

Pursuant to 10 CFR 30.10, deliberate misconduct on the part of a licensee or its employee or contractor is prohibited. The term "deliberate misconduct" includes an intentional act that the person knows would violate a Commission requirement. The evidence to date demonstrates that Dr. Elamir, acting in violation of 10 CFR 30.10, deliberately violated NRC requirements.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Dr. Elamir were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Dr. Elamir be prohibited from any involvement in NRC-licensed activities pending further order. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Dr. Elamir's conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

#### IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR 30.10, Part 35, and 10 CFR 150.20, *It is hereby ordered that, effective immediately:*

1. Pending further order, Dr. Elamir is prohibited from engaging in NRC-licensed activities. This prohibition applies to Dr. Elamir as an employee, contractor, consultant, or other agent of a license and includes, but is not limited to: (1) Any use of NRC-licensed materials; (2) supervising licensed activities, including (but not limited to) hiring of individuals engaged in licensed activities or directing or managing individuals engaged in licensed activities; (3) radiation safety activities including (but not limited to) functions of the Radiation Safety Officer; and (4) development of license applications, procedures, and policies to meet license requirements, providing training to meet license requirements, and providing professional services to meet license requirements. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted in areas of NRC jurisdiction pursuant to the authority granted by 10 CFR 150.20.

2. If Dr. Elamir is currently involved in NRC-licensed activities other than at Newark Medical Associates, P.A., he

must, as of the effective date of this Order: (1) Immediately cease such activities; (2) inform the NRC of the name, address and telephone number of the NRC-licensed entity or entities where the activities are being conducted; and (3) provide a copy of this order to all such NRC-licensed entities.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by the licensee of good cause.

#### V

In accordance with 10 CFR 2.202, Dr. Elamir must, and any other person adversely affected by this Order may, submit an answer to this Order and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Dr. Elamir or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406, and to Dr. Elamir if the answer or hearing request is by a person other than Dr. Elamir. If a person other than Dr. Elamir requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Dr. Elamir or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing

shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Dr. Elamir may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for a hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for a hearing shall not stay the immediate effectiveness of this order.

For the Nuclear Regulatory Commission.

**Edward L. Jordan,**

*Deputy Executive Director for Regulatory Effectiveness.*

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## NUCLEAR REGULATORY COMMISSION

[IA 97-060]

### Steven F. Nevin; Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

#### I

Mr. Steven F. Nevin (Mr. Nevin) was formerly employed by PECO Energy Company at the Limerick Generating Station (PECO, Limerick, or Licensee) as a chemist. PECO holds Facility License No. NPF-39 and NPF-84 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 50. These licenses authorize PECO to operate the Limerick Station, Units 1 and 2, in accordance with the conditions specified therein.

#### II

On February 7, 1996, while a Reactor Enclosure Cooling Water (RECW) radiation monitor was inoperable, the Licensee was required, in accordance with Technical Specification 3.3.7.1, ACTION 72, to obtain and analyze at least one grab sample from the RECW system at least once per 24 hours. On that date, the sample needed to be taken by 11:00 a.m. to meet that requirement.

The sample was not taken until 12:15 p.m. on that date, approximately 1 hour and 15 minutes after the time it was due. However, the record of the grab sample RECW Surveillance Test (ST-5-026-570-1, "Inop Reactor Enclosure Cooling Water Rad Mon Grab Sampling and Analysis"), signed by a chemistry technician and Mr. Nevin, the chemist (as chemistry supervision), was inaccurate because (1) page one of attachment 1 of the test record indicated that the time of the sample was 11:00 a.m., and (2) the attached computer printout of the Gamma Spectrum Analysis, as changed by Mr. Nevin, also indicated that the sample was taken at 11:00 a.m.. The creation of this inaccurate record caused the Licensee to be in violation of 10 CFR 50.9, "Completeness and accuracy of information."

Afterwards, an investigation of this matter was conducted by PECO, and the NRC was informed of the findings. Subsequently, an investigation was conducted by the NRC Office of Investigations (OI), that determined, based upon the evidence developed during its investigation, and a review of evidence contained in the investigation report provided by PECO, that on February 7, 1996, Mr. Nevin, and the PECO chemistry technician, deliberately falsified RECW sample documentation, at the direction of Ms. Blacklock, the former PECO Primary Chemistry Manager.

Mr. Nevin was interviewed by OI on July 24 and December 10, 1996. During the interviews, Mr. Nevin indicated initially that he corrected the sample time recorded in the Gamma Spectrum Analysis from 12:15 p.m. to 11:00 a.m. because he was told that another sample (taken earlier) had been found. Upon further questioning, Mr. Nevin admitted to the initial fabrication and stated that he and the chemistry technician falsified the surveillance test documents to record the sample time of 11:00 a.m. at the direction of the former Primary Chemistry Manager.

### III

Based on the above, the NRC has concluded that Mr. Nevin engaged in deliberate misconduct. Mr. Nevin's actions constitute a violation of 10 CFR 50.5(a)(1), which prohibits an individual from engaging in deliberate misconduct that causes or, but for detection, would have caused, a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation of any license, issued by the Commission. In this case, Mr. Nevin caused the Licensee to be in

violation of 10 CFR 50.9, "Completeness and accuracy of information."

The NRC must be able to rely on the Licensee, its contractors, and the Licensee and contractor employees to comply with NRC requirements, including the requirement to maintain information that is complete and accurate in all material respects. Mr. Nevin's action in falsifying records, and his collusion with others to hide that falsification, constitute deliberate violations of Commission regulations, and by doing so, raises serious doubt as to whether he can be relied upon to comply with NRC requirements and to provide complete and accurate information to NRC Licensees and their contractors in the future, and raises doubt about his trustworthiness and reliability.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public would be protected if Mr. Nevin were permitted at this time to be involved in NRC-licensed activities.

Therefore, the public health, safety and interest require that Mr. Nevin be prohibited from any involvement in NRC-licensed activities for a period of 3 years from the date of this Order, and if Mr. Nevin is currently involved with another licensee in NRC-licensed activities, Mr. Nevin must immediately cease such activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer. Additionally, Mr. Nevin is required to notify the NRC of his first employment in NRC-licensed activities following the prohibition period. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Mr. Nevin's conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

### IV

Accordingly, pursuant to sections 103, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 50.5, and 10 CFR 150.20, *It is hereby ordered, effective immediately, that:*

1. Steven F. Nevin is prohibited from engaging in activities licensed by the NRC for 3 years from the date of this Order. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State

licensees conducted pursuant to the authority granted by 10 CFR 150.20.

2. After the 3-year period of prohibition has expired, Mr. Nevin shall, within 20 days of his acceptance of the first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the notification, Mr. Nevin shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, OE, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Nevin of good cause.

### V

In accordance with 10 CFR 2.202, Mr. Nevin must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Nevin or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region I, U.S. Nuclear Regulatory, 475 Allendale Road, King of Prussia, Pennsylvania 19406, and to Mr. Nevin if the answer or hearing request is by a

person other than Mr. Nevin. If a person other than Mr. Nevin requests a hearing, that person shall set forth with particularity the manner in which that person's interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Nevin or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Nevin may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland, this 5th day of August 1997.

For the Nuclear Regulatory Commission.

**Ashok C. Thadani,**

*Acting Deputy Executive Director for Regulatory Effectiveness.*

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## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-335 and 50-389]

### Florida Power and Light Company (St. Lucie Plant, Unit Nos. 1 and 2); Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations for Facility Operating License Nos. DPR-67 and NPF-16, issued to Florida Power and Light Company, et. al. (the licensee), for operation of the St. Lucie Plant, Unit

Nos. 1 and 2, located in St. Lucie County, Florida.

### Environmental Assessment

#### Identification of Proposed Action

The proposed action would exempt the licensee from the requirements of 10 CFR 70.24, which requires a monitoring system that will energize clear audible alarms if accidental criticality occurs in each area in which special nuclear material (SNM) is handled, used, or stored. The proposed action would also exempt the licensee from the requirements to maintain emergency procedures for each area in which this licensed SNM is handled, used, or stored to ensure that all personnel withdraw to an area of safety upon the sounding of the alarm, to familiarize personnel with the evacuation plan, and to designate responsible individuals for determining the cause of the alarm, and to place radiation survey instruments in accessible locations for use in such an emergency.

The proposed action is in accordance with the licensee's application for exemption dated February 19, 1997, and supplemented July 10, 1997.

#### The Need for the Proposed Action

The purpose of 10 CFR 70.24 is to ensure that if a criticality were to occur during the handling of SNM, personnel would be alerted to that fact and would take appropriate action. At a commercial nuclear power plant the inadvertent criticality with which 10 CFR 70.24 is concerned could occur during fuel handling operations. The SNM that could be assembled into a critical mass at a commercial nuclear power plant is in the form of nuclear fuel; the quantity of other forms of SNM that is stored on site is small enough to preclude achieving a critical mass. Because the fuel is not enriched beyond 5.0 weight percent Uranium-235 and because commercial nuclear plant licensees have procedures and features designed to prevent inadvertent criticality, the staff has determined that it is unlikely that an inadvertent criticality could occur due to the handling of SNM at a commercial power reactor. The requirements of 10 CFR 70.24, therefore, are not necessary to ensure the safety of personnel during the handling of SNM at commercial power reactors.

#### Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there is no significant environmental impact if the exemption

is granted. Inadvertent or accidental criticality will be precluded through compliance with the St. Lucie, Units 1 and 2 Technical Specifications (TS), the design of the fuel storage racks providing geometric spacing of fuel assemblies in their storage locations, and administrative controls imposed on fuel handling procedures. TS requirements specify reactivity limits for the fuel storage racks and minimum spacing between the fuel assemblies in the storage racks.

Appendix A of 10 CFR part 50, "General Design Criteria for Nuclear Power Plants," Criterion 62, requires the criticality in the fuel storage and handling system shall be prevented by physical systems or processes, preferably by use of geometrically-safe configurations. This is met at St. Lucie, Units 1 and 2, as identified in the TS and the Updated Final Safety Analysis Report (UFSAR). St. Lucie TS Section 5.6.1.c (Unit 1) and 5.6.1.b (Unit 2), state that the new fuel storage racks are designed for dry storage of unirradiated fuel assemblies having a U-235 enrichment less than or equal to 4.5 weight percent, while maintaining a k-effective of less than or equal to 0.98 under the most reactive condition. UFSAR Section 9.1.1, New Fuel Storage, for both Units 1 and 2 specify that the fuel racks are designed to provide sufficient spacing between fuel assemblies to maintain a subcritical (k-effective less than or equal to 0.98) array assuming the most reactive condition, and under all design loadings including the safe shutdown earthquake. The UFSAR also specifies that the new fuel racks are designed to preclude the insertion of a new fuel assembly between cavities.

The proposed exemption would not result in any significant radiological impacts. The proposed exemption would not affect radiological plant effluent nor cause any significant occupational exposures since the TS design controls (including geometric spacing of fuel assembly storage spaces) and administrative controls preclude inadvertent criticality. The amount of radioactive waste would not be changed by the proposed exemption.

The proposed exemption does not result in any significant non-radiological environmental impacts. The proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant non-radiological