

DCS

MAY 24 1991

Docket Nos. 50-317
50-318

Baltimore Gas and Electric Company
ATTN: Mr. G. Dowell Schwartz, Jr.
Vice President, General Services Division
P. O. Box 1475
Baltimore, Maryland 21203

Dear Mr. Schwartz:

Subject: Combined Inspection Nos. 50-317/90-30 and 50-318/90-30

This refers to your letter dated February 20, 1991, in response to our letter dated January 21, 1991. We regret the delay in our reply.

Thank you for informing us of the corrective and preventive actions documented in your letter. These actions will be examined during a future inspection of your licensed program.

With regard to your belief that the matter pertaining to the Unresolved Items 50-317/90-30-02 and 50-318/90-30-02 should not have been categorized as unresolved because the issue is currently under consideration by the NRC for rulemaking, we disagree. The NRC Inspection Manual 0610 defines an unresolved item as a matter about which more information is required to ascertain whether it is acceptable, a deviation or a violation. Pending the outcome of the Commission's review of this matter, that is precisely the case before us. Therefore, we determined that the matter is appropriately categorized as an Unresolved Item.

Your cooperation with us is appreciated.

Sincerely,

Original Signed By:
Malcolm R. Knapp

Malcolm R. Knapp, Director
Division of Radiation Safety
and Safeguards

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cc:

G. Creel, Vice President - Nuclear Energy
V. Bradley, Director, Security Services
R. McLean, Administrator, Nuclear Evaluations
J. Ross, Jr., Security Planning and Programs Specialist
L. Gibbs, General Supervisor, Calvert Cliffs Security Operations
J. Walter, Engineering Division, Public Service Commission of Maryland
K. Burger, Esquire, Maryland People's Counsel
P. Birnie, Maryland Safe Energy Coalition
Public Document Room (PDR)
Local Public Document Room (LPDR)
Nuclear Safety Information Center (NSIC)
K. Abraham, PAO
NRC Resident Inspector
State of Maryland (2)

bcc:

Region I Docket Room (with concurrences)
Management Assistant, DRMA (w/o encl)
J. Joyner, DRSS
J. Linville, DRP
C. Cowgill, DRP
D. Vito, DRP
C. Lyon, DRP
B. Summers, DRP
M. Callahan, OCA
K. Brockman, EDO
R. Capra, NRR

RI:DRSS

[Signature]
Della Ratta/mk
05/21/91

RI:DRSS RI:DRSS RI:DRSS

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Albert *[Signature]* Keimig
05/22/91 05/24/91

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RI:DRSS

[Signature]
Joyner
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Knapp
05/24/91

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03/26/91



CHARLES CENTER • P.O. BOX 1475 • BALTIMORE, MARYLAND 21203

February 20, 1991

U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

ATTENTION: Document Control Desk

SUBJECT: Calvert Cliffs Nuclear Power Plant
Unit Nos. 1 & 2; Docket Nos. 50-317 & 50-318
Reply to Notice of Violation
NRC Resident Inspection Report Nos. 50-317/90-30 and 50-318/90-30
(October 30, 1990, to November 4, 1990)

REFERENCES: (a) U. S. Nuclear Regulatory Commission
Letter from James H. Joyner to G. Dowell Schwartz, Jr.
Dated: January 21, 1991

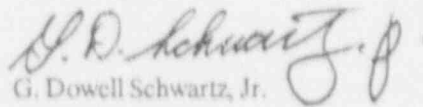
Gentlemen:

Reference (a) forwarded Nuclear Regulatory Commission (NRC) Region I Notice of Violation based on NRC Inspection Nos. 50-317/90-30 and 50-318/90-30, dated January 21, 1991. The violation involved failure to produce written procedures that required fitness for duty (FFD) training and retraining for contractor/vendor supervisors. Additionally, documentation was not available to provide evidence that contractor/vendor supervisors had received the required training within three months after initial supervisory assignment.

The Baltimore Gas and Electric Company's (BG&E's) response to the Notice of Violation is provided in an enclosure to this letter. Also enclosed is BG&E's response to the Notice of Unresolved Items.

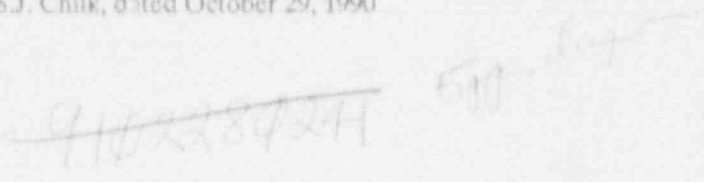
Should you have any further questions regarding this matter, we will be pleased to discuss them with you.

Very Truly Yours,


G. Dowell Schwartz, Jr.
Vice President
General Services Division

Enclosures: (1) Response to Notice of Violation
(NRC Inspection Report Nos. 50-317/90-30 and 50-318/90-30)
(2) Response to Unresolved Items
(NRC Inspection Report Nos. 50-317/90-30 and 50-318/90-30)
(3) Letter from G.C. Creel to S.J. Chilk, dated October 29, 1990

cc: D. A. Brune, Esquire
J. E. Silberg, Esquire
R. A. Capra, NRC
D. G. McDonald, Jr., NRC
T. T. Martin, NRC
L. E. Nicholson, NRC
R. I. McLean, DNR



bcc:

G. V. McGowan
C. H. Poindexter
G. C. Creel
J. A. Tiernan/A. J. Slusark
M. J. Miernicki
W. R. Corcoran
C. H. Cruse/P. E. Katz
R. C. DeYoung
R. M. Douglas/R. F. Ash
R. P. Heibel/T. N. Pritchett
C. P. Johnson
R. R. Keimig (NRC)
C. C. Lawrence, III/A. R. Thornton
W. A. Thornton/E. I. Baurereis/M. C. Gavrilas
R. B. Pond, Jr./S. R. Buxbaum, Jr.
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J. J. Connolly
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G. J. Falibota
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J. J. Volkoff

ENCLOSURE (1)

Response to Notice of Violation NRC Inspection Report Nos. 50-317/90-30 and 50-318/90-30

I. Description and Cause of the Violation

Written procedures specifying the requirements for Fitness for Duty (FFD) training and retraining for contractor/vendor supervisors were not provided during the inspection. Additionally, documentation was unavailable to provide evidence that contractor/vendor supervisors had received the required training within three months after initial supervisory assignment.

BG&E's procedures for contractor/vendor supervisor training have relied heavily on assigned BG&E access requestors who conduct supervisory behavioral observation. The requirements for training and retraining of BG&E supervisors are specified in the FFD Manual, as was noted during the inspection. Separate provisions were not detailed for contractor/vendor supervisors, as those designated to conduct such supervisory behavioral observation were trained and retrained under BG&E's supervisory training program. Proceduralization of which contractors would be so designated was not specified but was left to individual BG&E supervisors and access requestors. The responsibility to identify supervisors for training promptly (within 60 days) after their assignment to supervisory jobs was specified in the FFD Manual and in the Supervisory FFD Lesson Plan. The cause for this weakness was the initial BG&E decision to utilize access requestors for behavioral observation in lieu of contract supervisors.

Documentation of those personnel who were trained as FFD supervisors was available during the inspection, however, no auditable list of candidates who should have received such training existed. The cause for this weakness was the newness of the FFD Supervisory Training Program and the failure to anticipate the desirability of clear, auditable records to document compliance.

II. Corrective Actions and Steps Which Will be Taken to Avoid Future Violations

The following corrective measures have been taken to strengthen BG&E's supervisory FFD training of contractors and vendors:

1. All access requestors have been contacted to identify all personnel (BG&E and contractor) who are responsible for behavioral observation. These lists are under review and all previously untrained behavioral observation supervisors will be trained by March 22, 1991.
2. Periodic review of all site personnel to identify their responsible behavioral observation supervisors have been initiated. This will provide an auditable means to ensure that compliance is maintained after March 22, 1991.
3. The FFD Manual will be clarified with respect to contractor/vendor requirements by May 1, 1991.
4. Future initial unescorted access requests will require the identification of a Fitness for Duty supervisor. Supervisors identified who have not received training will result in a request being forwarded to the Technical Training Unit. The appropriate access request forms and procedures are being modified to indicate this requirement. The access request form and associated procedures will be revised by August 20, 1991.
5. As an added assurance, mechanisms in the procurement and contracting process are being developed to allow BG&E contract administrators to require contractors to pre-identify supervisors with behavioral observation responsibilities. The contract administrator will have the option of requiring contract supervision or assigning BG&E personnel to provide observation and oversight of the contract employees.

ENCLOSURE (1)

Response to Notice of Violation NRC Inspection Report Nos. 50-317/90-30 and 50-318/90-30

IV. Date When Full Compliance Will Be Achieved

Review of all site personnel lists and training of associated FFD supervisors will be completed by March 22, 1991. This will assure we are in full compliance.

ENCLOSURE (2)

Response to Notice of Unresolved Items NRC Inspection Report Nos. 50-317/90-30 and 50-318/90-30

I. UNR 50-317/90-30-02 and UNR 50-318/90-30-02

Unresolved Item:

The Supervisor, Security Screening Unit is notified by the Random Drug Coordinator (RDC) of a positive drug test prior to review and verification of the confirmatory positive drug test results by the Medical Review Officer (MRO). Upon receiving this notification, the Supervisor, Security Screening Unit temporarily suspends the individual's access pending MRO confirmation.

Response:

10 CFR 26 currently requires that the Medical Review Officer (MRO) allow an individual to discuss the results of a positive FFD test before administrative action is taken. BG&E does not consider our current policy of temporarily suspending access based on a confirmatory positive test result while awaiting this discussion as contradicting this rule. Current NRC rulemaking is under consideration which would specifically invoke the interpretation stated in this Unresolved Item. BG&E has commented on this rulemaking by letter from Mr. George C. Creel to Mr. Samuel Chilk, Secretary of the Commission dated October 29, 1990. A copy is attached as Enclosure (3) to this response. BG&E considers its current policy as appropriate, balancing the individual's rights while protecting the public's interest. BG&E does not consider that an Unresolved Item is appropriate for an issue on which rulemaking is currently under evaluation.

II. UNR 50-317/90-30-03 and UNR 50-318/90-30-03

Unresolved Item:

The licensee does not appear to have an effective method of tracking FFD supervisory training to ensure that the method is effective.

Response:

Subsequent to its implementation of the current FFD program in January, 1990, BG&E established requirements for supervisors and access requestors to identify those supervisors who needed supervisory FFD training. Additional measures to identify personnel needing such training through Nuclear Energy Division and Employee Services Department policies were implemented on February 11, 1991. These efforts have been supplemented by taking the corrective measures identified in Enclosure (1). Through these actions, BG&E believes we have completed the steps to assure effective tracking of FFD training.

III. UNR 50-317/90-30-04 and UNR 50-318/90-30-04

Unresolved Item:

The deterrent effect of random testing is lost when testing is consistently done at the beginning of the shift (during backshift and weekend testing) since it allows an individual to use drugs or alcohol during the remainder of the workshift without fear of being called for testing, other than for cause.

Response:

BG&E will modify its backshift and weekend testing procedures to permit testing personnel at other than the beginning of the shift. These changes should meet both the requirements and the intent of the Rule.



CHARLES CENTER • P.O. BOX 1475 • BALTIMORE, MARYLAND 21203-1475

GEORGE C. CREEL
VICE PRESIDENT
NUCLEAR ENERGY
12017 240-4455

October 29, 1990

Mr. Samuel J. Chilk
Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington, DC 20555

ATTENTION: Docketing and Services Branch

SUBJECT: Calvert Cliffs Nuclear Power Plant
Unit Nos. 1 & 2; Docket Nos. 50-317 & 50-318
10 CFR Part 26 - Fitness for Duty Programs - Nuclear Power Plant
Personnel

Gentlemen:

The proposed rule, 55 Federal Register 35648 - August 30, 1990, which would prohibit licensees from taking any action against an employee based solely on a preliminary positive drug test screen is, unnecessary and unwise.

Everyone agrees that the overriding concern at any nuclear facility is safety - the safety of the public, the workers, the environment and the plant itself. Any regulation which might raise doubts about the safety of the plant must be considered very carefully.

Baltimore Gas and Electric Company has maintained, for over 10 years, a Company-wide Fitness for Duty (FFD) Program which covers all of our employees. Our program, in many areas, exceeds the minimum standards set by the NRC regulations. Our experience with, and the results from our FFD program have been very successful. Our program adequately protects individual rights. At the same time, it protects the worker, co-workers, the public and the environment from potential harm which might be caused by an individual who preliminarily screened positive for drugs but is allowed to remain in the plant pending confirmation of the test results.

While the proposed regulation seems to be aimed primarily at random drug testing, as presently written, it would also affect other drug testing policies and procedures of the licensee. By adopting this proposed rule, the Commission would severely limit Management's exercise of business judgment as well as exposing the nuclear utility to an unnecessary risk.

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Secretary of the Commission
October 29, 1990
Page 2

A licensee that grants a worker unescorted access to critical and/or crucial areas of a nuclear power plant despite having actual knowledge that the worker has tested positive for illegal drugs is tempting fate with potentially serious consequences.

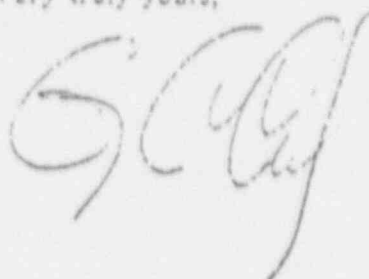
As has often been stated by the NRC, the licensee bears the ultimate responsibility for the safety of the nuclear facility. The licensee should retain its authority and control over its workforce without being needlessly hampered or curtailed in carrying out that responsibility. Traditional management prerogatives should be left to management and not to government regulations.

Finally, the existing provisions of 10 CFR Part 26 adequately safeguard and balance everyone's interests in the drug screening process used by the nuclear power industry. Adoption of the proposed change would merely confuse the issue and provide lawyers the opportunity to litigate terms such as "solely," "safety risk" and "impairment." Rejection of this proposal would leave employment decisions where they rightly belong, that is, within the discretion of management to achieve a proper balance of everyone's interests.

We do not agree with the proposed rulemaking.

Should you have any questions regarding this matter, we will be pleased to discuss them with you.

Very truly yours,



GCC/MDR/dlm

cc: D. A. Brune, Esquire
J. E. Silberg, Esquire
R. A. Capra, NRC
D. G. McDonald, Jr., NRC
T. T. Martin, NRC
L. E. Nicholson, NRC
R. I. McLean, DNR

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