



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

Report Nos.: 50-338/90-24 and 50-339/90-24

Licensee: Virginia Electric and Power Company
 Glen Allen, VA 23060

Docket Nos.: 50-338 and 50-339

License Nos.: NPF-4 and NPF-7

Facility Name: North Anna 1 and 2

Inspection Conducted: September 10 and 11, 1990

Inspector: William W. Topin 9/13/90
 W. Topin, Senior Safeguards Inspector Date Signed

Approved by: D. R. McGuire 9/13/90
 D. R. McGuire, Chief Date Signed
 Physical Security Section
 Division of Radiation Safety and Safeguards

SUMMARY

Scope:

This special, announced inspection was conducted in the area of the licensee's Fitness for Duty Program as required by 10 CFR Part 26. The inspection was in response to a Congressional Inquiry from Congressman William Nelson of Florida relative to a constituent who failed a drug test at the North Anna facility while employed by Westinghouse.

Results:

In the area inspected, violations or deviations were not identified.

The licensee's Fitness for Duty Program was found to be in accordance with NRC requirements. The drug testing program administered by Westinghouse is not regulated by the NRC.

REPORT DETAILS

1. Special - Fitness For Duty (10 CFR Part 26)

Background

By letter dated August 30, 1990, U.S. Congressman Bill Nelson, Eleventh District of Florida, forwarded to the NRC's Regional Administrator in Atlanta, Georgia a letter from Mr. "A" (name withheld to protect identity), a former Westinghouse employee, who had failed a drug screening test at the Virginia Power's North Anna Station. In his letter to Congressman Nelson, dated August 28, Mr. "A" also stated that the testing laboratory was never told of the medications he was taking at the time of the test.

On August 31, Mr. "A" contacted Region II, reiterated the subject of his Congressional letter and further stated that in his attempt to appeal the positive drug test, his former employer (Westinghouse) was not being responsive. Mr. "A" recalled that prior to his termination he was not interviewed by a Medical Review Officer (MRO), and, that during the Fitness for Duty training attendees were told no MRO would evaluate a positive drug test for contractors prior to termination. However, Mr. "A" stated that earlier that morning (August 31) he was contacted by a doctor from Richmond representing the licensee regarding his test. During the August 31 conversation with Region II, Mr. "A" did not desire confidentially and agreed that the NRC should openly investigate his allegations with the licensee.

On September 6, Region II informed the licensee's Vice President - Nuclear of Mr. "A"'s concerns and of the Region's intent to conduct a priority inspection commencing September 10 Mr. "A"'s concerns are;

1. Vitamins and prescriptions he was taking at the time of the drug test could account for the positive result.
2. The testing laboratory was not informed of these medications.
3. No MRO interviewed him relative to these medications prior to his dismissal.
4. His former employer, Westinghouse, is avoiding his attempts to appeal the drug test results.

On September 10 and 11 this reactive Fitness For Duty inspection was conducted at the licensee's Corporate Offices in Richmond and Glen Allen, Virginia. Numerous records relative to Mr. "A"'s specific case were reviewed, interviews were conducted and the licensee's Fitness For Duty Procedure No. 0105 (Revised March 15, 1990) was reviewed. The following licensee representatives were interviewed;

Susan Cornwell - Supervisor, Management Information and Planning
(Assistant Fitness For Duty Manager)

William Dingleline - Medical Doctor (MRO)

Helen Gettler - Fitness for Duty Coordinator, Corporate

William Runner Jr., - Director, Nuclear Administration/Services
(Fitness For Duty Program Manager)

David Williams - Medical Doctor (MRO)

Special Inspection

The licensee's Fitness For Duty Program, as required by 10 CFR Part 26, applies to all nuclear employees and contractors at both Nuclear Stations and Corporate Offices. As allowed by the Rule, the licensee's Employee Assistance Program (EAP) is not available to contractors. The licensee provides for chemical testing (for cause, random and pre-access) of all employees and contractors. Although not required by the NRC, Westinghouse performs a drug test as part of its pre-employment physical using different laboratories than the licensee's. As allowed by Part 26, the licensee has chosen stricter cutoff levels and a broader panel of drugs than NRC requires.

On August 20, Mr. "A" furnished a urine specimen to the licensee at its North Anna Station collection facility as part of the pre-access requirements of Part 26. This specimen was initially screened onsite and determined to be positive for marijuana. In accordance with the Rule, this specimen was then sent to the contract laboratory, Roche Laboratories in Burlington, N.C., for confirmatory testing. At the North Anna Station an administrative error categorized the initial test as "acceptable" which allowed Mr. "A"'s security clearance paperwork to continue in the access authorization process. On August 27, Roche Laboratories informed the licensee that the specimen was positive based upon their initial test (which repeated the licensee's preliminary test) and a confirmatory gas chromatography/mass spectrometry (GC/MS) test. A confirmatory positive test is independent from the initial test and uses a different technique and chemical principle from that of the initial test to ensure reliability and accuracy. On that same day, Dr. William Dingleline, an MRO, attempted to interview Mr. "A" regarding the confirmed positive test but learned that Westinghouse had earlier terminated his employment due to his failure of the Westinghouse pre-employment drug test. In documenting his evaluation of the test as a confirmed positive test, Dr. Dingleline recorded the following statement in Mr. "A"'s records, "Unable to reach him, is no longer with Westinghouse. Reported to have tested positive at another place by Westinghouse. Will send letter if we can get address." In that Mr. "A"'s file remained active, on August 31, Dr. David Williams, also an MRO, called Mr. "A" at 8:35 a.m. discussed the test results, the effects of taking the various medicines which Mr. "A" had listed on the

licensee's Chain Of Custody Form, and concluded that the test would stand as a confirmed positive test.

The inspector reviewed records reflecting a valid Chain of Custody Form from Mr. "A" through the licensee's collection facility to the courier enroute to the Roche Laboratory. These records also reflect the medicines listed by Mr. "A" which were evaluated by the two MROs before they concluded the test results were valid. The inspector was informed that on September 11 a third MRO discussed his appeal with Mr. "A" and concluded the medicines could not result in his positive test. While the inspector did not learn of the actual quantitative results of Mr. "A"'s test he was informed that Mr. "A" failed both the NRC cut-off levels as well as the more restrictive licensee's levels for marijuana.

Although not applicable under the NRC's Part 26, Mr. "A" gave a urine sample on August 21 at a Westinghouse contract collection facility in Louisa, Virginia as part of the pre-employment process. On August 23, Westinghouse was notified by a laboratory in Newport News, Virginia that a GC/MS test resulted in a positive result from Mr. "A"'s specimen. There is no NRC requirement for the Westinghouse test, therefore there is no requirement for an MRO to interview those who fail the test. On August 23, Mr. "A"'s employment was terminated with Westinghouse.

With respect to Mr. "A"'s recollection of the Fitness For Duty training, records reflect he was given such training on August 22. A review of the curriculum and lesson plans reveal attendees are instructed that an MRO reviews confirmed positive results with the employee or contractor. Only the licensee's EAP is reserved for licensee employees. This is also discussed in a handout given to each attendee. In Mr. "A"'s specific case, two MROs reviewed his tests, one attempted to interview him on August 27 and one did interview him on the morning of August 31.

Regulatory Findings

1. No security clearance was issued to Mr. "A" for unescorted access to the North Anna Station. The clerical error of recording his preliminary test as "acceptable" was corrected by the licensee prior to completing the access authorization process.
2. Three MROs have evaluated Mr. "A"'s medicines and prescriptions. All three have concluded these medicines could not account for the confirmed positive result.
3. The Westinghouse pre-employment test is not a NRC required test, therefore, there is no NRC requirement for an MRO to conduct an interview prior to termination.
4. The NRC required drug test conducted by the licensee was in conformance with Part 26.

2. Exit Meeting

The exit meeting was held on September 11, 1990, with Susan Cornwell, Supervisor, Management Information and Planning, and Pratt Cherry, Licensing Engineer. The licensee was informed of the inspector's findings and took no exception.