U.S. NUCLEAR REGULATORY COMMISSION

REGION III

Report No. 50-331/91018(DRSS)

License No. DPR-49

Licensee: Iowa Electric Light and
Power Company
P.O. Box 351
Cedar Rapids, IA 52406

Inspection At: Duane Arnold Energy Center, Palo, Iowa

Inspection Conducted: Between October 21 and 29, 1991

Inspector: Terry J. Madeda 11/25/91
T. J. Madeda Date
Physical Security Inspector

Approved By: James R. Creed 11/25/91
James R. Creed, Chief Date
Safeguards Section

Inspection Summary

Inspection between October 21 and 29, 1991 (Report No. 50-331/91018(DRSS))
Scope: This announced inspection reviewed the licensee's Fitness-For-Duty (FFD) program required by 10 CFR Part 26. The review was conducted in accordance with Temporary Instruction (TI) 2515/106. Specifically, the inspection included the licensee's drug and alcohol abuse policies and procedures; program administration; employee awareness and understanding of the program; selection and notification for random testing; documentation; sanctions and appeals; audits; specimen collection facilities and procedures; training program; and reported FFD events.
Results: Based on the selective examination of key elements of the licensee's Fitness-For-Duty program, it was concluded that the licensee is satisfying the general performance objective of 10 CFR 26.10. However, one violation relating to inadequate completion of some suitable inquiries and one program weakness concerning a failure to send the NRC documentation of the results of one unsatisfactory performance test of a blind specimen were identified. Both were corrected prior to the conclusion of the inspection.

Inspection activities identified that senior management support and worker awareness of the Fitness-For-Duty Program were good and are considered a program strength. Contractor involvement in collection activities and employment assistance programs were strong.

DETAILS

1. Persons Contacted

In addition to the persons listed below, the inspector interviewed other licensee employees and contractor personnel. The asterisk (*) denotes those present at an onsite Exit Interview conducted on October 24, 1991.

*D. Mineck, Manager, Nuclear Division
*D. Wilson, Plant Manager
*K. Young, Assistant Plant Manager
*D. Englehart, Superintendent Security/FFD Coordinator
*T. Browning, Superintendent, Nuclear Licensing
*P. Serra, Manager, Emergency Planning
*P. Hexer, Manager, Employment
*L. Joens, FFD Specialist
*M. Duss, FFD Specialist
*K. Patnam, Technical Support Supervisor
*K. Berk, Senior QA Specialist
D. Buck, Medical Review Officer, St. Luke's Hospital
*K. Epley, Assistant Director, St. Luke's Hospital
M. Mays, Collection Specialist, St. Luke's Hospital

*M. Parker, Senior Resident Inspector, NRC
C. Miller, Resident Inspector, NRC

2. Entrance and Exit Interview

At the beginning of the inspection, Ms. D. Englehart and other members of the licensee's staff were advised of the purpose of the visit and the functional areas to be inspected.

The inspector met with the licensee representatives denoted in Section 1 at the conclusion of the onsite inspection on October 24, 1991, and advised them that the inspection had been a selective examination of their Fitness-For-Duty (FFD) program utilizing TI 2515/106 to determine whether it meets regulatory requirements.

Our review concluded that the FFD program had been adequately developed, implemented and monitored and was meeting the general performance objectives of 10 CFR 26.10. However, two deficiencies in the program were identified by the inspector: (a) the licensee did not document the results of an unsatisfactory blind performance testing incident to the NRC as required by Section 2.8(e)(4) of Appendix A of 10 CFR 26, and (b) on one occasion a suitable inquiry was not conducted as required by 10 CFR 26.27(a). The licensee will review additional personnel files to determine if further anomalies in suitable inquiries exist. Refer to Section 7.b for further information concerning the licensee's review.

In response to our findings, licensee management representatives stated that their interpretation of NRC requirements did not require notifying the NRC of the testing deficiency (Refer to Section 10). Regarding the suitable inquiry finding, no additions to or disagreements with the facts

were presented. Corrective action for this finding was initiated. (Refer to Section 7.b).

Several program strengths were identified in the inspection. The level of effort of the licensee's FFD staff was strong, particularly the contract collection personnel, the Medical Review Officer and Employee Assistance Program (EAP) Manager. Employee awareness and senior management support for the FFD program was also good.

NRC in-office review concluded that the licensee's failure to notify the NRC of an unsatisfactory blind performance test was a weakness in their program and is identified in Section 10 of the Report Details. Evaluation of the suitable inquiry issue determined that licensee action was contrary to NRC regulations, and a violation was identified. (Refer to Section 7.b)

On November 4, 1991, representatives of the Office of Nuclear Reactor Regulations completed their review and concurred with the inspection findings noted above.

On November 21, 1991, the licensee's Site Security Supervisor/FFD Coordinator was notified of our inspection conclusions.

3. Inspection Approach (MC0610)

By letter dated August 29, 1991, the licensee was notified of the dates and scope of this inspection. They were requested to provide the latest revisions of the required FFD policies and procedures, which were reviewed in-office prior to the onsite inspection. The inspector also reviewed the licensee's semi-annual reports of program performance data for 1990 and for the period ending June 30, 1991. The results of the Resident Inspector evaluation of the initial training sessions were also reviewed.

Onsite inspection activities included interviews of the key individuals responsible for program implementation and included, for example, the Fitness-For-Duty Program Coordinator, Fitness-For-Duty Specialists, the Medical Review Officer, and the EAP Manager. Additionally, six randomly selected personnel, to include licensee and contractor supervisors and non-supervisors, were interviewed.

The inspector also toured the onsite collection facility. Several audit reports and other FFD related records were reviewed.

4. Written Policies and Procedures (TI 2515/106-05.01c): No violations or unresolved items were identified.

The licensee's written policies and procedures were reviewed and compared to the requirements of 10 CFR Part 26 to assure that they were comprehensive and of sufficient clarity and detail to support the implementation of the program.

A written, comprehensive Fitness-For-Duty policy was found in the licensee's employees' handbook titled, "Health and Safety Information".

The highlights of this policy are discussed during Site Orientation and Supervisory Training. This handbook is given to each employee during the reference training.

Written procedures were developed which adequately detail responsibilities for important aspects of the program involving, but not limited to, selection and notification of individuals for testing, collection and processing of specimens, and the Medical Review Officer's (MRO) review of tests and notification.

5. Program Administration (TI 2515/106-05.02a): No violations or unresolved items were identified

a. Overall program administration was effectively monitored with several strengths noted. These strengths involved program overview by the Plant Superintendent and monitoring of day-to-day implementation and administration of the program by the Security Supervisor who is designated as the program Fitness-For-Duty Coordinator. The Security Supervisor was very knowledgeable of program requirements, procedure guidance and interdepartmental responsibilities. Other personnel assigned responsibilities for the FFD program were knowledgeable of program requirements and functions.

b. Program responsibilities are adequately described in the licensee's procedures (Access Authorization Manual and Administrative Control Procedure 1401.6). Major FFD functions have been appropriately assigned.

c. Key staff members assigned FFD responsibilities have the necessary training and adequate experience to fulfill their program responsibilities and through interviews were found to be knowledgeable of their responsibilities.

d. Licensee management support for the FFD program was evident. Managers and supervisors were assigned appropriate program responsibilities.

e. The Medical Review Officer (MRO) was interviewed by the inspector on October 22, 1991. He is a licensed physician in the State of Iowa.

He has served as MRO since the FFD program was initiated on January 3, 1990. The MRO has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate confirmatory drug test results at or above the cut-off level as positive or negative by evaluation of the disclosures on the consent form, review of medical history of the person tested, verification of prescriptions, and communications with the person tested. This determination is accomplished within ten days of completion of the initial presumptive positive test. The MRO stated that his evaluation included a review of chain-of-custody documentation.

6. Worker Awareness (TI 2515/106-05.02b): No violations or unresolved items were identified.

The inspector interviewed six randomly selected site employees, including supervisors, licensee and contractor employees. The employees interviewed believed that the FFD selection process for testing was random in nature. Supervisors could be selected for testing just as frequently as company and contractor employees. No "safe periods" for drug abuse were identified, the personnel believe that random testing could be conducted at any time to include backshifts, weekends, and holidays. Licensee personnel interviewed were familiar with EAP services available to them and believed such services would be provided in a confidential manner. Completion of the EAP program could provide them an opportunity to have their eligibility for unescorted access restored.

7. Program Elements (TI 2515/106-05.02c): One violation involving failures to complete suitable inquiries was identified. (Refer to Section b)

a. Selection and Notification for Random Testing

The FFD Program Coordinator/Security Supervisor controls random drug and alcohol testing using written FFD procedures. Random testing is conducted at an annual rate equal to above 100% of all individuals with unescorted access to the protected area and EOF responders. The list of individuals is continuously updated. Personnel are computer selected in a statistically random manner so that all personnel eligible for testing have an equal probability of being selected. A person completing a random test is immediately eligible for another random test. The percentage of workers selected each week for the established pool is sufficient to obtain an average of approximately 2 to 3 percent per week. Testing is administered on at least a weekly frequency and at various times during the day with limits and conditions on the time allowed for personnel to report to the collection site.

Interviews with FFD personnel disclosed that all personnel in the random selection pool are subject to the same testing criteria. Perceptions of safe periods are countered by periodic testing on backshifts, weekends, and holidays.

Once an individual has been randomly selected by the computer, the FFD Specialist informs the appropriate point of contact. The individual is then notified no longer than two hours before testing. Individuals on company property are required to report to the collection facility to undergo testing if they are selected. Those individuals not onsite are returned to the testing pool. Personnel failing to report to the collection site within one hour of their assigned time are reported to their supervisor and the FFD Coordinator.

A random selection list is generated at a printer terminal that is in a controlled location and access is limited to two authorized individuals. The licensee maintains control and confidentiality of

this list until all testing of personnel on the list has been completed or the personnel are properly excused. These lists are then filed and maintained by the FFD Program Coordinator. A random selection list has been generated on various days of a week and has been generated two or more times within a week.

The specimen collection personnel are contractors employed by St. Luke's Hospital in Minneapolis, Minnesota. These individuals are trained Medical Technicians. The licensee has contracts with two certified HHS laboratories to conducting testing services. MEDTOX, Inc. located in Minneapolis, Minnesota is the primary facility and Mayo Clinic located in Rochester, Minnesota is the alternate facility.

The licensee's drug testing cutoff levels are the same as those listed in Appendix A, of 10 CFR Part 26.

b. Documentation

On October 23, 1991, the inspector found a record during a review of an employee's background screening file that showed that a suitable inquiry request to a nuclear utility (Georgia Power Company) was not adequately answered. The record indicated that this utility does not release the information. The record further showed no action to resolve the issue and showed that the individual had been granted access after this check. The licensee confirmed no action was taken and indicated they were not aware that the information had not been provided. This is a violation of 10 CFR 26.27(a) which requires that the licensee shall complete a suitable inquiry on a best-efforts basis before initial granting of unescorted access to the protected area. To meet this requirement, the identity of persons denied unescorted access or removed under the provisions of this part and the circumstances for such denial or removal including test results will be made available in response to a licensee's, contractor's, or vendor's inquiry. (50-331/91018-01).

The background investigation was conducted by PERMAR Inc. of Cedar Rapids, Iowa, under contract to the licensee. PERMAR is required to conduct by best-effort verification employment history for the past five years and to obtain through contacts with previous employers suitable inquiry information about past drug use, treatment and denial of access. Although the contract says this should be by "best effort" no guidance was provided by the licensee and consequently the contractor believed that their level of effort was adequate.

In this specific case, PERMAR contacted the Personnel Department of Georgia Power Company and was told "they" do not release suitable inquiry information. With no guidance and an apparent lack of understanding of 10 CFR 26 suitable inquiry requirements, PERMAR did not pursue the matter. This inadequate response was not recognized nor corrected by the licensee. A nuclear utility is prohibited by 10 CFR 26.27(a) from withholding suitable inquiry information. As a minimum, a "best-effort" suitable inquiry would have included resolution of the anomaly.

In this case, the record indicated that Georgia Power's refusal to release the information, was sent to the licensee's Corporate Human Resource Department. (Note: Had the information been related to a contractor it would have been sent to the site security department). The anomaly was not discovered because the Human Resource Department had not been given any guidance on acceptable minimum requirements for suitable inquiry information.

Due to the fundamental problems identified, the inspector requested that the licensee review other suitable inquires from nuclear utilities for plant employees. The licensee found 14 additional cases in their review of 19 files. Each case was similar because a nuclear utility failed to provide the requested suitable inquiry information. Eleven cases involved Iowa Electric personnel and three were contractor personnel. PERMAR completed the suitable inquiry for all eleven.

We concluded that this represented a violation because the suitable inquires in question did not represent "best effort" because other nuclear utilities failure to provide suitable inquiry information was not identified by two different licensee organizations nor the contractor that initiated the inquiry. Lack of guidance and understanding of FFD requirement caused the problem.

When identified the licensee site security department completed the inadequate suitable inquires. During the process the licensee learned that PERMAR contacted the utilities personnel departments. Had PERMAR contacted each utilities FFD contact the suitable inquiry information would have been forthcoming. Licensee review showed that six utilities had been involved. Licensee inquires identified that no derogatory information relative to the individual's was identified and all were "re-certified" as acceptable.

The licensee developed specific guidance regarding the level of acceptable of suitable inquiry information. This information was provided to PERMAR, the licensee's Human Resource Department and site security personnel by November 1, 1991. A discussion of that guidance showed it to be acceptable and comprehensive and will correct the problem. Consequently, no reply to the violation is required.

The licensee has developed adequate systems for assuring the protection of information. Selection lists, chain-of-custody forms, test results, permanent logs, and individual FFD files are carefully protected. The licensee's policy for protection of FFD information is identified in FFD procedures. The design of the various records is adequate to assure that all relevant information is collected and can be retrieve when needed. An inspection of a sample of records showed them to be legible and generally complete. Physical security for the records is adequate. Files are kept in locked containers. FFD program personnel were knowledgeable concerning the data storage requirements outlined in the rule.

c. Sanctions and Appeals

The licensee's FFD Policy and Procedures are consistent with required actions identified in 10 CFR Part 26. A procedure indicates that the first confirmed positive drug test results in denial of protected area access for a minimum of 14 days, suspension from Emergency Operating Facility (EOF) assignment, referral to the Employee Assistance Program (EAP) for company employees, and followup unannounced drug tests or possible termination. A second confirmed positive results in denial of access for three years, including EOF assignments or possible termination from employment. An individual involved in the sale, use or possession of illegal drugs within the protected area will result in the person's denial of access for five years.

The licensee's EAP is available to assist contractor personnel. However, the licensee does not provide financial support for contractor utilization of the licensee's EAP. Drug or alcohol abuse results in denial of unescorted access and referral to their employer for whatever actions the employer deems appropriate. Contractor employees who have been denied access based on a FFD violation may regain their unescorted access if they provide evidence of rehabilitation and abstinence of substances and undergo followup testing.

The licensee's appeal process for a positive alcohol or drug determination has been established in procedures and meets rule requirements. Prior to making a final determination that the drug screen is positive the MRO notifies the individual to discuss the test results. The MRO then contacts the FFD Manager for a confirmed positive test result. The individual is given the opportunity to request that the reserve (split) sample be screened and confirmed by the laboratory.

The rule does not identify sanctions for abuse of alcohol; however, licensee employees who test positive for alcohol will be denied unescorted access and will be disciplined in accordance with the licensee's Employee Accountability Program. Generally each incident will be handled on a case by case basis.

d. Audits

The licensee's Quality Assurance Department conducted an initial audit of the FFD program between February 7-9, 1990. Based on a review of the key elements of their FFD program, the Quality Assurance Audit found adequate compliance with the FFD procedures and that the objectives of 10 CFR Part 26 were being met. No significant findings were identified. This review also included a one day audit of MEDTOX Inc., the licensee's primary testing facility. Direct review effort expended during this audit was 100 hours. The inspector concluded that the licensee's audit was good and was successful in identifying and correcting procedural weaknesses in their FFD program.

Quality Assurance conducted their second annual audit of the FFD program between February 27 to March 3, 1991. The audit also included a one day onsite review at Mayo Clinic, which is the licensee's secondary testing facility. The audit expended 124 hours. Audit results identified a procedural problem with the licensee's FFD policy statement. The policy did not directly state what action would be taken if an individual refused to take part in the FFD program. The licensee corrected this oversight.

Findings identified during both audits were adequately corrected in a timely manner. The licensee used vendor support (Bensinger, DuPont and Associates) during each audit activity.

In addition, the licensee has conducted two routine surveillances (2/19-21/91 and 10/8/91) of specific elements of the FFD program. No problem were noted.

8. Specimen Collection Facility (TI 2515/106-05.02d): No violations or unresolved items were identified.

On October 23, 1991, the inspector conducted a tour of the onsite specimen collection facility. The facility was adequate to perform its function, however, space limitations and the design of the collection facility in the Office Services Building restricted the collection process to one individual at any one time.

The facility is locked when not in use. Keys to the facility were controlled and access to them was limited to persons with FFD related responsibilities. Adequate security measures were observed.

Effective measures were implemented to prevent subversion of specimens. Bluing agent was used in the toilet facilities.

The sink area used for hand washing was easily visible to the person performing the specimen collection process. Administrative forms such as chain-of-custody forms and the Permanent Record Book were readily available. Collected specimens are stored in a location under the control of the collection individual until removed from the site and transferred to a bonded courier.

The inspector interviewed a contract collection specialist during a walk-through of the specimen collection facility. The individual was sensitive to the need to prevent potential tampering with specimens, and the need to conduct the collection in a professional manner that assures modesty and privacy of the individual being tested.

Interviews with the FFD Program Coordinator and selective review of records confirmed that specimen collection personnel had background investigations using the licensee's criteria for unescorted access authorizations. Collection personnel are not nor does the regulation requires them to be subject to the random testing process.

Training Program (TI 2515/106-05.01a): No violations or unresolved items were identified.

The licensee's awareness training conducted prior to the January 3, 1990 effective date of the Rule was reviewed by the Resident Inspectors and evaluated using TI 2515/104. The training was found to be acceptable. During this inspection, a random selection of six site employees were interviewed and found to be knowledgeable of the FFD Program and their individual responsibilities. The FFD training program is administered by the licensee's onsite training department.

The inspector reviewed a selected sample of records (six) to assure that individuals with access to the protected area had received FFD training and that supervisors had received continuous observation training. It was also determined that a system is in place to identify when refresher training is needed. The licensee's training program meets FFD training requirements.

Workers interviewed appeared to be very supporting of the FFD program and its goals. They appeared to have a high level of confidence in the integrity of the onsite collection and testing process and FFD personnel.

The licensee maintains an EAP that is available to all employees. Employees are encouraged to use the EAP as needed. An interview with the EAP Coordinator indicated that employees do make use of the EAP. Interviews with plant employees indicated both a willingness to use the EAP and a willingness to refer others to the EAP. They appeared confident that their confidentiality would be maintained.

10. Report FFD Events (TI 2515/106-05.01b): One weakness was identified regarding a failure by the licensee to send documentation to the NRC involving unsatisfactory testing results of a blind test specimen.

In October 1990, MEDTOX Inc. (the HHS approved testing laboratory) informed the licensee that a false negative test result had been received on a blind performance test specimen that was spiked positive for opiates. The sample screened positive for opiates by Emit. However, GC/MS Quantitative was 287 ng/ml (13 below the 300 ng/ml cut off) and was therefore reported negative. Those results were re-checked and confirmed by testing at the Mayo Clinic, which is the licensee's secondary certified HHS laboratory. Licensee investigative results determined that the error was caused by specimen deterioration. The sample was confirmed as being originally spiked at a level of 306 ng/ml, only 6 ng/ml over the cut off limit, by Bio Rad Laboratories. The licensee determined that the sample was handled correctly at the preparation site, during transit and during testing at the HHS lab. To prevent further problems Bio Rad increased the concentration level in future blind samples to over 20% of the required cutoff level to reduce the chance of false negative results.

The licensee evaluation concluded that the HHS laboratory did not conduct an unsatisfactory performance test, but that the sample itself had deteriorated causing the false negative. As part of the licensee's evaluation, Dr. Michael Baylor of NIDA and Mr. Loren Bush of NRC were

contacted. They both indicated that false negatives are not considered a problem unless the number approaches 20%. The licensee's FFD Coordinator interpreted this to mean that NRC was not interested in the finding and sending the documented test results to the NRC was not necessary.

Section 2.8(e)(4) of Appendix A to 10 CFR 26 requires that the licensee investigate, or refer to DHHS for investigation, any unsatisfactory performance testing result, and based on this investigation, the laboratory shall take action to correct the cause of the unsatisfactory performance test result. Then the licensee shall send the document to the NRC as a report of an unsatisfactory performance testing incident within 30 days.

This was an administrative, isolated incident of low significance. The licensee telephonically contacted NIDA and NRC. The licensee also conducted an investigation and took adequate action to correct the cause of the unsatisfactory performance test. Unsatisfactory performance test results apply to both lab activities and specimen related problems. This item is considered to be an identified weakness. (50-331/91018-02)

Our finding was also reviewed and concurred with by a representative of the Office of Nuclear Reactor Regulation (NRR) knowledgeable in FFD matters.

The licensee's FFD Coordinator agreed to send to the NRC any unsatisfactory performance test results, investigation and corrective action. The inspection showed that steps had been taken to correct the weakness and prevent recurrence. No additional action is required.

11. Program Performance Data

For the period January 3, 1990 to December 31, 1990, 799 random tests were conducted on station assigned licensee personnel and 438 random tests were conducted on contractor employees in a work force pool average of 1057. This resulted in a random test rate in excess of 100% for 1990. Nineteen positive tests resulted in either denial or revocation of individual's access in 1990.

For the period January 1, 1991 to October 14, 1991, 727 random tests were conducted on station licensee employees and 144 random tests were conducted on contractor personnel in a work force pool average of 842. This resulted in a random test rate of 96% for the first 10.5 months of 1991. One positive test resulted in either denial or revocation of the individuals' access for 1991.

The licensee's testing rate and semi-annual reports appears adequate to meet the requirements of 10 CFR Part 26.