


Letter of Agreement


NP-400, Revision 16

March 22, 2010


The union has reviewed the proposed changes to Nuclear Policy 400, Fitness for Duty, Revision 16, and is in agreement with same.


Gary J. Aleknavich
Business Manager
System Council U-4, IBEW

3/22/10
Date


for Brendan Callaghan
Director, Safety/Labor Relations
Florida Power & Light

3/22/10
Date

	NUCLEAR DIVISION	No.	NP-400
	NUCLEAR POLICY	Rev.	16
	FITNESS FOR DUTY	Date	3/31/10

**VERIFICATION OF PRINTED HARD COPY TO CONTROLLED DOCUMENT IS REQUIRED
PRIOR TO USE**

Revised Throughout

1.0 Objective:

In order to support safe operations of our nuclear plants, FPL/NextEra Energy must:

- 1.1 Provide reasonable assurance that all individuals who have been granted unescorted access or those individuals as further defined in 10 CFR Part 26.4 are trustworthy and reliable as demonstrated by the avoidance of substance abuse;
- 1.2 Provide reasonable assurance that the above individuals are not under the influence of any substance, legal or illegal, or mentally or physically impaired from any cause, which in any way adversely affects their ability to safely and competently perform their duties;
- 1.3 Provide reasonable measures for the early detection of individuals who are not fit to perform the duties that require them to be subject to an FFD program;
- 1.4 Provide reasonable assurance that all our nuclear facilities are free from the presence and effects of illegal drugs and alcohol; and,
- 1.5 Provide reasonable assurance that effects of fatigue and degraded alertness on individuals' abilities to safely and competently perform their duties are managed commensurate with maintaining public health and safety.

2.0 Testing and Training:

- 2.1 All individuals who have unescorted access to FPL/NextEra Energy nuclear sites, and/or who are required to physically report by name or position to the Technical Support Center (TSC) or the Emergency Operations Facility (EOF) or as further identified in 1.1 above, are subject to the Fitness for Duty (FFD) program requirements identified within.
- 2.2 All individuals who have unescorted access to FPL/NextEra Energy nuclear sites, and/or individuals who are required to physically report by name or position to the TSC or EOF or as further identified in 1.1 above, must receive fitness for duty training annually.

3.0 Conditions for Fitness for Duty Testing:

3.1 Conditions for Drug and Alcohol Testing

- 3.1.1 Random testing: Applies to all individuals having unescorted access to our nuclear plants and personnel required by name or position (in our emergency procedures) to physically report to the TSC or EOF. Random testing is conducted on a statistically random and unannounced basis, so that all individuals in the population subject to testing have an equal probability of being selected and tested.
- 3.1.2 Follow-up testing: Conducted for all individuals who return to work from substance abuse rehabilitation. Follow-up testing shall be performed at least quarterly for three (3) calendar years after the date the individual is granted access or as otherwise determined and documented by the Medical Review Officer (MRO).
- 3.1.3 Pre-access testing: Conducted in order to grant initial, updated or reinstated authorization to individuals subject to the access/FFD program
- 3.1.4 For cause testing: Is conducted in response to an individual's observed behavior or physical condition indicating possible substance abuse or after receiving credible information that an individual is engaging in substance abuse.
- 3.1.5 Post Event: As soon as practical after an event involving a human error that was committed by an individual who is subject to this subpart, where the human error may have caused or contributed to the event. FPL/NextEra Energy shall test the individual(s) who committed the error(s), and need not test individuals who were affected by the event whose actions likely did not cause or contribute to the event. The individual(s) who committed the human error(s) shall be tested if the event resulted in:
1. A significant illness or personal injury to the individual to be tested or another individual, which within 4 hours after the event is recordable under the Department of Labor standards contained in 29 CFR 1904.7, "General Recording Criteria," and subsequent amendments thereto, and results in death, days away from work, restricted work, transfer to another job, medical treatment beyond first aid, loss of consciousness, or other significant illness or injury as diagnosed by a physician or other licensed health care professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness;
 2. A radiation exposure or release of radioactivity in excess of regulatory limits; or
 3. Actual or potential substantial degradations of the level of safety of the plant.

3.2 Conditions Requiring a Fatigue Assessment

3.2.1 For cause:

- 1 Conduct a Fatigue Assessment in response to an observed condition of impaired individual alertness creating a reasonable suspicion that an individual is not fit to safely and competently perform their duties, except if the condition is observed during an individual's break period. If there is a

reason to believe that the observed condition is not due to fatigue, there is no need to conduct a fatigue assessment;

- 2 A Fatigue Assessment need only be conducted when the observed condition is reasonably believed to be due to impaired alertness with no other behaviors or physical conditions creating a reasonable suspicion of possible substance abuse. If there is a reasonable suspicion of substance abuse refer to the fitness for duty procedure regarding For Cause Drug and Alcohol Testing Post Accident/Event or Observed Behavior.
- 3 The individual who observed the condition of impaired alertness may not conduct the Fatigue Assessment.

3.2.2 Self-declaration:

- 1 Conduct a Fatigue Assessment in response to an individual's self-declaration to their supervisor that they are not fit to safely and competently perform their duties for any part of a work shift because of fatigue, except if, following the self-declaration, the cognizant supervisor permits or requires the individual to take a break of at least 10 hours before the individual returns to duty.

3.2.3 Post-event:

- 1 Conduct a Fatigue Assessment in response to events requiring post-event drug and alcohol testing.
- 2 Necessary medical treatment shall not be delayed in order to conduct a Fatigue Assessment.

3.2.4 Follow-up

- 1 Conduct a follow-up Fatigue Assessment and determine the need to implement controls and conditions before permitting the individual to resume performing any duties if:
 - (a) Fatigue Assessment was conducted for cause, or
 - (b) After a self-declaration, the individual was returned to duty following a break of **less than** 10 hours.

4.0 Individual Responsibilities:

NOTE: Each individual is totally responsible for what they take into their bodies. FPL/NextEra Energy will not accept as an excuse for a positive drug or alcohol test, than an individual ingested drugs or alcohol without their knowledge and/or without intent.

4.1 Medication:

1 All individuals taking prescribed or over-the-counter medication are responsible for determining if the medication may have an adverse effect on performance. If such medications may have an adverse effect, the individual must notify his/her supervisor immediately upon reporting to work. Failure to inform supervision of any potential adverse effect may result in disciplinary action up to and including discharge for company employees and denial of access for all individuals. Additionally, the individual may be required to complete a substance abuse evaluation for a determination of fitness.

4.2 Criminal Activity/Legal Action:

1 All individuals are required to report any legal action such as an arrest, criminal charges, criminal convictions or criminal proceedings to Nuclear Security / Access Authorization and their supervisor within 24-hours of release from jail if incarcerated, or prior to the start of their next scheduled shift or work day, whichever is earlier.

NOTE: This report is to be made prior to the entry into the protected area of any FPL/NextEra nuclear plant.
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2 Legal action is defined as a formal action taken by a law enforcement authority or court of law, including being held, detained, taken into custody, charged, arrested, indicted, fined, forfeited bond, cited, or convicted for a violation of any law, regulation or ordinance this includes felony, misdemeanor, serious traffic offenses, (driving under the influence, reckless driving, leaving the scene of an accident and driving on a suspended license), serious civil charges (including but not limited to: wrongful death, assault, battery, false imprisonment and intentional infliction of emotional distress) or military charges. It does not include minor misdemeanors such as parking tickets or minor civil actions such as zoning violations or minor traffic violations such as moving violations (speeding) when the individual was not physically taken into custody.

- (a) This also includes the mandated implementation of a plan for substance abuse treatment in order to avoid a permanent record of an arrest or conviction, in response to any of the following activities:
- (i) Sale, use or possession of illegal drugs,
 - (ii) Abuse of legal drugs or alcohol,
 - (iii) The refusal to take a drug or alcohol test.

3 Individuals who are charged with a felony, other serious crimes or have exhibited any evidence of illegal substance related activity shall be subject to suspension without pay for company employees and suspension of access to the nuclear plant sites for all individuals pending the outcome of the company directed investigation.

- (a) An investigation will be conducted to determine the seriousness of the offense and if the individual has had any previous indications of substance abuse and/or other arrests. If no problems are indicated, the individual will be warned of the seriousness of the offense and the incident recorded in the individual's records.

- (b) If the investigation reveals a previous indication of substance abuse and/or other arrest, the individual shall be directed to complete a substance abuse evaluation for a determination of fitness and/or be evaluated for an access authorization decision.

4.3 Alcohol:

- 1 Alcohol consumption is prohibited at a minimum of 5 hours preceding any scheduled tour of duty except under the provisions of call out work.

Caution: Although the 5 hour abstinence period is considered to be a minimum requirement, it may not be sufficient to ensure your fitness for duty
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- 2 The use, sale, possession or distribution of alcohol during an individual's working hours or during the period of any tour of duty is prohibited. Consumption of alcohol or possession of open containers on company property is prohibited.

Note: Exceptions to this policy at FPL plants are the possession of sealed containers in vehicles in the parking areas, alcoholic beverages on company property at management approved functions, alcohol authorized by management in recreational areas open to the general public and as stated in the call out policy described below.

At NextEra Energy plants, alcoholic beverages are not allowed on company property at any time unless specifically approved by management at Company functions

4.4 Illegal Drugs:

- 1 The use, sale, possession or distribution of illegal drugs at any time on or off the job is prohibited.

4.5 Legal Drugs:

- 1 The abuse of legal drugs and alcohol; and the misuse of prescription and over the counter drugs is prohibited.

4.6 Other Factors:

- 1 It is important to understand and recognize that there are other factors that could cause impairment and impact fitness for duty. Such factors can consist of; mental stress, fatigue, illness, and the use of prescription or over the counter medications.
- 2 If an individual's fitness for duty is impacted as stated above, it must be reported immediately to your supervisor.

4.7 Program Requirements:

- 1 Individuals who are notified of the requirement to participate in random testing, must report to the collection facility within 2 hours.

2 If any factor is identified as causing impairment and impacting fitness for duty then the supervisor must notify Nuclear Security immediately.

4.8 Fatigue Management

4.8.1 Each individual contributor (Employee or Contractor) is responsible for:

- 1 Evaluating his/her personal fitness to work based on impairment from fatigue.
- 2 Managing his/her work hours consistent with the objective of preventing impairment from fatigue.
- 3 Making a clear self-declaration of fatigue and discussing his/her concerns with supervision or management in cases when he/she feels his/her performance may be impaired.
- 4 Monitoring and reporting concerns related to other individuals' fitness to work based on impairment from fatigue (i.e., behavioral observation program).

5.0 Evaluation for Conditional Access Authorization:

5.1 FPL/NextEra Energy will direct an evaluation that may include, but not limited to:

- 1 An MRO review to determine if acceptable Fitness for Duty conditions exist
- 2 An agreement to be approved by the applicable site management
- 3 The individual's consent to the agreement
- 4 Background checks
- 5 Psychological evaluations
- 6 Determination of fitness / substance abuse evaluation

6.0 Call Out:

- 6.1 Individuals who are called to perform unscheduled work must state to the caller if they have consumed alcohol within 5 hours of the time they are to report to work and are fit for duty. Individuals who have consumed alcohol within the 5 hour abstinence period will not be called in to work except under management direction.
- 6.2 For individuals who are called in for unscheduled work, there will be no sanctions/consequences imposed for consuming alcohol within the 5 hour abstinence period. However, a determination of fitness must be required.
- 6.3 Individuals who are called in to perform unscheduled work must state to the caller if they are unfit for duty for reasons pertaining to fatigue, illness, or other potentially impairing conditions.

7.0 Behavior Observation Program:

7.1 The Behavioral Observation Program (BOP) is the primary means for determining continued trustworthiness and reliability of all individuals who have unescorted access to FPL's nuclear sites, and/or are required to report by name or position to the TSC or EOF.

7.2 The objective of the BOP is to provide personnel sufficient training, awareness and sensitivity to detect degradation in performance which may be the result of being under the influence of any substance, legal or illegal, physical or mental impairment including as a result of being fatigued, which in any way adversely affect their ability to safely and competently perform their duties or constitute an unreasonable risk to the health and safety of the public, including a potential threat to commit radiological sabotage.

7.3 If any of the above are detected, it is the responsibility of every individual to report these to Nuclear Security immediately.

8.0 Employee Assistance:

8.1 For assistance in dealing with drug, alcohol, fatigue or other problems that could adversely affect an individual's ability to safely and competently perform, their duties associated with unescorted access and fitness for duty, individuals may refer themselves to any member of their company management, supervision, Human Resources, the Employee Assistance Program (EAP) Administrator, Members Assistance Program (MAP) Coordinator, or an outside provider. Any individual who elects to refer themselves to a program outside of FPL/NextEra Energy EAP/MAP programs must notify the EAP Administrator or MAP Coordinator to obtain self-referral status.

8.2 Self-referral rehabilitation status will be granted when the MRO and/or the EAP Administrator determines that an individual has a substance abuse problem requiring rehabilitation. Individuals will be allowed to self-refer no more than two times during their access/employment at FPL/NextEra Energy. Self-referral status will not be granted once an individual is notified to report for a random test; or for distribution or sale of illegal drugs, possession or use of illegal drugs or alcohol on company property; after a positive test result for illegal drugs. Also, it will not be granted after an arrest or after criminal charges are brought for a felony or other serious crime or activity involving drugs or alcohol, unless and until the individual is cleared as a result of either the company investigation and/or the disposition of the charges.

9.0 Consequences for Policy Violations:

9.1 Alcohol:

1 Alcohol tests will be declared positive under any of the following conditions:

- (a) When the result of the confirmatory test is 0.04% or higher
- (b) When the result of the confirmatory test is 0.03% or higher and the donor has been in a work status for at least 1 hour at the time the initial test was conducted

- (c) When the result of the confirmatory test is 0.02% or higher and the donor has been in a work status for at least 2 hours at the time the initial test was conducted

Note: If an individual's test is between 0.01 and 0.02% and the donor has been in a work status for 3 or more hours, the test shall be declared negative. The individual shall be prohibited from performing any duties until a determination of fitness is completed and the results indicate the donor is fit to safely and competently perform his or her duties.

Note: Time in work status includes any breaks for rest, lunch, dental/doctor appointments, etc.

- 2 Sale, use, possession or consumption of alcohol within the protected area may be cause for disciplinary action up to and including discharge for Company employees and will immediately result in an unfavorable termination and a denial of access for a minimum of 5 years from the date of the unfavorable termination for all individuals.
- 3 The first confirmed positive alcohol test will result in the immediate unfavorable termination and denial of access for a minimum of 14 days from the date of the unfavorable termination for all individuals.
- 4 A second confirmed positive alcohol test will result in discharge for Company employees and an immediate unfavorable termination and denial of access for a minimum of 5 years from the date of denial for all individuals.
- 5 Any subsequent violation of the alcohol policy will immediately result in permanent discharge for Company employees and an unfavorable termination and permanent denial of access for all individuals.
- 6 Violation of the 5 hour abstinence period may be cause for disciplinary action up to and including discharge for Company employees and will result in an immediate unfavorable termination and denial of access for a minimum of 14 days from the date of the unfavorable termination for all individuals.

9.2 Illegal Drugs:

1. Sale, use, or possession of illegal drugs within the protected area is cause for discharge for Company employees and will immediately result in unfavorable termination and a permanent denial of access for all individuals.
2. The first confirmed positive drug test is cause for discharge for Company employees and will result in the immediate unfavorable termination of the individual's access and denial of access for a minimum of 5 years from the date of the denial for all individuals.
 - (a) For NextEra Energy Duane Arnold and NextEra Energy Point Beach bargaining unit personnel, the first confirmed positive drug test shall result in an immediate unfavorable termination and denial of access for a minimum of 14 days from the date of the unfavorable termination. Referral to the EAP for assessment, counseling, plans for treatment,

follow-up testing and future employment must be developed. Any rehabilitation program deemed appropriate must be initiated while the individual's access is denied. The individual may be permitted to return to activities when satisfactory medical assurance of Fitness for Duty is obtained and company management concludes that the individual is fit to perform those duties but, in any event, no sooner than 14 days after the denial of access began.

3. A second confirmed positive drug test will result in the immediate unfavorable termination of the individual's access and permanent denial of access.
 - (a) For NextEra Energy Duane Arnold and Point Beach bargaining unit personnel, a second confirmed positive drug test must result in immediate unfavorable termination of the individual's access and denial of access for a minimum of 5 years from the date of the denial.
 - (b) For NextEra Energy Duane Arnold and Point Beach bargaining unit personnel, any subsequent confirmed positive drug test must result in immediate unfavorable termination of the individual's access and permanent denial of access.

9.3 Legal Drugs:

- 1 If the MRO determines that a confirmed positive test is the result of prescription or over the counter medication misuse and it is determined to represent substance abuse, it will result in the immediate unfavorable termination and denial of access for a minimum of 14 days from the date of the unfavorable termination.
- 2 If the Medical Review Officer (MRO) had determined that the misuse of prescription or over the counter medication represented substance abuse, further actions or sanctions will apply in accordance with the conditional access program requirements prior to return.

9.4 Subversion:

1. An immediate unfavorable termination and permanent denial of access will result where there is any act or attempted act to subvert the testing process. It is also cause for discharge for Company employees and, includes, but it is not limited to;
 - (a) Refusing to provide a specimen,
 - (b) Providing or attempting to provide a substituted or adulterated specimen, for any test.

Note: The individual involved will be afforded the opportunity to appeal the denial of access; however, the evidence of adulteration cannot be appealed.

9.5 General Provisions:

- 1 If any of the following examples are confirmed it will result in discharge for company employees and an immediate unfavorable termination and denial of access to all individuals for a 5-year minimum period;
 - (a) Refusal to provide written consent for the suitable inquiry,

- (b) Refusal to provide or the falsification of any personal information required including but not limited to, the failure to report any previous denial or unfavorable termination of access,
 - (c) Refusal to provide written consent for the sharing of personal information with other licensees or other entities,
 - (d) Refusal to cooperate with the process including failure to report for random testing.
 - (e) Resignation or withdrawal of an application prior to termination/denial for an FFD violation,
 - (f) Refusal to be evaluated for substance abuse issues or conditional access,
 - (g) Failure to report an arrest or legal action,
 - (h) Failure to meet the conditions of the conditional access program.
2. Actions that constitute refusing to provide a specimen (without any medical or reasonable explanation) include:
- (a) Not providing sufficient quantity in accordance with the shy bladder process as referenced in 10 CFR 26.119
 - (b) Specimen temperature being out of range as referenced in 10 CFR 29.111
 - (c) Failure/refusal to cooperate with the process
- 3 Any subsequent violation of the drug or alcohol policy where an individual has previously been denied for a 5-year period will result in immediate unfavorable termination and permanent denial of access.

9.6 Fatigue

- 1 Individuals that are repeatedly not fit for duty as a result of fatigue should be considered for referral to the Employee Assistance Program (EAP) or the Members Assistance Program (MAP) as appropriate.
- 2 Abuses of the self-declaration process may be subject to disciplinary action in accordance with the "Corrective Action Measures" under the Corporate Progressive Discipline policy for employees. Contractor/Vendor personnel will be evaluated for trustworthiness and reliability and may be subjected to suspension or denial of access.

Note: Such disciplinary action will be determined based upon the specific facts and circumstances of each case.

- 3. Personnel subject to the fatigue assessments who refused to be assessed will be considered fatigued and unable to perform their duties. The refusal on the part of an individual to submit to a fatigue assessment shall subject the individual to disciplinary action and possible removal from unescorted access.

10.0 Responsibility:

- 1. The Site Vice Presidents and Vice President - Nuclear Plant Support are responsible for implementing the Nuclear Division's Fitness for Duty Program.
- 2. It is the responsibility of every individual subject to Fitness for Duty requirements (including, managers, supervisors and escorts) to

immediately report any fitness for duty concerns or suspect behavior to Nuclear Security through the individual's supervisor.

11.0 Summary:

FPL/NextEra Energy maintain a goal of achieving a drug free workplace and a workplace free of the effects of such substances. Details regarding this policy will be provided in the fitness for duty program implementing procedures.

Approved: Signature on File
Chief Nuclear Officer