

APPENDIX

U.S. NUCLEAR REGULATORY COMMISSION
REGION IV

NRC Inspection Report: 50-298/90-37

Operating License: DPR-46

Docket: 50-298

Licensee: Nebraska Public Power District (NPPD)
P.O. Box 499
Columbus, Nebraska 68602-0499

Facility Name: Cooper Nuclear Station (CNS)

Inspection At: Browneville, Nebraska

Inspection Conducted: December 4-6, 1990

Inspector:

M. Linda McLean
M. Linda McLean, Physical Security Specialist
Nuclear Materials and Safeguards Inspection
Section

1/16/91
Date

Approved:

C. L. Cain
C. L. Cain, Chief, Nuclear Materials and
Safeguards Inspection Section

1/16/91
Date

Inspection Summary

Inspection Conducted December 4-6, 1990 (Report 50-298/90-37)

Areas Inspected: Special, announced inspection of the licensee's Fitness-for-Duty (FFD) Program, required by 10 CFR Part 26. This inspection included a review of the licensee's written policies and procedures and program implementation, as required by 10 CFR Part 26. The review was conducted in accordance with Temporary Instruction (TI) 2515/106. Specifically, the inspector evaluated the licensee's program administration and management support, selection and notification for testing, collection and processing of specimens, FFD training and worker awareness, the employee assistance program, management actions and sanctions, appeals, audits, and maintenance and protection of records. The review of the program involved interviews with key FFD program personnel and some of the licensee's employees and contractor personnel with unescorted access, a review of relevant program records, and observation of key processes, such as specimen collection.

Results: Based upon NRC's selective examination of key elements of the licensee's FFD Program, it has been concluded that the licensee is satisfying the fundamental objectives of 10 CFR Part 26. The inspection identified some program strengths. The dedication and professionalism of the current FFD staff is a strength that has significantly contributed to the licensee satisfying the general objectives of the FFD rule. Specific aspects of the program such as security of the collection facility, daily room checks, record keeping, courier verification, and the professional environment of the facilities lend credibility and confidence to the program. As a consequence, employee support for and confidence in the FFD program appeared high and were exhibited during the interview process.

Two violations were identified, but in accordance with Section V.G.1 of the NRC's Enforcement Policy (10 CFR Part 2, Appendix C), these were not cited. These violations were in regard to (1) the licensee's failure to provide supervisor training to several managerial and supervisory personnel, as required by 10 CFR 26.22, and (2) the licensee's failure to promptly notify NRC of a false positive test result on a blind performance test specimen, as required by 10 CFR 26.24.

DETAILS

1. Persons Contacted

NPPD

- *G. R. Horn, Nuclear Power Group Manager
- *J. M. Meacham, Division Manager of Nuclear Operations
- *S. M. Peterson, Senior Manager of Technical Support Services
- *J. V. Sayer, Acting Senior Manager, Staff Support
- C. R. Moeller, Senior Manager of Staff Support (Acting)
- *J. I. Vigil, Corporate Security Manager
- *J. W. Dutton, Training Manager
- *G. Smith, Quality Assurance (QA) Manager
- *J. Bittner, Security Services Supervisor
- M. A. Gillan, Nuclear Training Supervisor
- *M. J. Bennett, Licensing Engineer

NRC

- *S. J. Collins, Director, Division of Reactor Projects
- *W. R. Bennett, Senior Resident Inspector
- *G. A. Pick, Resident Inspector

Other Organizations

- *N. E. Durbin, Battelle Human Affairs Research Center
- R. L. Anderson, Methodist Employee Assistance Program

*Attended exit interview.

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

2. Written Policies and Procedures (TI 2515/106-05.01)

The licensee's written FFD 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 communicate duties and responsibilities and to support the implementation of the program. Written procedures had been developed which adequately detailed responsibilities for important aspects of the program involving random selection and notification, specimen collection, testing for cause, appeal process and procedures, followup testing, and Medical Review Officer's (MRO) responsibilities.

A written, comprehensive policy on fitness-for-duty was found in NPPD's Nuclear Power Group Directive 2.3, Revision 3, and in a pamphlet entitled Fitness For Duty Policy, which was distributed to all employees in the

nuclear power group. Interviews with employees indicated that the policy was effectively communicated through training.

Written procedures were developed which adequately detailed responsibilities for important aspects of the program including: FFD training, random drug screening selections, notification, tracking and testing, "for cause" testing, chain-of-custody requirements, handling positive test results, and appeals. In addition to procedures required by 10 CFR 26.20, procedures were developed for the maintenance, calibration, and certification of the intoximeter and for alternate collection sites and contingency plans. Overall program implementation responsibilities and authorities appeared to have been clearly delineated in the licensee's procedures.

The policy and procedures were considered comprehensive, detailed, and written with sufficient clarity and guidance to allow effective implementation of the program. The procedures were considered a notable program strength.

3. Program Administration and Management Support (TI 2515/106-05.02.a)

The administration of the FFD program was evaluated through review of management involvement and support of the program, the organization structure, and the assigned authorities and responsibilities.

The Division Manager of Human Resources has been assigned the overall responsibility for the implementation and administration of the FFD and Employee Assistance Program (EAP). Responsibility for the day-to-day operation of the program has been assigned to the Corporate Security Manager, and reporting to him was the Security Services Supervisor, responsible for the daily operation of the collection facility. Two licensed physicians under contract to the licensee has performed the MRO's duties for NPPD. In addition, the licensee has contracted with an independent outside organization to administer the EAP.

The inspector interviewed key FFD personnel, collection site personnel, one MRO, and two members of the EAP organization. Each appeared to understand their specific responsibilities and authorities. Resources in terms of staff assignment, management support, and facility allocation appeared to be appropriate. A new collection facility was located in the west warehouse which provided adequate work space and offered good privacy, provided a vault for record retention, as well as giving a professional and orderly environment. The specimen collection facility was considered a program strength.

4. Worker Awareness and FFD Training (TI 2515/106-05.02.b)

Worker awareness and understanding of the FFD program were determined through interviews with licensee and contractor/vendor employees. A sampling of training records were inspected to determine the licensee's compliance with 10 CFR 26.21 and 26.22.

The inspector conducted six interviews of licensee and contractor employees. Two were NPPD supervisors. Those interviewed indicated support for the program and felt that the program had management support. The role of the MRO in the FFD program appeared to be not well understood by those interviewed. More emphasis on this program element might be appropriate in future training programs.

NPPD's audit report (Audit 90-06) identified several managerial and supervisory personnel who had not completed the training required in 10 CFR 26.22. This section states, in part, that "managers and supervisors of activities within the scope of this Part must be provided appropriate training in behavioral observation techniques", and that "Initial training must be completed prior to assignment to activities within the scope of this Part." The licensee's failure to provide behavioral observation training to several individuals who fall within the scope of this part is a violation of 10 CFR 26.22. The violation was discovered by the licensee during the FFD program audit and was corrected by the licensee prior to the NRC inspection. During the months of September through November, the licensee conducted Continual Behavior Observation training for those individuals identified in the audit report.

A Notice of Violation for this violation is not being issued because the criteria of Section V.G.1. of the NRC's Enforcement Policy have been met.

5. Selection and Notification (TI 2515/106-05.02.c)

Inspection of the selection and notification process was conducted to ensure that: (a) affected workers are subject to random testing, (b) the annual testing rate is at least 100 percent of the affected workforce each year, and (c) adequate measures exist to prevent subversion of testing.

A computer driven random selection generator was used to select the desired number of testing candidates to give a reasonable probability that all persons having unescorted access at CNS had an equal opportunity of selection, and has been conducted at a rate equal to test 100 percent of that population. The list of testing candidates was telefaxed to the CNS collection facility from NPPD's corporate offices in Columbus, Nebraska. Notification of those individuals selected was initiated by the FFD staff by notifying the individuals' immediate supervisor approximately 1 hour prior to their test appointment time.

Prior to November 1990, tests on the two backshifts were only conducted at the beginning of one backshift and the end of the other backshift. Additionally, weekends and holidays were not included in their written procedures as test days. This practice was initiated to reduce the amount of overtime that would be required to cover these times and days. If it were realized that testing was limited to selected time periods and days, a substance could possibly be used by individuals knowing they would not be tested. This could be defined as a safe period. This predictable gap in scheduling diminishes the deterrent effect of random testing. The licensee recognized the potential for safe periods with their initial

procedures, and revised Fitness-for-Duty Procedure 2.1, November 9, 1990, to include weekend and holiday testing. Also the licensee has scheduled test times randomly throughout the 24 hours. By virtue of the beginning and end of backshift testing, weekend testing had been conducted throughout the year and one holiday in November had been selected as a test date thereby satisfying 10 CFR 26.24(a) requirements.

NPPD's corporate security staff has tracked individuals selected but who were unavailable for testing by compiling a list of these individuals and checking daily during the test week to determine if the individual has returned to site. If not returned, the list was given to CNS site security to flag their badges so that upon return these individuals would be tested. The badges were not marked in anyway to identify the reason for flagging, thereby eliminating the possibility of early notification.

6. Chemical Testing/Collection and Processing of Specimens
(TI 2515/106-05.02.c and d)

The licensee's chemical testing procedures were evaluated to determine if the program provides a means to deter and detect substance abuse, complies with 10 CFR 26.24, and conforms with, at a minimum, Appendix A of this rule.

NPPD contracted with one Department of Health and Human Services (HHS) laboratory for its chemical testing. Two reports of unsatisfactory performance testing were submitted by NPPD to NRC within 30 days of the conclusion of the investigations of these incidents. The first incident was the reporting by the HHS laboratory of a false positive and a false negative within a blind performance test batch. NPPD's investigation report dated July 10, 1990, concluded that the likely cause of the false positive and false negative for the blind test specimens was the inadvertent switch "with one another, either when poured into Nebraska Public Power District's containers, or at the laboratory accession area." 10 CFR Part 26, Appendix A, Subpart 2.8(e)(5) states, in part, "Should a false positive error occur on a blind performance test specimen and the error is determined to be an administrative error (clerical, sample mixup, etc.), the licensee shall promptly notify the NRC."

The licensee failed to notified NRC of the false positive test report until they submitted their 30-day written report dated November 5, 1990. The licensee was notified by the HHS laboratory on May 10, 1990, of the incorrectly reported positive test result. When the licensee discovered the reporting error, administrative controls were established to ensure timely notification of unsatisfactory performance test results.

The failure of the licensee to promptly notify NRC of the false positive blind performance test is a violation of 10 CFR Part 26 Appendix A, Section 2.8(e). A Notice of Violation for this violation is not being issued because the criteria of Section V.G.1. of the NRC's Enforcement Policy have been met.

The second incident of a reported false negative on a blind sample was attributed to instability and deterioration of the substance used to spike the sample. The investigations of both incidents were thorough and acceptable.

At the time of the inspection, NPPD's FFD program included drug screening for three additional drugs not required by 10 CFR Part 26. These three drugs and the respective cutoff levels are listed below.

<u>Drugs</u>	<u>Cutoff Level</u>	
	<u>Initial Screen</u>	<u>Confirmatory</u>
Benzodiazepine	300 ng/ml	300 ng/ml
Barbiturates	300 ng/ml	200 ng/ml
Propoxyphene	300 ng/ml	200 ng/ml

The Fitness-for-Duty Program Performance Data form was submitted in a timely manner to NRC as required by 10 CFR Part 26.

7. Maintenance and Protection of Records (TI 2515/106.05.01.c)

The licensee's record maintenance and filing systems were evaluated to ensure that their procedures achieved protection of personal information as required by 10 CFR 26.29.

Records of tests and test results were maintained at CNS and in their corporate offices at Columbus. A system of files and procedures to protect personal information contained in FFD-related records had been developed. At CNS such records were used and stored in an appropriate manner. A storage vault was part of the new collection site facility and designed for FFD record maintenance. Access to records were limited to the FFD staff on a need-to-know basis. Any record access required the signature and verification of the individual requesting the record. The licensee used printed FFD cover sheets marked "Confidential" to cover information filled out by the drug test applicant. The cover sheet was clipped on top of the forms and remained with the information throughout the process, thus limiting the opportunity for confidential information from being inadvertently read by others in the area. The inspector considered this practice to be noteworthy.

8. Employee Assistance Program (EAP) (TI 2515/106.05.01.c)

The EAP required by 10 CFR 26.25 appears to be designed to achieve early intervention and provide confidential assistance to employees. Furthermore, it appears that the EAP staff is aware of their responsibility of reporting to management any individual whose condition constitutes a hazard.

The licensee has contracted with an independent outside organization to administer their EAP. The EAP provides for diagnosis, referral, and

counseling. Interviews with the employees and contractors revealed that they were aware of the EAP program and would not hesitate to take advantage of the EAP if necessary.

9. Audits (TI 2515/106.05.01.c)

The inspector examined the licensee's audit program to determine if it had an adequate program for identifying deficiencies and weaknesses, and to ascertain whether appropriate corrective actions were implemented in a timely manner.

The licensee had conducted a quality assurance (QA) audit May 21 through June 6, 1990 (Report No. 90-06) and two followup audits October 3-15, and November 5-28, 1990. The inspector found the licensee's audit to be a timely and thorough effort. The audit provided for self-identification of 15 findings and 2 observations in the licensee's FFD program. The followup audits closed all findings but one, Finding 90-06-01. Further evaluation of the identified items in this finding was in progress at the time of the inspection. The corrective actions implemented for the closed findings of the audit appeared appropriate and were satisfactorily resolved.

10. Management Actions and Sanctions; Appeals (TI 2515/106.05.01.c)

The inspector examined the management actions, sanctions and appeals, policies, and procedures to ensure compliance with 10 CFR 26.27 and 10 CFR 26.28.

The licensee's procedures established sanctions as set forth by 10 CFR Part 26. The licensee's procedures called for at least 14 days suspension following the first confirmed positive drug or alcohol test result and unescorted access removed during the suspension. The employee had 7 days to choose to participate in NPPD's EAP or be discharged. Upon a first confirmed positive by a contractor, their unescorted access would be removed, and they would be suspended for at least 14 days. Their employer would be notified of the test results. Provisions for appeals, and requirements for reinstatement of access were provided to all individuals notified.

Individuals have been given the right to appeal a confirmed, positive drug or alcohol test within 10 days of notification. The letter of notification to the individual provides instructions on what would be required in the case of an appeal. As of the dates of the inspection, no appeals had been filed.

11. Exit Interview (IP 530703)

The inspector met with licensee representatives denoted in paragraph 1 on December 6, 1990, and summarized the scope and findings of the inspection as presented in this report.