularly troubling. Such a requirement is not good policy. It directly interferes with management's ability to set and enforce standards and take appropriate personnel actions to maintain plant safety.

As a practical matter, the holding period proposal likely will chill management from making decisions to discipline, suspend or terminate unsafe plant workers by providing punitive financial incentives to retain problem employees. The holding period policy is also susceptible to abuse, as explicitly recognized by the NRC in its request for public comment, because an individual can easily "game the system" merely by filing a complaint no matter how frivolous. This proposal, in particular, will, we believe, reduce safety and should be given no further consideration by the NRC.

Finally, trying to regulate what people think in a work force is impossible. By its very nature, this requires subjective determinations as to the work force's state of mind. It is our belief that regulation should be based on objective measure and not on subjective feeling. To date, the objective measures the NRC uses to regulate the industry have been effective in protecting the environment and safety of the public.

Licensee management is in the best position to foster and maintain a "safety-conscious" work environment. If it does not, the NRC has the ability and the means by which to correct the problem. This regulatory framework has proven to be effective primarily because it has left the management of employee concerns in the hands of the licensee and has not used subjective measures to enforce policy. Florida Power urges the NRC not to adopt the proposals contained in the notice.

Sincerely,



Roy A. Anderson

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