



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
101 MARIETTA STREET, N.W.
ATLANTA, GEORGIA 30323

Report Nos.: 50-348/90-18 and 50-364/90-18

Licensee: Alabama Power Company
600 North 18th Street
Birmingham, AL 35291-0400

Docket Nos.: 50-348 and 50-364

License Nos.: NPF-2 and NPF-8

Facility Name: Farley Nuclear Plant

Inspection Conducted: July 17-19, 1990

Inspector: William J. Tobin 8/17/90.
W. Tobin, Senior Safeguards Inspector Date Signed

Accompanying Personnel: S. Murphy, Battelle Human Affairs
Research Centers

Approved by: William E. Chinn 8/17/90
for David R. McGuire, Chief Date Signed
Safeguards Section Nuclear Materials
Safety and Safeguards Branch
Division of Radiation Safety
and Safeguards

SUMMARY

Scope:

This announced inspection reviewed the licensee's Fitness for Duty Program as required by 10 CFR Part 26. Specifically, the licensee's Policy, Program Administration, Chemical Testing and Key Program Processes were reviewed using NRC Temporary Instruction 2515/106 "Fitness for Duty: Initial Inspection of Implemented Program" dated July 11, 1990.

Results:

Based upon the NRC's selective examination of key elements of the licensee's Fitness for Duty Program, it has concluded that the licensee is satisfying the general objectives of 10 CFR 26.10. Strengths were noted in that the licensee screens for a broader panel of drugs over a greater population than NRC requires, and has conducted thorough Quality Assurance audits of its program.

An apparent violation of 10 CFR 26.22(a) was noted in that supervisors of contractors are not provided "appropriate training," (see paragraph 4c.) Non-cited Violation No. 50-348 and 364/90-18-01.

An apparent violation of 10 CFR 26.24(a)(2) was noted in that an individual randomly tested is not "immediately eligible for another unannounced test," (see paragraph 5b.) Violation No. 50-348 and 364/90-18-02.

REPORT DETAILS

1. Persons Contacted

Licensee Employees

- R. Berryhill, (Site) Systems Performance, Manager
- *P. Bizjak, (Corporate) Occupational Health and Employee Assistance, Supervisor
- *L. Enfinger, (Site) Plant Administration, Manager
- R. Fucich, (Corporate) Nuclear Administrative Support, Manager
- *S. Fuller, (Site) Safety Audit and Engineering Review, Supervisor
- D. Guthrie, (Corporate) Senior Investigator
- L. Jackson, (Site) Training Department, Coordinator
- G. Jones, (Site) Warehouseman
- *W. Kirk, (Corporate) Safety and Health, Manager
- *E. Manley, (Site) Registered Nurse
- E. Mazyck, (Site) Medical Review Officer
- D. Morey, (Site) General Plant Manager
- K. Patton, (Site) Westinghouse, Supervisor
- *L. Sanders, (Site) Registered Nurse
- *J. Sims, (Corporate) Planning and Performance, supervisor
- *M. Stinson, (Site) Assistant General Plant Manager
- A. Vaz, (Site) Bechtel, Coordinator
- R. Williams, (Site) Maintenance Mechanic
- B. Yance, (Site) Building and Grounds, Foreman

Other Organizations

- *S. Murphy, Battelle Human Affairs Research Centers

NRC Resident Inspectors

- *G. Maxwell, Senior Resident Inspector
- *W. Miller, Resident Inspector

*Attended exit interview

2. Licensee's Written Policy and Procedures

The licensee's Fitness for Duty (FFD) Policy Statement was furnished to all employees as an attachment to a memo dated December 15, 1989 signed by the Vice President, Nuclear Generation. The undated Policy Statement is signed by both the Vice President Human Resources and the Executive Vice President of the Alabama Power Company. Nuclear Generation Department Directive (JGD-D)#17 revised on December 1, 1989, titled "Fitness for Duty Program" serves as the prime directive for site implementation of the Policy.

It is the policy of the licensee that all employees be reliable, trustworthy and fit for duty, that they be free from the influence of any substance (legal or illegal) and free from any medical or physical impairment which may adversely affect their ability. The policy and procedures further address the sale, use or possession of illegal drugs, controlled substances, abuse of prescription and non-prescription drugs, and consumption of alcohol. The policy and procedures addresses mental stress, fatigue and personal illness, as well as the 5 hour abstinence period for the consumption of alcohol. For-cause, random and pre-access drug testing are addressed in the policy and procedures. Disciplinary measures are also enumerated.

During a review of the Policy Statement an error was noted in the first sentence which resulted in the sentence being in conflict with the Rule. The inspector noted that in NGD-D #17 the same sentence did not contain such an administrative error. The licensee agreed to revising the Policy Statement. Additionally, a reference to Part 26 in the Policy Statement is in error and will be corrected in the revision.

Implementing procedures (corporate and site) were thorough and informative. All aspects of the Rule were addressed, i.e. specimen collection, disciplinary measures, employee assistance, appeals, 5 hour abstinence, psychological evaluations, quality control, and audits. Procedures also addressed chemical screening of contractors and their access to the facility.

3. Program Administration

a. Management Responsibilities

Prior to the FFD Rule this licensee had a program for pre-access and for-cause drug testing, as well as an employee assistance program. To upgrade its program the licensee established a Task Force under the leadership of the Manager of the Safety and Health Department in Birmingham, Alabama. Membership in the Task Force included others at the corporate Safety and Health office and within the Nuclear Generation Department at both the corporate office and at the site. These multi-departments all funnel together at the Executive Vice President level. The licensee explained that while there is no Fitness for Duty Program Manager (Part 26.24(d)) there are various managers, supervisors and coordinators within the licensee's organization who integrate their functions to manage the FFD Program. During this inspection numerous personnel were contacted by the inspector and found to be knowledgeable in and dedicated to their managerial responsibilities.

b. Resource Allocations

Resources in terms of staff assignment, management/supervision support and facility allocation appear to be appropriate. The Medical Review Officer, registered nurses, laboratory technicians,

and site and corporate managers all appeared sufficiently assigned and supported to perform their duties.

The Collection Facility, exterior to the protected area, is deemed sufficient in size and equipment to assist the staff in both the collection of samples and the preliminary screening. The facility is secured during off-hours; during normal hours access controls are exercised by a receptionist. Further controls are provided to the specimens to preclude subversion or invalidating the chain of custody.

c. Proactive Measures to meet the General Performance Objective of Rule

The FFD Task Force, chaired by the (Corporate) Manager of the Safety and Health Department, continues to trend the effectiveness of the licensee's Program and, along with the Medical Review Officer, monitors the results of its drug testing efforts. The Corporate Security Department has conducted an investigation of drug use onsite as a result of an allegation being furnished to site management. The allegation could not be substantiated. It has been recently decided that future confirmed positive drug tests will require Corporate Security to perform investigations to include an interview of the employee. While the licensee is prepared to perform searches of the work place predicated upon "credible information," no such searches have been undertaken. These searches would include the use of dogs. Appropriate interface with local law enforcement in the vicinity of the plant has been ongoing.

There are approximately 20 designated individuals who perform a role in the administration of the FFD Program, these individuals are randomly tested under the jurisdiction of the Corporate Security Department who also performs "suitable inquiry" background investigations. A Code of Ethics has been signed by those personnel administering the FFD Program which requires them to notify management if an employee subject to the Rule is a relative.

d. Employee Assistance Program (EAP)

The licensee's EAP is designed to achieve early intervention of drug/alcohol abuse under a confidential assistance program. If the employee poses a threat to self or to the facility the program is designed to allow the notification of management so that access to the protected area can be voided.

Employees who are referred are counselled under an "expanded psychological service" provided by a nationally recognized insurance corporation. Employees who are identified as needing EAP as a result of the random drug test are first interviewed by the Medical Review Officer and then referred to an EAP professional. EAP reports are reviewed by the Medical Director who in concert with management can reinstate an employee under a follow-up testing program.

4. Training

a. Policy Communications

The licensee's FFD Program (to include the EAP) was explained to each employee during a one hour training session conducted in December 1989. This training included an 18 minute video of "questions and answers" and was attended by representatives of the Corporate Health and Safety Office. A Drug Information Guide was also disseminated at these sessions. Refresher training is being merged into the General Employee Training curriculum.

The licensee's awareness training prior to the effective date of this Rule was randomly witnessed by the Resident Inspector using NRC Temporary Instruction 2515/104 and was found to be acceptable. During this inspection a limited sampling of employees and contractors were interviewed and found to be knowledgeable of the FFD Program and their responsibilities.

The licensee's Policy was furnished each employee and contractor attending the December initial training classes. This is the same "Policy Statement" referred to in paragraph 2 of this report.

b. Supervisor and Escort Training

Supervisors received a three hour training session entitled "Behavioral Reliability Training" which explored aberrant behavior identification techniques and EAP referrals. The training curriculum for escorts was titled "Symptoms and Signs of Drug Use and Abberant Behavior" which discussed drug abuse indications and initial, as well as, repeated observations of changing behavior.

c. Contractor Supervisor Training

The inspector was informed that it is the licensee's policy that contract supervisors working onsite are functioning in accordance with licensee procedures, performing licensee approved duties, under the supervision of licensee managers and subject to licensee quality controls. Therefore the licensee has chosen not to train contract supervisors in (1) their role and responsibility in implementing the licensee's FFD Program, (2) techniques for recognizing drugs and indications of the use, sale or possession of drugs, and (3) behavioral observation techniques as required by 10 CFR 26.22(a). The licensee has allowed only one exception to its policy in that the Fluor maintenance contractor has its own supervisory training curriculum. NUREG-1385 "Fitness For Duty in the Nuclear Power Industry: Responses to Implementation Questions" (Question #3.3) addresses this issue by stating, "10 CFR 26.22 requires that all supervisory personnel, including contractors, be trained in

supervisory aspects...a contractor supervisor who has no supervisory responsibilities while on site (example: planning or estimating a future job) need not be trained under the provisions of 10 CFR 26.22."

Ongoing at the time of this inspection was an attempt by the licensee's Health and Safety Office to come to an agreement with all other contractors to either provide such training or to participate in the licensee's training. The inspector reviewed internal correspondence dated June 21, 1990, by which the licensee was proposing to change contract elements to meet this part of the Rule. Although the failure of the licensee to train contractor supervisors in their role and responsibilities in implementing the FFP Program is a violation 10 CFR 26.22(a), this licensee-identified violation is not being cited because the criteria specified in Section V.G. of the NRC Enforcement Policy have been satisfied (Non-cited Violation No. 50-348 at 4/90-18-01).

5. Key Program Procedures

a. Chemical Testing

Prior to Part 26 the licensee had a chemical testing program for new employees (pre-access), for-cause, and for licensed operators and security officers as part of the annual medical physical. There was no alcohol testing, not even for-cause.

Currently, the licensee randomly tests at a rate slightly in excess of 100% of the workforce, with the workforce including not only those with valid unescorted access badges to the plant but also those employees within the Nuclear Generation Department at the Corporate Offices in Birmingham, Alabama. This larger population pool is considered to be a strength in the licensee's Program. For the period of January 3 to June 30, 1990, there had been a total of 736 tests performed at the Farley site which had been experiencing an average population pool of 945 individuals. During the inspection there were 1152 unescorted access badges available for site, corporate and contractor personnel. Of the 736 tests, 565 were random, 121 were pre-access, one was for followup, four were for-cause and 45 were blind samples. There were 11 presumptive positives which resulted in four confirmed positives (one alcohol, one cocaine and two marijuana).

It was noted that the licensee uses a broader panel of drugs than NRC requires (barbiturates and benzodiazepine are the two additional drugs screened for), and, as the Rule requires, the sanctions imposed by management remain the same for all screening results. This broader panel of screened drugs is considered to be a strength to the licensee's program.

b. Random Testing

The inspector reviewed Procedure SH-FFD-003, titled "Random Selection" (Revision #003) which details the mechanics of the random selection and testing process. Every Friday, a random generator at the Corporate Office identifies a Primary List and an Alternate List of candidates for random drug testing for the following week. These lists are the result of a population pool based upon the Employee Identification System (a payroll function) and the site unescorted access badge system. Corporate notifies the site FFD Coordinator (a registered nurse) of the candidates, and on Monday, testing is initiated. In that a candidate is chosen only one time during the Friday survey of the population pool, an individual tested on a Monday is not eligible for another test until the following week thereby providing a predictable gap in testing and thus eroding the deterrent value of random testing. 10 CFR Part 26.24(a)(2) requires that chemical testing must be administered so that a person completing a test is immediately eligible for another unannounced test. NUREG-1385, (question #4.6) addresses this issue by referring to the Medical Review Officers Manual, a Health and Human Services publication, stating that each workday should present each employee with a new opportunity of having to produce a sample, with the odds equal to all employees on each new day, regardless of samples previously produced by any of them. Failure of the licensee to administer the testing program so that a randomly tested individual is immediately eligible for another unannounced test is considered a Severity Level IV Violation (No. 50-348 and 364/90-18-02). In accordance with Supplement VII of the NRC Enforcement Policy Severity Level IV violations are those considered, "Isolated failures to meet basic elements of the fitness-for-duty program..."

Based upon interviews of employees/contractors/supervisors (a total of six individuals) one person volunteered that he knew the testing did not occur over the weekends and also that once tested a person was not eligible again until the following week. The inspector was also told during the course of this inspection that this understanding was common knowledge among the ranks of the Fluor maintenance contractor.

The inspector noted additional predictability in the administration of the random testing in that it is not conducted during certain days or periods. Procedure SH-FFD-003, states that the drug testing is done Monday to Friday during scheduled hours and that tests will be done Friday, Saturday and Sunday as appropriate to ensure random scheduling and to satisfy the number of tests to be done for the week. A review of test records for April, May and June reflected no testing was done for the four day weekend associated with Memorial Day, no testing was done on July 4 and no testing was done on any Sunday during those three months. Three tests were performed on only one Saturday (June 23rd) during the three months reviewed. Testing did, however, carryover into the non-regular hour shifts.

The licensee has on occasion tested individuals who infrequently access the site (contractors/vendors) if they can be located in close proximity to the station, normally, however, individuals chosen for random testing are not tested if they cannot be located onsite during the week they were chosen.

c. Report of Results

By letter dated June 26, 1989, the National Institute of Drug Abuse certified the contract laboratory as meeting the requirements of the Department of Health and Human Services. By letter dated May 25, 1990, the licensee informed the NRC that its contract laboratory had mistakenly barcoded two different samples resulting in one false negative determination. The licensee has satisfied itself of the corrective actions after an investigation conducted jointly with the contract laboratory.

d. Sanctions and Appeals

Licensee's Nuclear Generation Department Directive #20 titled "Fitness For Duty Discipline," dated December 15, 1989, addresses disciplinary actions, management sanctions and the appeal process for employees.

The licensee's procedure calls for at least 14 days suspension following the first confirmed positive test. Contractors have their access voided upon the first confirmed positive test. Employees with any subsequent confirmed positive test are terminated as are employees involved in the sale, use, or possession of illegal drugs on licensee property or during company time. Termination is also the ultimate disciplinary action which the licensee would take for abuse of the alcohol policy.

Employees are notified within 10 days of the confirmed positive test and are allowed three days to formally appeal their removal from duty. Appeals are adjudicated by an internal management review conducted by the Executive Vice President.

e. Audit

The licensee has conducted Quality Assurance audits of the laboratory which provides blind specimens to be processed through the onsite preliminary testing facility, and has also audited the site and corporate collection and testing facilities. Additionally the licensee has audited its major vendor, the Fluor maintenance contractor. During the week of this inspection, the licensee was auditing its certified testing laboratory.

From April 16 to May 14, 1990, the licensee audited the FFD Program as administered by its Corporate Health and Safety organization at the Parley, Hatch and Vogtle sites. Four findings ("noncompliance")

were noted as were seven comments and seven areas needing further evaluation.

Only one finding was applicable to the Farley site; the requirement for emergency power to the collection/storage facility could not be demonstrated to verify compliance. The licensee has corrected this item.

The auditors concluded that the licensee's FFD Program has "demonstrated continued improvement and an overall effectiveness meeting stated objectives," however some procedures were not adequate and several inconsistencies existed among the facilities.

The inspector reviewed the FFD audits and the field notes used by the auditors. The Quality Assurance audit function appears to be thorough, aggressive and well documented, and a strength to the program.

6. Exit Interview

The inspection scope and results were summarized on July 19, 1990, with those persons indicated in paragraph 1. The inspector described the areas inspected and discussed in detail the inspection results. The licensee was informed that the Fitness for Duty inspection reports were being reviewed at NRC Headquarters, Office of Nuclear Reactor Regulation, for technical concurrence. The inspector presented a potential violation (failure to train contract supervisors) and one unresolved item (random testing).

By telephone call on July 31, the licensee informed the inspector that it would like to participate in a meeting (or telephone call) with representatives of NRC Headquarters (ONRR) if any of the findings of this report would be considered violations of Part 26. Following an unrelated meeting on August 2 at Region II, the licensee was informed that the Region had submitted a draft report to ONRR proposing a violation relative to the random testing issue.

By telephone call on August 10, the inspector and the representative of ONRR informed the licensee of the finding of one violation relative to an individual being immediately eligible for another unannounced test, and the licensee identified violation relative to the training of contract supervisor. The licensee responded by stating that violations were too severe a characterization of the issues which it felt could be, and were being corrected.