



June 7, 1994

O CAN069403

U. S. Nuclear Regulatory Commission
Document Control Desk
Mail Station P1-137
Washington, DC 20555

Subject: Arkansas Nuclear One - Units 1 and 2
Docket Nos. 50-313 and 50-368
License Nos. DPR-51 and NPF-6
Request for Clarification of 10CFR73.71 Reporting Requirements

Gentlemen:

Arkansas Nuclear One (ANO) recently received information indicating that unescorted access may have been granted to certain individuals based on incomplete or misleading information submitted by these individuals. The individuals had been favorably terminated prior to receipt of this information. The work performed while they were at ANO was evaluated to have had no safety significance, and there was no indication that the individuals requested access for any reason other than to gain employment. In assessing this situation, ANO reviewed the safeguards reporting requirements in Appendix G to 10CFR73 and concluded that neither the reporting requirement of paragraph I(b) ("an actual entry of an unauthorized person into a protected area . . .") nor the logging requirement of paragraph II(a) ("Any failure, degradation, or discovered vulnerability in a safeguards system that could have allowed unauthorized or undetected access to a protected area . . .") were applicable because the individuals were judged not to be "unauthorized" within the meaning of the regulation. However, this assessment revealed a potential conflict between the regulation and Generic Letter 91-03, "Reporting of Safeguards Events," regarding situations of this nature. The purpose of this letter is to request clarification of the NRC's reporting and logging requirements under 10CFR73.71 as they apply to site access screening documentation.

The key concern involves the meaning of the word "unauthorized." The only definition of "unauthorized" found in NRC regulations is contained in 10CFR2 Appendix C. It states, "An unauthorized individual is someone who was not authorized for entrance to the area in question or was not authorized to enter in the manner entered." Similarly, the Statement of Considerations for 10CFR73 Appendix G defines an "unauthorized person" as an "unescorted individual in an area to which the individual is not granted unescorted

140025

9406140075 940607
PDR ADDCK 05000313
F PDR

ADD 10

access." The original Proposed Rule for Appendix G would have required one-hour reporting for all "unauthorized" entries. In response to comments on the Proposed Rule, the NRC acknowledged that some unauthorized entries may not involve "malevolent intent" and, for this reason, provided the definition cited above (52 Fed. Reg. of 21653). Also, in paragraph 2.2.2 of ANSI N18.17-1973, an "Authorized Person" is defined as "a person having written permission to enter a protected or vital area." The use of "unauthorized" is not believed to apply where access was granted through good faith and best efforts undertaken at the time to discover relevant background information that was later found to be in question due to individual deception or falsification.

NRC reporting guidance in NUREG-1304 and Regulatory Guide (RG) 5.62 regarding reporting of safeguards events allows logging only (not prompt reporting) for circumstances involving discovery of criminal acts committed off-site, whether the acts were committed pre- or post-employment, as long as no threats to plant or public safety are involved. Also, these guidance documents only refer to "unauthorized" persons in the context of "intrusions", not deficiencies in documentation related to the normal process of granting access. The term "intrusion" generally refers to an entry, often forcible, without invitation or permission.

Further indication that a one-hour report is not intended for situations involving access with incomplete screening records or minor falsifications is the general nature of prompt reports. Prompt reports are believed to be of such a serious nature that they require immediate NRC notification. Nothing associated with the access authorization situation being evaluated caused ANO to believe that such a level of concern was warranted. This conclusion was based, in part, on relative seriousness of related examples cited in NRC guidance documents.

Generic Letter (GL) 91-03 recommends logging only, not one-hour prompt reporting, of properly compensated situations involving "incomplete pre-employment screening records (to include falsification of a minor nature)." However, it also states that, "If the licensee determines that unescorted access would have been denied based on developed information, a one hour report is required after discovery of the new information, as currently stated in RG 5.62 and NUREG-1304." The basis for the GL recommendation for a one hour report is not clear in either of these two documents but appears to be based upon 10CFR73 Appendix G paragraph I(b) quoted above. The RG and NUREG had previously provided guidance that would have led to a one-hour report if access had been based on incomplete or falsified records and malevolent intent was present but not if access was subsequently denied for other considerations. However, the GL appears to lead the licensee to conclude that an individual with incomplete records would always be "unauthorized" regardless of any "malevolent intent" if his/her access authorization is removed based upon the discovered information. Any such individual's entry into the protected area would therefore necessitate a one hour report.

In addition, ANO believes an aspect of the example cited in Generic Letter 91-03 regarding incomplete pre-employment screening records may constitute a new or changed NRC position that appears to be neither required by 10CFR73.71 nor described in Regulatory Guide 5.62 or NUREG-1304. The Generic Letter indicates that a one-hour report is required if it is determined that unescorted access would have been denied based

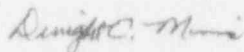
on the developed information. However, Regulatory Guide 5.62 and NUREG-1304 do not discuss the reportability of incomplete pre-employment screening information. The Generic Letter states that it is intended to reduce reporting burden and "does not impose any new requirements". Accordingly, since incomplete pre-employment records are not addressed by the previous NRC documents, the position of Generic Letter 91-03 seems contradictory.

On the basis of the above information, ANO believes that receipt of information reflecting incomplete or inaccurate pre-employment screening does not alone require a one hour report. ANO requests NRC clarification of the application of "unauthorized" for access authorization logging and reporting.

For your information, the situation involving granting personnel access at ANO with incomplete or misleading background documentation is the subject of an apparent violation as described in the NRC letter to ANO dated May 12, 1994, "NRC Inspection Report 50-313/94-16; 50-368/94-16 (Notice of Violation)."

Pending NRC clarification of reporting and logging of access authorization concerns under 10CFR73.71 and supporting NRC guidance, ANO will apply what is believed to be a conservative interpretation and make one-hour reports where the individual has an active access authorization or twenty-four-hour log entries where access has previously been terminated.

Very truly yours,



Dwight C. Mims
Director, Licensing

DCM/mmg

cc: Mr. Leonard J. Callan
Regional Administrator
U. S. Nuclear Regulatory Commission
Region IV
611 Ryan Plaza Drive, Suite 400
Arlington, TX 76011-8064

NRC Senior Resident Inspector
Arkansas Nuclear One - ANO-1 & 2
Number 1, Nuclear Plant Road
Russellville, AR 72801

Mr. George Kalman
NRR Project Manager Region IV/ANO-1
U. S. Nuclear Regulatory Commission
NRR Mail Stop 13-H-3
One White Flint North
11555 Rockville Pike
Rockville, MD 20852

Mr. Thomas W. Alexion
NRR Project Manager, Region IV/ANO-2
U. S. Nuclear Regulatory Commission
NRR Mail Stop 13-H-3
One White Flint North
11555 Rockville Pike
Rockville, MD 20852