



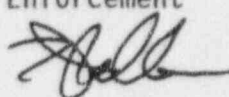
UNITED STATES  
NUCLEAR REGULATORY COMMISSION

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REGION IV

611 RYAN PLAZA DRIVE, SUITE 400  
ARLINGTON, TEXAS 76011-8064

September 15, 1994

MEMORANDUM TO: James Lieberman, Director, Office of Enforcement  
FROM: L. J. Callan, Regional Administrator   
SUBJECT: RECOMMENDED ENFORCEMENT ACTION - NEBRASKA PUBLIC POWER  
DISTRICT, EA 94-177

I am recommending the issuance of the enclosed Demand for Information (DFI) to the Nebraska Public Power District based on violations of 10 CFR 50.9 and Technical Specification 3.7.C.1.d at the licensee's Cooper Nuclear Station (CNS) facility.

This recommendation is based on an inspection that ended on April 16, 1993, and an OI investigation report that was issued on August 3, 1994. As discussed on August 16 and September 1, 1994, this proposed action focuses on the apparent breakdown in the functioning of the CNS Station Operations Review Committee (SORC) when it approved changes to CNS procedures in March 1993 to permit the movement of the reactor pressure vessel head, dryer and separator over irradiated fuel without secondary containment, and the role of the former CNS engineering manager, Mr. James Flaherty, in effecting the changes to the subject procedures.

Mr. James Flaherty was not identified in the investigation report as having acted with careless disregard. As the result of our discussions regarding Mr. Flaherty's key role, which includes drafting the revisions of the subject procedures, documenting procedure change notice justifications that were inaccurate, and presenting these inaccurate justifications to the SORC, I am recommending that Mr. Flaherty also be the subject of the proposed Demand for Information. Also, as previously discussed, the four NPPD managers, Messrs. Guy Horn, John Meacham, Eugene Mace, and Ricky Gardner, who were identified in the investigation report as having acted with careless disregard are not the subject of this proposed Demand for Information because the evidence indicates only that each had a role in revising the procedures. The evidence does not support a conclusion that these individuals were aware, prior to the SORC's decision, that the procedural changes were premised on flawed information. The justification for this recommended action is described in detail in the enclosed draft Demand for Information.

This case should be included in calculating regional timeliness statistics. This recommendation is being submitted in less than the 49-day goal from the completion of the OI report.

I am enclosing a related inspection report, the involved CNS Technical Specifications, and a related August 25, 1994 letter to CNS. This letter requests that NPPD perform a review of the functioning of the SORC, and

  
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informs the licensee that the NRC believes this SORC assessment and implementation of needed corrective actions must be completed before the restart of CNS. Therefore, this letter addresses NRC's assessment of the short-term safety implications stemming from a review of the OI report. All other documents related to this case were included in the exhibits to the OI report.

Please contact Gary Sanborn/Art Howell for clarification or additional information.

Enclosures:

1. Draft Enforcement Correspondence
2. Inspection Report 50-298/93-201
3. CNS Technical Specification 3.7.C.1.d
4. August 25, 1994 letter from L. J. Callan to NPPD

10-3(1)

LIMITING CONDITION FOR OPERATION

SURVEILLANCE REQUIREMENT

3.7.B (cont'd)

b. The results of laboratory carbon sample analysis shall show  $\geq 99\%$  radioactive methyl iodide removal with inlet conditions of: velocity  $\geq 27$  FPM,  $\geq 1.75$  mg/m<sup>3</sup> inlet methyl iodide concentration,  $\geq 70\%$  R.H. and  $\leq 30^\circ\text{C}$ .

c. Each fan shall be shown to provide 1780 CMF  $\pm 10\%$ .

3. From and after the date that one Standby Gas Treatment subsystem is made or found to be inoperable for any reason, reactor operation is permissible only during the succeeding seven days unless such subsystem is sooner made operable, provided that during such seven days all active components that affect operability of the operable Standby Gas Treatment subsystem, and its associated diesel generator, shall be operable.

Fuel handling requirements are specified in Specification 3.10.E.

4. If these conditions cannot be met, procedures shall be initiated immediately to establish reactor conditions for which the Standby Gas Treatment System is not required.

Secondary Containment

1. Secondary containment integrity shall be maintained during all modes of plant operation except when all of the following conditions are met.

4.7.B (cont'd)

b. Cold DOP testing shall be performed after each complete or partial replacement of the HEPA filter bank or after any structural maintenance on the system housing.

c. Halogenated hydrocarbon testing shall be performed after each complete or partial replacement of the charcoal adsorber bank or after any structural maintenance on the system housing.

d. Each subsystem shall be operated with the heaters on at least 10 hours every month.

e. Test sealing of gaskets for housing doors downstream of the HEPA filters and charcoal adsorbers shall be performed at, and in conformance with, each test performed for compliance with Specification 4.7.B.2.a and Specification 3.7.B.2.a.

3. System drains where present shall be inspected quarterly for adequate water level in loop-seals.

4.a. At least once per operating cycle automatic initiation of each Standby Gas Treatment subsystem shall be demonstrated.

b. At least once per operating cycle manual operability of the bypass valve for filter cooling shall be demonstrated.

c. When one Standby Gas Treatment subsystem becomes inoperable, the operable Standby Gas Treatment subsystem shall be verified to be operable immediately and daily thereafter. A demonstration of diesel generator operability is not required by this specification.

Secondary Containment

1. Secondary containment surveillance shall be performed as indicated below:

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~~XXXXXXXXXX~~

~~XXXXXXXXXX~~

### 3.7.A & 4.7.A BASES(cont'd)

The primary containment is normally slightly pressurized during periods of reactor operation. Nitrogen used for inerting could leak out of the containment but air could not leak in to increase oxygen concentration. Once the containment is filled with nitrogen to the required oxygen concentration, no monitoring of oxygen concentration is necessary. However, at least twice a week the oxygen concentration will be determined as added assurance.

The 500 gallon conservative limit on the nitrogen storage tank assures that adequate time is available to get the tank refilled assuming normal plant operation. The estimated maximum makeup rate is 1500 SCFD which would require about 160 gallons for a 10 day makeup requirement. The normal leak rate should be about 200 SCFD.

### 3.7.A.6 & 4.7.A.6 LOW-LOW SET RELIEF FUNCTION

The low-low set relief logic is an automatic safety relief valve (SRV) control system designed to mitigate the postulated thrust load concern of subsequent actuations of SRV's during certain transients (such as inadvertent MSIV closure) and small and intermediate break loss-of-coolant accident (LOCA) events. The setpoints used in Section 3.7.A.6.b are based upon a minimum blowdown range to provide adequate time between valve actuations to allow the SRV discharge line high water leg to clear, coupled with consideration of instrument inaccuracy and the main steam isolation valve isolation setpoint.

The as-found setpoint for NBI-PS-51A, the pressure switch controlling the opening of RV-71D, must be  $\leq 1040$  psig. The as-found closing setpoint for NBI-PS-51B must be at least 90 psig less than 51A, and must be  $\geq 850$  psig. The as-found setpoint for NBI-PS-51C, pressure switch controlling the opening of RV-71F must be  $\leq 1050$  psig. The as-found closing setpoint for NBI-PS-51D must be at least 90 psig below 51C, and must be  $\geq 850$  psig. This ensures that the analytical upper limit for the opening setpoint (1050 psig), the analytical lower limit on the closing setpoint (850 psig) and the analytical limit on the blowdown range ( $\geq 90$  psig) for the Low-Low Set Relief Function are not exceeded. Although the specified instrument setpoint tolerance is  $\pm 20$  psig, an instrument drift of  $\pm 25$  psig was used in the analysis to ensure adequate margin in determining the valve opening and closing setpoints. The opening setpoint is set such that, if both the lowest set non-LLS S/RV and the highest set of the two LLS S/RVs drift 25 psig in the worst case directions, the LLS S/RVs will still control subsequent S/RV actuations. Likewise, the closing setpoint is set to ensure the LLS S/RV closing setpoint remains above the MSIV low pressure trip. The 90 psig blowdown provides adequate energy release from the vessel to ensure time for the water leg to clear between subsequent S/RV actuations.

### 3.7.B & 3.7.C STANDBY GAS TREATMENT SYSTEM AND SECONDARY CONTAINMENT

The secondary containment is designed to minimize any ground level release of radioactive materials which might result from a serious accident. The reactor building provides secondary containment during reactor operation when the drywell is sealed and in service. The reactor building provides primary containment when the reactor is shut down and the drywell is open, as during refueling. Because the secondary containment is an integral part of the complete containment system, secondary containment is required at all times that primary containment is required, as well as during refueling, and during movement of loads which could potentially damage irradiated fuel in the secondary containment. Secondary containment may be broken for short periods of time to allow access to the reactor building roof to perform necessary inspections and maintenance.

The Standby Gas Treatment System consists of two, distinct subsystems, each containing one exhaust fan and associated filter train, which is designed to filter and exhaust the reactor building atmosphere to the stack during secondary containment isolation conditions. Both Standby Gas Treatment System fans are designed to automatically start upon containment isolation and to maintain the reactor building pressure to the design negative pressure so that all leakage should be in-leakage. Should one subsystem fail to start, the redundant subsystem is designed to start automatically. Each of the two fans has 100 percent capacity.

POLICY STATEMENTS

allegations to boards promptly and without awaiting their resolution or determination of significance relative to the decisionmaking process. This practice is consistent with the Commission-approved board notification policy. However, it has resulted, on occasion, in presenting boards with new information, the significance of which is not readily apparent. Consequently, in the future, staff board notifications of allegations will not be made until the staff has made at least an initial screening of the allegations. Only those allegations which are found not to be frivolous, which are relevant and material to the decisionmaking process (as determined under existing board notification procedures) and which are determined to warrant further scrutiny will be submitted to the presiding tribunal. Board notifications should still be made promptly, consistent with the need and time required for screening. The staff's board notification procedures should be revised accordingly.

Dated at Washington, D.C., on this 13th day of March 1985.

For the Nuclear Regulatory Commission  
John C. Hoyle,  
Assistant Secretary.

50 FR 48506  
Published 11/25/85  
Effective 11/25/85  
(Corrected by PS published 12/12/85  
(50 FR 50864))

Statement of Policy on Confidentiality

AGENCY: Nuclear Regulatory Commission.  
ACTION: Policy statement.

SUMMARY: This statement presents the Commission's policy for protecting the identity of an individual who has been promised confidentiality. It provides details regarding the background of the development of this statement of policy. It also explains the circumstances under which the NRC may grant confidentiality, and the manner and form in which confidentiality will be granted. Finally, it will describe the circumstances and extent to which the identity of a confidential source may be divulged, and the circumstances under which a grant of confidentiality may be revoked.

EFFECTIVE DATE: November 25, 1985.

FOR FURTHER INFORMATION CONTACT:  
Richard P. Levi, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (202-634-3224).

SUPPLEMENTARY INFORMATION:

Introduction

The Nuclear Regulatory Commission ("NRC" or "Commission") has decided to issue this Statement of Policy in order to provide a clear, agency-wide policy

on confidentiality. The Commission's inspection and investigatory programs rely in part on individuals voluntarily coming forward with information. Some individuals will come forward only if they believe their identities will be protected from public disclosure, i.e., only if they are given confidentiality. Safeguarding the identities of confidential sources is therefore a significant factor in ensuring the future voluntary flow of such information.

The Commission through this Policy Statement, which applies to all NRC offices, intends to make clear that it will make its best efforts to protect the identity of a confidential source. As explained in more detail below, the identity of a confidential source will be divulged within the NRC only to those with a need-to-know. It will be divulged outside the NRC only in the following narrow situations:

- (1) When a court orders such disclosure.
- (2) When required in NRC adjudicatory proceedings by order of the Commission itself;
- (3) When a Federal or State agency requires the identity in furtherance of its statutory responsibilities and agrees to abide by the terms of the Commission's confidentiality agreement, and the confidential source agrees to the release. If the source does not agree to the release, the identity of the source will be provided to another agency only in an extraordinary case where the Commission itself finds that furtherance of the public interest requires such release; or
- (4) In response to a written Congressional request and in accordance with item 3 of the Policy Statement.

This approach should protect the identity of confidential sources except in a few, unusual situations. In those situations the Commission will take whatever actions it can, such as seeking a protective order, to limit disclosure to the minimum extent necessary.

The following discussion provides details regarding the background of the development of this Policy Statement. It also explains the circumstances under which the NRC may grant confidentiality, and the manner and form in which confidentiality will be granted. Finally, it will describe the circumstances and extent to which the identity of a confidential source may be divulged, and the circumstances under which a grant of confidentiality may be revoked.

Background

The Commission created an Advisory Committee For Review of Investigation Policy on Rights of Licensee Employees

Under Investigation (hereinafter "Advisory Committee") on February 2, 1983. One of the issues the Commission asked the Advisory Committee to address concerned confidentiality.

The Advisory Committee, which submitted its report to the Commission on September 18, 1983, defined confidentiality as "the withholding from dissemination to the public . . . of the name and other personal identifiers of certain individuals who provide information to the Commission." The Advisory Committee noted that a grant of confidentiality would be subject to certain limitations, e.g., the confidential source's name might be revealed to another agency, a court, or a hearing board, or might be publicly released where the source acted in a manner inconsistent with the grant of confidentiality. The Advisory Committee recommended against granting confidentiality to all interviewees because of the difficulty of implementing effective confidentiality agreements, and the difficulties which grants of confidentiality might cause to an investigation or enforcement action. The Advisory Committee also recommended against adopting different policies for different types of interviewees, although it noted that the status of the interviewee may be a valid consideration in making a case-by-case determination on whether to grant confidentiality. Finally, the Advisory Committee recommended that the Commission not normally grant confidentiality in the absence of a request, and that the NRC advise a witness of the availability of confidentiality only where appropriate in the judgment of the investigator.

The Department of Justice (DOJ) commented on the Advisory Committee's report on February 16, 1984. The DOJ agreed that the NRC should not have a blanket policy of granting confidentiality to every witness who requests it. The DOJ felt that giving confidentiality would be most important in the case of those who report a violation, the existence of which is unknown to the NRC, while giving confidentiality would be least important for those who only confirm or corroborate a violation after the NRC has discovered the violation and the probable identity of those responsible. The DOJ felt that witnesses in a third category—those who give leads to the NRC regarding how a known violation occurred and/or who may have been responsible—presented a more difficult question.

The DOJ then took issue with the limitations on grants of confidentiality suggested by the Advisory Committee. The DOJ stated that the possibility of disclosure of a confidential source's