APPENDIX

U.S. NUCLEAR REGULATORY COMMISSION
REGION IV

NRC Inspection Report: 50-298/94-19

License: DPR-46

Licensee: Nebraska Public Power District
P.O. Box 499
Columbus, Nebraska

Facility Name: Cooper Nuclear Station (CNS)

Inspection At: Brownville, Nebraska

Inspection Conducted: May 23 through August 12, 1994

Inspectors: R. Barr, Senior Resident Inspector, WNP-2
R. Kopriva, Senior Resident Inspector, CNS
T. Reis, Project Engineer, Project Branch C
W. Walker, Resident Inspector, CNS
P. Goldberg, Reactor Engineer, Division of Reactor Safety

Approved: _____ Date 9/9/94
P. H. Harrell, Chief, Project Branch C

Inspection Summary

Areas Inspected:

Special, announced inspection regarding the circumstances that led to the control room emergency filter system being declared inoperable on April 11, 1994.

Results:

- Maintenance

The surveillance testing procedure for verification of the integrity of the control room envelope was inadequate. This is considered a major factor that resulted in the control room envelope not being identified as inoperable (Section 5).

The licensee failed to implement an effective maintenance program that would ensure that the integrity of the control room pressure boundary was maintained (Section 5).

During review of this event, the licensee identified inadequacies in the surveillance procedure and the procedure was still not revised after the inadequacies were identified (Section 6).

- Engineering

The control room envelope was not maintained operable as required by Technical Specification (TS) 3.12.A.1. This is an apparent violation (Section 5).

Testing of the control room envelope was not performed under worst case conditions as a result of the nonconservative assumptions made by engineering personnel (Section 7).

- Management Oversight

Licensee personnel manipulated the pressure in adjoining buildings to obtain the requisite pressure in the control room so the surveillance test would pass (Section 5).

Licensee corrective actions for the lessons learned from testing of the secondary containment were inadequate in that the corrective actions failed to properly evaluate the impact of adjoining building ventilation systems on the pressure in the control room envelope and failed to identify similar deficiencies in the control room pressure boundary. This is considered a major factor that led to the failure to identify the inoperability of the control room envelope (Section 7).

The corrective actions identified during a licensee assessment of this event were not implemented in a timely manner because of a lack of accountability for completion of the actions (Section 8).

Summary of Inspection Findings:

- Apparent Violation 298/9419-01 was opened (Section 5).

Attachment:

- Persons Contacted and Exit Meeting

DETAILS

1 PLANT STATUS

At the initiation of this inspection, the plant was operating at 100 percent power. On May 25, 1994, the plant was shut down because both emergency diesel generators were inoperable. The plant remained shut down at the end of this inspection period.

2 SYSTEM DESCRIPTION AND REQUIREMENTS

The normal ventilation system provides fresh, outside air to the control room envelope during normal plant operations. The control room envelope includes the control and cable spreading rooms, which are interconnected. The emergency filter system actuates when radiation is sensed entering the normal ventilation supply system. When the emergency filter system actuates, the outside air supply is redirected, by closure of an inlet damper, from the normal ventilation system to the emergency filter system. The emergency filter system provides approximately 341 scfm of air flow to the control room envelope to maintain the envelope at a positive pressure. The control room envelope is maintained at a positive pressure to ensure that the air outside the envelope, which could contain radioactive material as a result of an accident, does not leak into the envelope. The air passing through the emergency filter system is treated to remove any radioactive material, thereby ensuring that the atmosphere in the control room envelope is maintained at an acceptable quality for continued habitability by operations personnel throughout the length of a design basis accident.

The radioactive waste, control, and turbine buildings and the multipurpose facility adjoin the control room envelope. Ventilation systems maintain these buildings at a negative pressure with respect to atmospheric pressure in order to minimize the potential release of radioactive material to the environment during an accident. In addition, maintaining the adjoining buildings at a negative pressure will ensure that no unfiltered air enters the control room envelope. (For a detailed discussion of the description of the ventilation systems, refer to Chapter 10.3 of the Updated Safety Analysis Report).

The design basis for the control room normal ventilation and emergency filter systems, as stated in the TS, is to filter the outside air entering the control room, recirculate the air during control room isolation conditions, and minimize the unfiltered inleakage of air. To meet this design basis, the licensee established an acceptance criteria stating that any positive pressure in the control room envelope would ensure that the basis could be met.

3 DESIGN BASIS FOR THE CONTROL ROOM NORMAL VENTILATION AND EMERGENCY FILTER SYSTEMS

The NRC issued NUREG 0737, "Clarification of TMI Action Plan Requirements," to provide licensees with post-TMI requirements. The purpose of these

requirements was to improve safety at power reactors. NUREG 0737, Item III.D.3.4., "Control Room Habitability," requested that licensees review their facility's design requirements against the Standard Review Plan, Section 6.4. Paragraph 3, "Control Room Habitability," of Section 6.4 states that systems having pressurization rates of less than 0.25 volume changes per hour (which is characteristic of the CNS control room ventilation systems) should have periodic (every 18 months) verification of control room pressurization that ensures the feasibility of maintaining a pressure of +1/8 inches of water gauge (iwg).

Since the issuance of NUREG 0737, a number of letters were sent between the NRC and the licensee in order to establish the design basis pressure requirement for the control room envelope. A review of the correspondence indicated that, over time, the licensee adopted a position that any positive pressure in the control room would provide assurance that the envelope could meet its intended safety function, notwithstanding the fact that NUREG 0737, Item III.D.3.4 required +1/8 iwg.

In order to clarify the design basis for the pressure that must be maintained to ensure that all leakage will be out of the control room envelope, the licensee met with the Office of Nuclear Reactor Regulation (NRR), on July 14, 1994, to discuss the issues pertinent to the control room emergency filter system. The licensee stated that the design basis was that the control room envelope should be able to maintain a positive pressure during all design basis accident conditions. The licensee's position was based on the completion of a calculation that provided assurance that operations personnel would not receive a dose greater than the established limits.

The licensee completed an analysis that demonstrated that a pressure of +0.03 iwg in the control room envelope would ensure a positive pressure could be maintained under all meteorological and accident conditions. An operating limit of +0.03 iwg was established by the licensee as an interim value pending a planned upgrade to the emergency filter system during the next refueling outage. In the outage, the licensee has committed to complete modifications to the emergency filter system to increase fan capacity thereby increasing control room envelope positive pressure. After determining system performance with increased blower capacity a change to the Technical Specification will be proposed to establish an operability value. Again, NUREG 0737 Item III.D.3.4 implies that a pressure of +1/8 iwg be maintained.

The licensee also established an administrative limit of +0.04 iwg. The licensee stated that the frequency of testing of the control room envelope would be increased if the pressure was found to be less than +0.04 iwg and that the emergency filter system would be declared inoperable if the pressure was found to be less than +0.03 iwg. This analysis was provided to the NRR in a letter dated July 28, 1994. NRR reviewed the analysis submitted by the licensee and determined that the analysis supported the interim administrative and operating limits.

4 EVENT DESCRIPTION

On April 11, 1994, the licensee performed Surveillance Procedure (SP) 6.3.17.18, "Control Room Envelope Pressurization Test." The purpose of SP 6.3.17.18 is to provide instructions for station personnel to perform a test to verify that the control room envelope was maintained at a positive pressure in the normal and emergency modes of ventilation system operation.

The licensee identified that a positive pressure could not be achieved in the control room envelope. As a result, the licensee declared the control room emergency filter system inoperable and entered TS 3.12.A.1, which required the system to be returned to an operable status or the plant be shut down in 7 days.

On April 18, seven days after entering the TS shutdown action statement, the licensee requested a Notice of Enforcement Discretion from the NRC, in a letter dated April 21, 1994, since the licensee had not completed repairs to correct the control room pressure boundary deficiencies. The NRC granted a 14-day extension for the TS 3.12.A.1 action statement. The actions taken by the licensee to reestablish the integrity of the control room envelope included items such as repairing and resealing penetrations in conduit and cable trays, filling loop seals in the cable spreading room, and repairing door gaskets.

On April 28, after repairs were completed, the licensee successfully performed SP 6.3.17.18 and, on April 30, declared the control room emergency filter system operable.

5 REVIEW OF THE CONTROL ROOM ENVELOPE PRESSURE TESTING

As a result of the test failure on April 11, the licensee issued Condition Report (CR) 94-041 to document the technical evaluation of the failure of SP 6.3.17.18 to provide appropriate instructions to verify the operability of the emergency filter system. The licensee developed a detailed chronology of the historical issues associated with the control room normal ventilation and emergency filter systems and evaluated the probable causes of the failure of the SP to verify operability of the system. The licensee determined that the most probable causes were: (1) door seal leakage, (2) insufficient design capacity of the emergency filter system, (3) air flow imbalance of the normal ventilation and emergency filter systems, (4) newly developed leak paths, (5) doors opening in the incorrect direction, (6) turbine building ventilation system controls operated improperly, (7) ventilation systems in adjoining buildings hindered testing, and (8) inaccurate manometer readings.

From April 23-29, 1994, the licensee performed Special Test Procedure 93-257 to determine what affects the pressure in adjoining buildings had on the pressure in the control room envelope. The testing also assessed whether the leakage of the doors penetrating the pressure envelope was a significant contributor to the overall leakage. As a result of the testing, the licensee noted: (1) there were no significant leaks in the two pressurized ventilation

ducts that passed through the control room envelope; (2) the ventilation systems in other buildings influenced the pressure in the control room envelope; (3) the radioactive waste and turbine building ventilation system controllers would not maintain the buildings at the design pressure and the multipurpose facility controller was not adjustable; (4) after repairs were completed, the doors penetrating the control room boundary had little effect on control room pressure; (5) SP 6.3.17.18 must be revised to include testing, with the ventilation system for the control building in the emergency mode, if continual battery exhaust fan operation is required; and (6) using the relative atmospheric air pressure to measure control room pressure was valid.

The inspector reviewed: (1) CR 94-041 to assess the thoroughness of licensee's evaluation, determination of root causes, and proposed corrective actions; (2) copies of SP 6.3.17.18, which had been previously completed, to independently establish the licensee's performance history for pressure testing of the control room envelope; and (3) the results of Special Test Procedure 93-257.

As a result of these reviews, walkdown of selected ventilation systems, observation of the performance of tests, and discussions with licensee personnel, the inspector identified the following problems:

- In June 1989, the licensee first performed surveillance testing of the control room normal ventilation and emergency filter systems and the test failed to meet an acceptance criteria of +0.01 iwg. This was the pressure value the licensee used at that time as an indicator that the boundary was at a positive pressure.

- Licensee personnel manipulated the pressure in other buildings to attain a positive pressure in the control room envelope so the test would pass.

- Tests completed, from November 1991 through March 1994, were not performed with the adjoining buildings at their specified design pressures.

- The wind adversely affected the performance of the pressure controllers for the adjoining building ventilation systems, which prevented constant pressures from being maintained.

- The leak tightness of the control room envelope had substantially degraded because of the lack of a maintenance program for maintaining the integrity of the pressure boundary. As a result, the control room envelope was not capable of maintaining a positive pressure.

- SP 6.3.17.18 was not sufficiently detailed to verify compliance with the TS (i.e., verify a positive pressure in the control room).

- Some of the ventilation systems for the adjoining buildings had degraded and were not capable of operating as designed.

- After 1992, when SP 6.3.17.18 failed to verify a positive pressure in the envelope, the licensee only repaired the minimum number of pressure boundary leaks to obtain a slightly positive pressure.

- The licensee recognized that their position on the design basis (i.e., the pressure required to be maintained in the control room envelope) of the control room emergency filter system had changed a number of times since the initial criteria was established. The licensee did not research the reason for the changes but assumed that the least conservative design basis was the original design.

Based on the reviews performed by the inspector, it was determined that the control room envelope could not meet its intended design function (i.e., maintain a positive pressure); therefore, the control room emergency filter system, which provides air flow to maintain a positive pressure in the control room envelope, was inoperable from 1989 to 1994. This is an apparent violation of TS 3.12.A.1 (298/9419-01).

Based on the above discussions regarding the inadequacies in SP 6.3.17.18, it is apparent that the licensee failed to provide an adequate procedure for verification of the operability of the control room envelope. This is considered to be a significant factor in the licensee not identifying that the control room envelope was inoperable.

The inspector also identified that not all of the licensee's proposed corrective actions identified on CR 94-041 were implemented in a timely manner. For example, the licensee recommended that SP 6.3.17.18 be revised to control all variables (e.g., pressure in the adjoining buildings) in a manner to ensure consistent test results could be obtained; however, the SP was not revised prior to its use on April 28, 1994.

During review of this event, a number of violations were identified that were not cited. Examples of the violations include an inadequate procedure, failure to implement actions in a timely manner, and failure to maintain the design basis for the emergency filter system. These violations were not cited because they are considered to be contributing failures of processes and programs that resulted in the inoperability of the emergency filter system.

6 ADDITIONAL CONTROL ROOM ENVELOPE TESTING

Subsequent to the successful completion of the control room envelope pressure test on April 28, the licensee performed additional testing to verify that the envelope could maintain a pressure of +0.04 iwg, the licensee's established administrative limit. The testing was performed using a revised version of SP 6.3.17.18. The SP was revised to include: (1) an administrative pressure requirement of +0.04 iwg; (2) limiting performance of the test to whenever wind speed was less than 4 mph; and (3) recording of pressures in adjoining buildings. Other than these changes, the SP remained essentially the same as the one previously used.

The inspector reviewed SP 6.3.17.18, Revision 5 (the current revision), and noted concerns with the procedure. The inspector noted that the procedure may not provide sufficient details on the method used to perform the test to ensure consistent results, independent of the individual directing the testing efforts. The concerns included no verification that the manometer is level just prior to recording pressure readings and no instructions for adjusting the pressure in adjoining buildings. The licensee stated that these concerns were considered to be within the skill of the craft; however, a review would be performed to determine if procedure enhancements were needed. The inspector also noted that the licensee failed to include a requirement in SP 6.3.17.18 that the control building ventilation system be operated in the emergency mode if continual battery exhaust fan operation was required. This requirement for a procedure change was identified by the licensee as a result of the performance of Special Test Procedure 93-257. This is an example of the licensee's continuing failure to implement changes to programs based on self-identified deficiencies. Numerous examples of the failure to implement changes have been identified during previous NRC inspections.

The inspector also identified that no stroke time testing of the inlet damper, which closes to direct the outside air through the emergency filter system, was performed. The licensee identified, in January 1993, that it took 7 minutes for the damper to close. The licensee installed a modification to increase the size of the damper operator, which reduced the closing stroke time. However, the licensee had not routinely verified the damper closing time, since installation of the modification, to identify any potential degradation, nor had the licensee established a design basis stroke time limit that will provide assurance that the operation of the damper will support the functioning of the emergency filter system. This damper is a significant component in the proper functioning of the emergency filter system, since a slow closing time would potentially allow radioactive material to enter the control room envelope. The licensee stated that this concern would be reviewed for implementation into SP 6.3.17.18.

During performance of subsequent testing, the licensee successfully verified, with a few exceptions, that the control room envelope could maintain a pressure of +0.04 iwg. On July 23, the licensee identified that the actual pressure in the control room was +0.01 iwg, less than the licensee's established operability limit of +0.03 iwg, because of a flow imbalance between the control and the cable spreading rooms. A modification was made to a damper to eliminate the flow imbalance, and subsequent testing confirmed that the modification adequately resolved the flow imbalance problem.

The inspector noted that the results of the control room envelope testing generally produced results of +0.04 iwg, a value at the administrative lower limit. The inspector noted that, based on past licensee performance, the licensee has not been diligent in maintaining the integrity of the control room pressure boundary. For this reason, the inspector reviewed the program that the licensee had recently instituted for maintaining the pressure boundary. The licensee added a step to an SP to require that the loop seals in the cable spreading room be filled on a monthly basis and issued a

preventive maintenance procedure to inspect the envelope door seals on a monthly basis.

In November 1993, the licensee issued Preventive Maintenance Procedure (PMP) 07678 to inspect the seals on the control room envelope boundary doors. The PMP was prepared to visually inspect the doors and the door seals for early signs of degradation or damage and lubricate and repair as necessary. On July 29, the licensee issued CR 94-0499 to document that the inspection of the control room doors had not been completed in April, June, or July 1994. In addition, the CR stated that the PMP was less than 7 months old and had a less than satisfactory completion rate. Based on this example of recent performance, the inspectors concluded that the licensee was still experiencing difficulties in implementing actions to ensure that the control room pressure boundary was maintained.

7 PREVIOUS VENTILATION SYSTEM PROBLEMS

On March 8, 1993, while performing SP 6.3.10.8, "Secondary Containment Leak Test," the licensee was unable to establish and maintain a pressure of -0.25 iwg. The licensee attempted to identify and repair the leaks. After repairs were completed, the test was reperformed and failed. The licensee then adjusted the ventilation controller in the radioactive waste building to obtain a greater negative pressure. By increasing the negative pressure in the radioactive waste building, the differential pressure between the radioactive waste building and secondary containment was reduced, which reduced the leakage out of the secondary containment and resulted in the pressure in secondary containment to be within TS limits. The licensee then declared secondary containment operable, even though the design basis and TS requirements had not been met.

NRC Inspection Report 50-298/93-17 documented the results of the inspection associated with this event. The NRC issued a Severity Level III Notice of Violation for the failure to correct a significant condition adverse to quality.

The licensee determined the causes of the above event were: (1) a loop seal between the secondary containment and the radioactive waste building was not filled with water; (2) the preventive maintenance program for door seals was not fully effective; and (3) the engineering review of NRC Information Notice 90-02, "Potential Degradation of Secondary Containment," was not adequate.

To address this problem, the licensee implemented these corrective actions: (1) discuss the inadequate review of NRC Information Notice 90-02 with all engineering personnel; (2) examine all secondary containment penetrations and repair the identified leaks; and (3) evaluate the need to consider the affect of adjoining ventilation systems on the control room envelope.

The inspector reviewed the licensee's evaluation of the effects of adjoining ventilation systems on the control room envelope. The evaluation stated that

licensee personnel concluded that no additional actions were required because the ability to pressurize the control room envelope would not be affected by the adjoining building ventilation systems since the systems would be deenergized during a loss-of-coolant accident coincident with a loss of offsite power. However, the inspector noted that licensee engineers failed to consider a loss-of-coolant accident not coincident with a loss of offsite power. In this accident scenario, the adjoining building ventilation systems would remain in operation and could effect the ability to pressurize the control room envelope.

Although the licensee performed an evaluation of the effects of the adjoining building ventilation systems, the inspector noted that the evaluation was narrow in scope and failed to consider the worst case condition. Because of the licensee's limited evaluation, appropriate actions were not taken to ascertain that testing of the control room envelope was properly performed to verify continued operability. In addition, the same type of deficiencies (e.g., no water in the loop seals and leaking penetrations) that were identified with the secondary containment also existed in the control room pressure boundary. The licensee did not examine the control room envelope for these deficiencies. The inadequate evaluations of the effects on control room testing, based on lessons learned from testing the secondary containment, are considered a major factor in not identifying and maintaining the operability of the control room envelope.

8 REVIEW OF THE LICENSEE'S ASSESSMENT OF THE FAILURE OF THE TEST TO VERIFY OPERABILITY OF THE CONTROL ROOM EMERGENCY FILTER SYSTEM

The licensee established a Performance Assessment Team (PAT) to review the effectiveness of the licensee's staff in evaluating and resolving the failure of SP 6.3.17.18 to appropriately verify operability of the control room envelope.

The PAT identified the failures in the barriers established by licensee management to ensure improved performance as a lack of a questioning attitude by licensee personnel during the initial phase of problem resolution and human performance errors. The following were principal recommendations from the assessment performed by the PAT: (1) management should continue to emphasize the need for a questioning attitude by all plant personnel; (2) management should ensure that testing is performed based on the design and licensing bases, with defined acceptance criteria; and (3) management should ensure that patterns of frequent test failures be identified and resolved.

The inspector concluded that the PAT made appropriate recommendations for improving the overall performance of the personnel involved with the resolution of this event. However, the PAT made several recommendations that were not implemented in a timely manner. For example, the PAT recommended that management should ensure that all testing be performed based on the design and licensing bases, with defined acceptance criteria; however, when SP 6.3.17.18 was performed on April 28, the testing was not based on the established design basis for the control room ventilation and filter systems.

It was recognized that the multipurpose facility ventilation system controller was not operating properly, but repairs were not completed in a timely manner. The PAT also recommended that SP 6.3.17.18 be revised to include recording all adjoining building differential pressures; however, this was not done prior to the performance of the test on April 28.

The inspector concluded that the assessment performed by the licensee required strengthening. The assessment lacked the rigor to resolve whether or not the original design and licensing basis of the control room normal ventilation and emergency filter systems had been implemented prior to subsequent performance of the testing. The assessment recognized that other systems (e.g., the turbine and radioactive waste building ventilation systems) were not operating as designed, but did not fully resolve these deficiencies or their potential impact on the control room normal ventilation and emergency filter systems. Even though the assessment made good recommendations, there was a general lack of accountability to ensure that these recommendations were accomplished in a timely manner and the assessment was not sufficiently thorough.

ATTACHMENT

1 PERSONS CONTACTED

1.1 Licensee Personnel

R. Gardner, Plant Manager
R. Godley, Manager, Nuclear Licensing and Safety
G. Horn, Vice President, Nuclear
S. Jobe, Acting Senior Nuclear Division Manager, Safety Assessment
J. Lynch, Manager, Engineering
E. Mace, Senior Manager, Site Support
J. Mueller, Site Manager
J. Sayer, Technical Assistant to Plant Manager
R. Wilbur, Division Manager
V. Wolstenholm, Division Manager, Quality Assurance

1.2 Other Personnel

H. Berchert, Director, Division of Radiological Health, State of Nebraska
J. Parker, Midwest Power
R. Stoddard, Lincoln Electric System
W. Turnbull, Midwest Power

1.3 NRC Personnel

A. Beach, Director, Division of Reactor Projects
L. Callan, Regional Administrator, Region IV
P. Goldberg, Reactor Inspector, Engineering Branch
C. Hackney, State Liaison Officer
P. Harrell, Chief, Reactor Projects Branch C
R. Kopriva, Senior Resident Inspector
W. Walker, Resident Inspector

The personnel listed above attended the exit meeting on August 12, 1994. In addition, the inspectors contacted other personnel during this inspection period.

2 EXIT MEETING

An exit meeting was conducted on August 12, 1994. During this meeting, the scope and findings of the inspection were reviewed. The licensee acknowledged the inspection findings documented in this report. The licensee did not identify as proprietary any information provided to, or reviewed by, the inspectors.

ENCLOSURE 2

FEDERAL REGISTER NOTICES

Two-Year Trial Program for Conducting Open Enforcement Conferences; Continuation of Trial Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Supplement to Policy Statement; Continuation of Trial Program.

SUMMARY: The Nuclear Regulatory Commission (NRC) is issuing a supplement to its two-year trial program for conducting open enforcement conferences. The purpose of this supplement is to inform the public of the NRC's continuation of the trail program until the commission acts upon the NRC staff's recommendations regarding open enforcement conferences.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (301–504–2741).

SUPPLEMENTARY INFORMATION: The Commission published a policy statement on the implementation of a two-year trial program to allow selected enforcement conferences to be open to public observation on July 10, 1992 (57 FR 30782). The purpose of the trial program was to determine whether to maintain the current policy stated in Section V of the "General Statement of Policy and Procedure for Enforcement Action," (Enforcement Policy) 10 CFR Part 2, Appendix C that, "enforcement conferences will not normally be open to the public," or to adopt a new policy that would allow most enforcement conferences to be open to attendance by all members of the public. Comments were required to be provided to the Commission on or before the completion date of the trial program. A correction to the original notice was issued on July 17, 1992 (57 FR 31754) to correctly identify the scheduled completion of the trial program as July 11, 1994.

On May 13, 1994, the Executive Director for Operations directed a reexamination of the NRC enforcement program by a Review Team of senior NRC staff. As part of this comprehensive review of the Enforcement Policy, the NRC intends to consider the issue of whether the Commission should establish open enforcement conferences as the normal practice. In the interim, the NRC is continuing the open enforcement conference trial program pending the outcome of the Enforcement Policy Review. The Review Team intends to complete its review of the Enforcement Policy in early 1995.

As part of its review of the Enforcement Policy, the NRC intends to issue a Federal Register notice soliciting public comments to assist the Review Team. This notice will include soliciting comments on the issue of open enforcement conferences.

Dated at Rockville, MD, this 13th day of July 1994.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 94–17500 Filed 7–18–94; 8:45 am]

I. Criteria For Selecting Open Enforcement Conferences

Enforcement conferences will not be open to the public if the enforcement action being contemplated—

(1) Would be taken against an individual, or if the action, though not taken against an individual, turns on whether an individual has committed wrongdoing;

(2) Involves significant personnel failures where the NRC has requested that the individual(s) involved be present at the conference;

(3) Is based on the findings of an NRC Office of Investigations (OI) report; or

(4) Involves safeguards information, Privacy Act information, or other information which could be considered proprietary.

Enforcement conferences involving medical misadministrations or overexposures will be open assuming the conference can be conducted without disclosing the exposed individual's name. In addition, enforcement conferences will not be open to the public if the conference will be conducted by telephone or the conference will be conducted at a relatively small licensee's facility. Finally, with the approval of the Executive Director for Operations, enforcement conferences will not be open to the public in special cases where good cause has been shown after balancing the benefit of public observation against the potential impact on the agency's enforcement action in a particular case.

The NRC will strive to conduct open enforcement conferences during the two-year trial program in accordance with the following three goals:

(1) Approximately 25 percent of all eligible enforcement conferences conducted by the NRC will be open for public observation;

(2) At least one open enforcement conference will be conducted in each of the regional offices; and

(3) Open enforcement conferences will be conducted with a variety of the types of licensees.

To avoid potential bias in the selection process and to attempt to meet the three goals stated above, every fourth eligible enforcement conference involving one of three categories of licensees will normally be open to the public during the trial program. However, in cases where there is an ongoing adjudicatory proceeding with one or more intervenors, enforcement conferences involving issues related to the subject matter of the ongoing adjudication may also be opened. For the purposes of this trial program, the three categories of licensees will be commercial operating reactors, hospitals, and other licensees, which will consist of the remaining types of licensees.

II. Announcing Open Enforcement Conferences

As soon as it is determined that an enforcement conference will be open to public observation, the NRC will orally notify the licensee that the enforcement conference will be open to public observation as part of the agency's trial program and send the licensee a copy of this Federal Register notice that outlines the program. Licensees will be asked to estimate the number of participants it will bring to the enforcement conference so that the NRC can schedule an appropriately sized conference room. The NRC will also notify appropriate State liaison officers that an enforcement conference has been scheduled and that it is open to public observation.

The NRC intends to announce open enforcement conferences to the public normally at least 10 working days in advance of the enforcement conference through the following mechanisms:

(1) Notices posted in the Public Document Room;

(2) Toll-free telephone messages; and

(3) Toll-free electronic bulletin board messages.

Pending establishment of the toll-free message systems, the public may call (301) 492-4732 to obtain a recording of upcoming open enforcement conferences. The NRC will issue another Federal Register notice after the toll-free message systems are established.

To assist the NRC in making appropriate arrangements to support public observation of enforcement conferences, individuals interested in attending a particular enforcement conference should notify the individual identified in the meeting notice announcing the open enforcement conference no later than five business days prior to the enforcement conference.

III. Conduct of Open Enforcement Conferences

In accordance with current practice, enforcement conferences will continue to normally be held at the NRC regional offices. Members of the public will be allowed access to the NRC regional offices to attend open enforcement conferences in accordance with the "Standard Operating Procedures For Providing Security Support For NRC Hearings And Meetings" published November 1, 1991 (56 FR 56251). These procedures provide that visitors may be subject to personnel screening, that signs, banners, posters, etc., not larger than 18" be permitted, and that disruptive persons may be removed.

Each regional office will continue to conduct the enforcement conference proceedings in accordance with regional practice. The enforcement conference will continue to be a meeting between the NRC and the licensee. While the enforcement conference is open for public observation, it is not open for public participation.

Persons attending open enforcement conferences are reminded that (1) the apparent violations discussed at open enforcement conferences are subject to further review and may be subject to change prior to any resulting enforcement action and (2) the statements of views or expressions of opinion made by NRC employees at open enforcement conferences or the lack thereof, are not intended to represent final determinations or beliefs.

In addition to providing comments on the agency's trial program in accordance with the guidance in this notice, persons attending open enforcement conferences will be provided an opportunity to submit written comments anonymously to the regional office. These comments will subsequently be forwarded to the Director of the Office of Enforcement for review and consideration.

Dated at Rockville, MD, this 7th day of July 1992.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 92-16233 Filed 7-9-92; 8:45 a.m.]

BILLING CODE 7590-01-M

Two-Year Trial Program for Conducting Open Enforcement Conferences; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement.

SUMMARY: The Nuclear Regulatory Commission (NRC) is issuing this policy statement on the implementation of a two-year trial program to allow selected enforcement conferences to be open to attendance by all members of the general public. This policy statement describes the two-year trial program and informs the public of how to get information on upcoming open enforcement conferences.

DATES: This trial program is effective on July 10, 1992, while comments on the program are being received. Submit comments on or before the completion of the trial program scheduled for July 11, 1992. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Send comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch.

Hand deliver comments to: One White Flint North, 11555 Rockville Pike, Rockville, MD between 7:45 a.m. to 4:15 p.m., Federal workdays.

Copies of comments may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC

FOR FURTHER INFORMATION CONTACT: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (301-504-2741).

SUPPLEMENTARY INFORMATION:

Background

The NRC's current policy on enforcement conferences is addressed in Section V of the latest revision to the "General Statement of Policy and Procedure for Enforcement Actions," (Enforcement Policy) 10 CFR part 2, appendix C that was published on February 18, 1992 (57 FR 5791). The Enforcement Policy states that, "enforcement conferences will not normally be open to the public." However, the Commission has decided to implement a trial program to determine whether to maintain the current policy with regard to enforcement conferences or to adopt a new policy that would allow most enforcement conferences to be open to attendance by all members of the public.

Policy Statement

Position

The NRC is implementing a two-year trial program to allow public observation of selected enforcement conferences. The NRC will monitor the program and determine whether to establish a permanent policy for conducting open enforcement conferences based on an assessment of the following criteria:

(1) Whether the fact that the conference was open impacted the NRC's ability to conduct a meaningful conference and/or implement the NRC's enforcement program;

(2) Whether the open conference impacted the licensee's participation in the conference;

(3) Whether the NRC expended a significant amount of resources in making the conference public; and

(4) The extent of public interest in opening the enforcement conference.