U. S. NUCLEAR REGULATORY COMMISSION
REGION I

Report No. 50-244/91-04

Docket No. 50-244

License No. DPR-18

Licensee: Rochester Gas and Electric Corporation
89 East Avenue
Rochester, New York 14649

Facility Name: R. E. Ginna Nuclear Power Plant

Inspection At: Ontario, New York

Inspection Conducted: January 23-25, 1991

Type of Inspection: Initial Fitness-For-Duty

Inspector: Edward B. King 2/22/91
E. B. King, Physical Security Inspector date
Division of Radiation Safety and Safeguards

Approved by: R. R. Keimig 2-25-91
R. R. Keimig, Chief, Safeguards Section date
Division of Radiation Safety and Safeguards

Inspection Summary: Initial Fitness-For-Duty Inspection (Inspection Report No. 50-244/91-04

Areas Inspected: Written policies and procedures, program administration, training, key program processes and on-site collection and testing facilities.

Findings: Based upon selective examinations of key elements of the Rochester Gas and Electric Fitness-For-Duty (FFD) program, the objectives of 10 CFR 26 are generally being met. One apparent violation was identified relative to the manner in which the permanent record book was being maintained at the collection site. One non-cited violation was self-identified by the licensee concerning the failure to conduct a pre-award audit of the HHS laboratory and one unresolved item was identified concerning the lack of a policy to deal with individuals with infrequent access to the site. The following program strengths and potential weaknesses were identified.

Strengths:

1. the professionalism, competency and dedication of the staff who were involved in administering the program
2. the excellent computer program for random selection
3. the strong support exhibited by management for the program
4. the awareness of and utilization by employees of the Employee Assistance Program (EAP)
5. the effective and comprehensive audit program
6. the inclusion of all company employees in the FFD program

Potential Weaknesses:

1. the manner in which the permanent record book is maintained at the collection site
2. the lack of an official policy and implementing procedure for individuals with infrequent unescorted access
3. the lack of a formal policy and procedure for the Medical Review Officer
4. the lack of consistency among some program policies and procedures
5. unfamiliarity of the employees with the FFD program appeals process

DETAILS

1.0 Key Personnel Contacted

Licensee

***R. Mecredy, Vice President, Ginna Nuclear Production
*S. Spector, Plant Manager - Ginna
*R. Smith, Senior Vice President, Production and Engineering
**J. Peters, Department Manager - Employee Relations (Fitness-for-Duty Program Manager)
**L. Houck, Fitness-For-Duty Coordinator
**B. Mesher, Director, Human Resource Research, Planning and EEO
**A. Fraser, Manager, Safety and Health Service
***B. Stanfield, QA Engineer, Operations
**D. Fredericksen, Industrial Hygenist
***E. Doty, Technical Writer
**S. Eckert, Nuclear Access Authorization Administrator
**W. Dillon, Director of Security
**R. Woods, Supervisor Nuclear Security
**A. Plummer, Coordinator Medical Services
*A. Kurchin, Medical Review Officer
*G. Meier, Department Manager, Production Division Training
*G. Taylor, Director Employment
H. Bush, Contract Employee Assistance Program Coordinator

United States Nuclear Regulatory Commission

T. Moslak, Senior Resident Inspector

*Denotes those personnel who attended the entrance meeting only.
**Denotes those personnel who attended both the entrance and exit meeting.
***Denotes those personnel who attended the exit meeting only.

The inspectors also interviewed other licensee and contractor personnel during the course of the inspection.

2.0 Purpose and Scope of Inspection

The inspector met with the licensee's representatives, as indicated in Section 1.0, at the Rochester Gas and Electric Corporate office in Rochester, New York on January 23, 1991, to summarize the purpose and scope of the inspection and on January 25, 1991, to present the inspection findings. The licensee's commitments, as documented in this report, were reviewed and confirmed with the licensee during the exit meeting.

3.0 Approach to NRC Review of the Fitness-For-Duty Program

The inspector evaluated the licensee's Fitness-For-Duty (FFD) Program using NRC Temporary Instruction 2515/106: Fitness-For-Duty: Initial Inspection of Program Implementation. This evaluation included a review of the licensee's written policies and procedures, and program implementation, as required by 10 CFR Part 26, in the areas of: management support; selection and notification for testing; collecting and processing specimens; chemical testing for illegal drugs and alcohol; FFD training and worker awareness; the employee assistance program; management actions, including sanctions, appeals, and audits; and maintenance and protection of records. The evaluation of program implementation also included interviews with key FFD program personnel and a sampling of licensee and contractor employees with unescorted plant access; a review of relevant program records; and observation of key processes, such as specimen collection, on-site notification/documentation procedure for random testing, and the random selection process.

4.C Written Policies and Procedures

The inspector determined, through in-office review of Rochester Gas and Electric's Fitness-For-Duty policy dated December 1, 1989, and discussions with the licensee, that the licensee's written FFD policies and procedures generally met regulatory requirements.

However, several areas where improvements could enhance the effectiveness of the program were identified as follows:

4.1 Prescription Drug Procedures

Several procedures require employees to report to the medical office any prescribed medication determined by their physician to have an adverse effect upon his/her job performance. However, the procedures do not address over-the- counter (OTC) drugs that may also have adverse side affects. The licensee agreed to revise the procedures to include OTC drugs, as applicable.

4.2 Medical Review Officer Procedures

The licensee has not developed a formal policy and procedure delineating the responsibilities of the Medical Review Officer. Presently, the MRO is following the guidance of the National Institute on Drug Abuse (NIDA) Medical Review Officer Manual, as well as informal guidance provided by the licensee in discussions. The licensee agreed to develop and implement an MRO policy and procedure by March 1, 1991.

4.3 Appeals Process Procedure

Several procedures addressing the appeals process have contradictory time periods for when an employee may appeal a confirmed positive drug and/or alcohol test by submitting a written request. The licensee has agreed to review and revise the procedures to be consistent with the NRC rule.

4.4 Drug and Alcohol Rehabilitation

Several procedures addressing the licensee's Drug and/or Alcohol Rehabilitation Program state that after successful completion of the rehabilitation program the employee will be subject to an unannounced testing program. In addition, while participating in the unannounced testing program, they would be removed from the random drug/alcohol testing pool.

However, 10 CFR 26.2 states, in part, that the provisions of the Fitness-For-Duty program must apply to all persons granted unescorted access to protected areas.

The inspector advised the licensee that, even though unannounced testing for those individuals who have completed a rehabilitation program generally will ensure testing on a more frequent basis, in accordance with the NRC rule, those individuals must be subjected to the random testing requirement, in addition to the unannounced testing program. The licensee has agreed to review and revise the procedures as needed.

4.5 Collection Site Procedures

The collection site procedures do not contain step-by-step instructions for carrying out the collection process; rather, the procedures are written in narrative format. However, based upon interviews with the collection site staff, it was apparent that they were knowledgeable of their duties and responsibilities. The inspector stated that the lack of detailed procedures created the potential for inconsistencies in carrying out the processes and the opportunity for employees to deviate from acceptable practices. The licensee agreed to review and revise the procedures as needed.

5.0 Program Administration

Following are the inspector's findings with respect to the administration of key program elements in the licensee's FFD program.

5.1 Delineated Responsibilities

The program is organized to facilitate coordination among the various program elements. This includes the active involvement of the Vice President, Employee Relations and Public Affairs, who is responsible for all of the key line program elements (e.g., health and safety, training, EAP (Human Resources), Fitness-For-Duty. The FFD program manager, reports directly to the Vice President, Employee Relations and Public Affairs, who reports directly to the President and Chief, Operating Officer. Except as noted in Details, Section 4.0 of this report, the licensee's procedures clearly delineate the responsibilities and duties of each member of the FFD program staff.

5.2 Management Awareness of Responsibilities

Interviews with FFD program staff and selected supervisors, reviews of procedures and contracts, and discussions with licensee management by the inspector indicated that management, at all levels, is not only aware of its responsibilities under the rule, and its particular responsibilities within the program, but is also fully committed to the goal of the rule: a work place free of drugs and alcohol and their effects.

5.3 Program Resources

The licensee appears to be providing adequate resources for effective program implementation. Interviews with FFD program personnel indicated that upper management has been very supportive in providing the facilities and staff that are necessary for them to carry out their jobs. This was evident by the manner in which both collection sites, one located at the corporate office and the other located outside the protected area at the Ginna Station were observed to be equipped, staffed and utilized.

5.4 Management Monitoring of Program Performance

The FFD program manager exercises effective daily oversight of the program and maintains open communications with FFD program staff. The licensee completed its six-month report on program performance, which indicated very little substance abuse among its employees and those of its contractors. A licensee internal audit was determined by the inspector to be in-depth and thorough. Through its audit program, the licensee identified several weaknesses, including: lack of procedures for the operation, calibration, and maintenance of breathalyzer equipment; lack of procedures for collection site tasks, including collection, chain-of-custody and security measures; and the lack of a procedure outlining the frequency/rate of blind performance

tests submitted and subsequent actions in case of unsatisfactory HHS-certified laboratory performance. The licensee implemented measures to correct the audit findings. The corrective measures were reviewed by the inspector and determined to be adequate except for those weaknesses discussed in Details, Section 4.0 of this report.

5.5 Measures Undertaken to Meet Performance Objective of the Rule

The licensee has provided adequate resources and personnel to meet the performance objectives of the NRC's FFD rule. In regard to achieving a drug-free work place, as stated in 10 CFR 26.10(c), the licensee reserved the right to search the work place if it had "reasonable suspicion" that there was a violation of company policy and procedures. The licensee has also trained all of its security officers in behavioral observation. Those officers act as the first line of defense against employees who are impaired due to drug or alcohol use from gaining station access.

Although not required by NRC regulation, the licensee requires all contractors and vendors to make an EAP program available to their employees.

The inspectors also found that the licensee had adequate mechanisms in place to receive and provide "suitable inquiry" information relative to an employee's or applicant's drug or alcohol history.

5.6 Sanctions

The licensee's FFD policy establishes sanctions consistent with 10 CFR 26.27(b). As stated in the licensee's FFD policy, company employees who have confirmed positive test results for illegal drugs will be suspended for 14 consecutive days without pay, referred to the EAP program as a condition of employment, and are subject to followup testing for a minimum period of three years. Any subsequent confirmed positive test for illegal drugs will result in termination with no rehire consideration. Contractor employees who have confirmed positive test results for drugs will have their unescorted access revoked and will not be eligible to work at any Rochester Gas and Electric facility, or job site, in the future.

Employees who have a confirmed positive alcohol test result will be suspended without pay for one week, given a written warning, and will be subject to unannounced testing. An employee with a second offense will be suspended for two weeks and as a condition of employment receive counseling at the EAP and will be subject to unannounced testing. An employee with a third offense will be terminated with no rehire consideration. Contractor employees will be removed from site and will no longer be eligible to work at any Rochester Gas and Electric facility, or job site, for a first offense.

5.7 Employee Assistance Program (EAP)

The licensee's EAP has been in existence for many years. The program offers assessment, counseling, and referral services through a contract with qualified counseling professionals. The inspectors interviewed the EAP Coordinator and found that he was not only knowledgeable of the duties and responsibilities of his position in accordance with the Rule, but also with the facilities and numerous EAP services available to Rochester Gas and Electric employees. Participation in the EAP is treated on a confidential basis. The inspector determined that the licensee would be informed of an employee whose condition constitutes a hazard to the plant, himself, or others, when the EAP counselor identifies such a situation.

The inspector determined through interviews with randomly selected station employees that the EAP is well accepted and is utilized by the employees. The EAP Director provided documentation that indicated that the majority of individuals enrolled in the program are self-referrals. This demonstrates that the licensee has encouraged its employees to use the service and that the employees have confidence in the program.

An additional benefit provided to licensee employees is the availability of a one-time monetary grant to defray any expenses incurred by an employee participating in a rehabilitation program that is not be covered by the employee's medical insurance benefits.

6.0 Training

The licensee's FFD training program appears to be adequate in most respects. Interviews with plant employees, consisting of licensee and contractor supervisory and non-supervisory personnel, revealed that plant employees were generally knowledgeable of the program and the actions and responsibilities that were assigned to them.

However, the interviews revealed that the employees were not familiar with the appeals process. The licensee agreed to enhance the training lesson plans addressing the appeals procedure to ensure employee understanding.

The inspector reviewed the licensee's lesson plans, training records, and observed a film presentation utilized for supervisor FFD training. It was apparent that the licensee has expended considerable efforts to ensure the effectiveness of the training. No deficiencies were noted.

7.0 Key Program Processes

7.1 Selection and Notification for Testing

The selection and notification process appears to be carried out in a manner that meets the objectives of the NRC rule. A list of individuals for random testing is generated by a computer on a

weekly basis from separate pools composed of all individuals with unescorted station access. The pools are updated on a daily basis. Separate pools have been established for licensee employees and contractor personnel.

Data compiled for the first twelve months of program implementation indicated that the goal of testing 100 percent of station personnel with unescorted access was achieved. The inspector noted that the licensee conducts random testing on backshifts and weekends.

Employees who are not at the station when their names are selected for random testing (due to travel out of the area, illness or vacation) are excused for that day. The names of those individuals are returned to the selection pool. Licensee employees working in corporate headquarters who have unescorted station access are required to report to the corporate collection facility if their names are randomly selected. However, the licensee does not have a policy to deal with personnel with infrequent unescorted access to the Station. The inspector advised the licensee of the need to develop such a policy along with implementing procedures. Testing of personnel with infrequent unescorted access is considered an Unresolved Item (UNR 50-244/91-04-01), and will be reviewed during a subsequent inspection.

The selection process appears to have adequate safeguards to protect sensitive information. Only two individuals have access to the computer program that generates the lists, and all uses and modifications of the program are automatically recorded. The physical location of the computer and the computer generated lists allows for adequate security.

Notification of employees selected for random testing is conducted by the Collection Site Supervisor, or designee, by informing their supervisors to have the individual report for testing within a designated time period. The licensee has a very aggressive program which requires actions to be taken to locate any individual who is more than 5 minutes late for a pre-scheduled appointment. However, the collection site procedures do not contain the followup actions to be implemented by the collection site staff if such actions are required. As stated in Details, Section 4.5, the licensee agreed to review and revise the procedure, as needed.

Procedures and program support in cases of for-cause testing appear to be adequate. The licensee has coordinated specimen collection procedures with a local area hospital to ensure that proper actions are taken if for-cause testing is required and on-site support is unavailable to conduct the testing.

7.2 Collection and Processing of Specimens

The inspector conducted a walkthrough of the procedures for collection and processing of a specimen. Each collection site was adequate to process one person at a time. The design of the facilities is conducive to tracking individuals as they proceed through the process. The facilities provide adequate security for specimens, collection equipment, and records. The collection rooms have no source of water that have not had a bluing agent added. In addition, the licensee has a backup power supply in place to assure that the storage refrigerator would not be without power for extended periods. During the walkthrough, no weaknesses were observed in the way the collection site personnel process either individuals undergoing testing or the specimens.

7.3 Development, Use and Storage of Records

A system of files and procedures to document the program and to protect personal information has been developed. The inspectors examined the security and contents of the files and found them to be adequately secure and current. Access to sensitive information is limited to individuals with a need-to-know. Additionally, review of records by the inspector indicated that chain of custody procedures were being followed at all times.

However, on January 24, 1991, while reviewing the "Permanent Record Book" maintained by the collection site staff at the Ginna Plant, it was determined by the inspector that a "Permanent Record Book" was not being maintained in accordance with the requirements of the NRC rule.

Appendix A, Subpart B, Paragraph 2.4, "Specimen Collection Procedures," Subparagraph (g)(24) states that the collection site person shall enter in the permanent record book all information identifying the specimens. The collection site person shall sign the permanent record book next to the identifying information. Appendix A (1.2) of 10 CFR 26 defines the permanent record book as a permanently bound book in which identifying data on each specimen collected at a collection site are permanently recorded in the sequence of collection.

The licensee stated that the only documentation contained in the record book were the names of contractor employees who have been tested because the collection services are being provided by a contractor and the record book was being utilized to bill the contractor for the services. However, the licensee had developed a computerized system to track and print a list of all individuals tested (including the contractor employees), in chronological order, and had retained a copy of each chain-of-custody form to use as a record signed by the employee being

tested. Therefore, although all of the required data were available, the data were not being entered into a permanently bound record book, with the signature of the collection site person, for use as a legal record.

After discussions with the inspector, the licensee agreed to log all testing in the permanent record book and revise the applicable procedures accordingly.

The licensee's failure to maintain the permanent record book in accordance with the NRC rule is an apparent violation of 10 CFR 26. (VIO 50-244/91-04-01)

Additionally, Appendix A (2.4)(j) of 10 CFR 26 states, in part, that if an individual refuses to cooperate with the urine collection or breath analysis process, then the collection site person shall inform the Medical Review Officer and shall document the non-cooperation in the permanent record book. The collection site staff were apparently not aware of this requirement. However, no such instance had yet occurred and the licensee agreed to include this requirement in the collection site procedure. This matter will be reviewed during a subsequent inspection.

7.4 Audit Program

The licensee had completed a Quality Assurance Audit (No. 90-37 dated September 11-18, 1990) of its FFD program. The inspector found the licensee's audit to be timely, in-depth, and thorough. This audit provided identification of several weaknesses in the licensee's FFD program, and these either had been corrected or were in the process of being corrected at the time of the inspection.

During this inspection it was brought to the attention of the inspector that the licensee failed to conduct a pre-award audit of the HHS Laboratory prior to awarding the laboratory a contract for services.

The licensee's failure to conduct a pre-award inspection and evaluation of the procedural aspects of the laboratory's drug testing operation is an apparent violation of 10 CFR 26 Appendix A, Subsection A, Paragraph 2.7(m).

However, the inspector determined that once identified, the licensee took immediate corrective actions by having the HHS Laboratory audited by a creditable firm independent of Rochester Gas and Electric Corporation. The audit was reviewed by the inspector and found to be satisfactory.

The inspector also determined that the criteria of the NRC's Enforcement Policy (10 CFR 2, Appendix C, Section V.G.) for a non-cited violation had been met, as follows: the violation was identified by the licensee; the violation would be classified at Severity Level IV; it was not

required to be reported; it was corrected by conducting an audit of the HHS Laboratory within a reasonable time; and, it was not a willful violation nor could it have been reasonably expected to have been prevented by corrective action for a previous violation. Non-cited Violation (NCV) 50-244/91-04-02.

8.0 Onsite Testing Facility

The licensee does not conduct on-site screening for drugs. However, testing capabilities for breath alcohol are provided and are consistent with the expectations of the rule. Approved breath-testing devices are used. Procedures for their use are appropriate and personnel have been trained in the use of the devices.