

**SENSITIVE ALLEGATION MATERIAL**

March 11, 2002

MEMORANDUM TO: H. Brent Clayton  
Enforcement/Investigations Officer

THRU: James R. Creed  
Safeguards Program Manager  
Division of Reactor Safety

FROM: Terry J. Madedo  
Physical Security Inspector  
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SUBJECT: REVIEW LICENSEE INVESTIGATION REPORT FOR ALLEGATION  
NO. RIII-01-A-0176 (KEWAUNEE) (SERIAL #11) (AITS NO. S02-2131)

This responds to Jim Heller's memorandum dated February 15, 2002, which forwarded a copy of a licensee investigation report, and request our review to determine whether the concerns were substantiated, to identify any unresolved technical issues, to determine if there were any NRC violations, and to determine if the licensee's response was adequate and independently performed.

Our review focused on the Fitness-For-Duty concern (No. 2) identified in the investigation report noted above.

Concern: The CI was concerned that supervisors employed by Day and Zimmerman Nuclear Power Systems (DZNPS) turned their heads when certain individuals came to work "Half-Blitzed."

Review: On November 19, 2001, Mr. Brent Clayton, Enforcement/Investigations Officer, Region III, forwarded a request for information to the Nuclear Management Company (NMC) regarding welding issues and a fitness-for-duty (FFD) issue that had been received by the Nuclear Regulatory Commission (NRC). After receiving this letter, NMC made arrangements for those issues to be addressed by an independent investigator.

During the review of the noted concern the investigator developed information that four craft level employees of DZNPS had detected the odor of alcohol on the breath of a DZNPS general foreman, while inside the Kewaunee site protected area, but failed to take action. One of the individual's stated that he feared union reprisal if he reported the event. The remaining three individuals believed that the issue had been reported, or that other indications of intoxication had to be paired with the smell of alcohol.

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The investigator's review of the licensee's FFD training and testing program showed that both aspects adequately described actions to be taken when an individual detects the odor of alcohol on the breath of a plant worker.

The investigator interviewed the general foreman and the licensee supervisor to whom the general foreman reported. The foreman indicated that he had been told by another individual that someone had complained about the smell of alcohol on him. He offered to be tested, but was not tested. The licensee is continuing to review this issue. The licensee's supervisor had no knowledge regarding the smell of alcohol on the general foreman, nor was he aware of any impairment of that individual.

After reviewing the investigation results and determining that a failure occurred in the implementation of their Fitness-For-Duty program, the licensee took action through the Personnel Access Data System (PADS) and the NMC fleet access review list to suspend access for all involved personnel. PADS was updated to reflect their current status. In addition, corrective actions were implemented to improve fleet-wide and specific site performance to address the concern noted above. NMC management is also considering contacting the contract organization and the local union to assure that craft personnel clearly understand and meet their responsibilities in the area of fitness for duty.

Conclusion: The licensee did substantiate that during a recent site outage four workers smelled alcohol on the same co-worker (general foreman) and failed to take action as required by FFD program requirements. The licensee took corrective action to prevent reoccurrence. There was no evidence of wide spread programmatic failure.

Based on the licensee's finding that four plant workers took no action after detecting an odor of alcohol on a co-worker, we determined that this action was in violation of NRC FFD regulations. We also determined that the lack of action by the co-worker may have been contrary to 10 CFR 50.5, "Deliberate Misconduct," in that, an employee of a contractor knowingly engaged in deliberate misconduct that is material to the NRC.

Regulatory Basis: 10 CFR 26.24(a)(3) requires, in part, testing for-cause shall be initiated as soon as possible...after receiving credible information that an individual is abusing alcohol.

Contrary to the above, between August and November 2001, a for-cause test was not conducted on a contract general foreman after the odor of alcohol was detected on the individual by four co-workers.

We recommend that this issue be referred to OI to determine if the co-workers action involved possible wrongdoing and/or were motivated by a fear of union reprisal if the event was reported, and to verify if the facts presented by the licensee are correct.

Our review also identified one unresolved technical issues in that, the foremen alleged that he was not tested after he self-identified that another worker smelled alcohol on him. We recommend that this concern be forwarded to the licensee for their review. The investigation appeared to be conducted in an independent manner.

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