

ENCLOSURE

U.S. NUCLEAR REGULATORY COMMISSION
REGION IV

Inspection Report: 50-298/96-02

License: DPR-46

Licensee: Nebraska Public Power District
1414 15th Street
Columbus, Nebraska

Facility Name: Cooper Nuclear Station

Inspection At: Brownsville, Nebraska

Inspection Conducted: February 12-16, 1996

Inspector: A. B. Earnest, Security Specialist
Plant Support Branch

Approved: *Blaine Murray*
Blaine Murray, Chief, Plant Support Branch
Division of Reactor Safety

3/15/96
Date

Areas Inspected: A special, announced inspection of the licensee's access authorization program was conducted. The inspector used NRC Temporary Instruction 2515/127, "Access Authorization," dated January 17, 1995, as inspection guidance.

Results:

Plant Support

- A complete turnover of access authorization personnel occurred. The access authorization procedures were general in nature and contained little specific guidance (Section 1.1).
- The licensee identified that 308 grandfathered personnel, with current plant access, did not have files. The licensee could not demonstrate that criminal history records had been established for all personnel or that they met the grandfathering criteria (Section 1.2.1).

- The inspector identified that the licensee was granting back-to-back temporary unescorted access authorizations. The licensee also failed to complete reports of investigations in order to demonstrate that adjudication of derogatory information occurred. Further, they were failing to conduct interviews of applicants with derogatory information and document the results in an interview log (Section 1.2.2).
- The licensee identified examples of files where there were no fingerprint records in the files and no criminal history was received or adjudicated. Other files that contained criminal history were not adjudicated and no interviews were conducted or documented prior to granting access (Section 1.2.3).
- The licensee identified and investigated an incident where a licensee employee and contractors changed personnel history questionnaires in order to use listed references in place of developed references. The old questionnaires were then destroyed (Section 1.2.4).
- The licensee identified that updated background investigations were not completed. The licensee used only one listed and one developed reference rather than the two listed and two developed references required by the rule. The files also indicated that the criminal history was not updated (Section 1.2.5).
- The licensee identified a file where the military history was not received and the file did not contain documentation that it was requested for an individual granted access in 1993. Further, when the individual returned for access in 1995, the military records were obtained and indicated an Other than Honorable Discharge (Section 1.2.6).
- The inspector determined that the licensee was not ascertaining activities of applicants during periods of unemployment while outside of an access authorization program prior to reinstating access (Section 1.2.7).
- The audits of the access authorization program were weak, non-intrusive, and did not audit all the elements of the program (Section 1.3).
- An unresolved item was identified involving the access authorization program (Section 1.4).

Summary of Inspection Findings:

- Unresolved Item 298/9602-01 was opened (Section 1.4).

Attachment:

- Attachment - Persons Contacted and Exit.

DETAILS

1. ACCESS AUTHORIZATION (TEMPORARY INSTRUCTION 2515/127)

On April 25, 1991, the Commission published the Personnel Access Authorization Requirements for Nuclear Power Plants, 10 CFR 73.56, which required that each licensee authorized, on that date, to operate a nuclear reactor and implement an access authorization program by April 27, 1992, comply with the requirements of the rule, and that such program be incorporated into the licensee's physical security plan. The rule further required that licensees maintain that access authorization program to provide high assurance that individuals granted unescorted access were trustworthy and reliable and did not constitute an unreasonable risk to the health and safety of the public, including a potential to commit radiological sabotage.

This inspection assessed the implementation of the licensee's access authorization program.

1.1 Access Authorization Program Administration and Organization

Responsibility for overall management of the access authorization program was assigned to the plant security department on October 1, 1995. Prior to that date, since the inception of the rule, the responsibility for the program was with Nebraska Public Power District Corporate Security. The Security Services Supervisor, responsible for access authorization and fitness-for-duty programs, is currently responsible for authorizing all access authorizations. All managers and staff, of the Corporate Security Department, when it was responsible for access authorization, are no longer on the staff. The current managers have hired a new staff to administer the programs.

The inspector interviewed the current Security Services Supervisor and determined that she performed her duties in an excellent and responsible manner. Most of the problem areas documented in this report were discovered by the current supervisor and corrective actions have been planned. The inspector reviewed the licensee's access authorization program procedures and noted that the procedures were general in nature and did not contain specific guidance, in some areas, necessary to implement the program. The procedures are being revised.

The inspector determined through meetings with plant staff and management that, since the licensee's discovery of the problem areas documented in this report, there has been increased management oversight and support for the program.

1.2 Background Investigations

The inspector reviewed records and conducted interviews to determine the adequacy of the program. The inspector also reviewed information concerning the licensee's verification of the identity, employment history, educational history, credit history, criminal history, military service, and the character and reputation of the applicants, before granting individuals unescorted access to protected and vital areas. The inspector reviewed approximately 30 background investigation files.

1.2.1 Grandfathering

Records were reviewed to determine if the licensee had correctly grandfathered individuals who had long term access prior to the access authorization rule implementation.

The licensee identified 308 grandfathered employees currently badged for unescorted access at Cooper Nuclear Station who did not have a file in the access authorization program file system. Regulatory Guide 5.66, under Exceptions to the Guidelines, states that it was permissible to grandfather any individual who had uninterrupted access authorization for at least 180 days prior to the date of the publishing of the final rule in the Federal Register. Thus, the date when the grandfathered individual must have had access was October 28, 1990. Anyone who met the above requirement on that date did not require the full background investigation to continue their unescorted access. Without the files, the licensee could not demonstrate that the 308 employees met the requirements for grandfathering. Two elements would have to be present to demonstrate compliance with the rule: (1) access records indicating that on the October 28, 1990 date, an employee had unescorted access to the plant uninterrupted up to the date of the rule implementation; and (2) a copy of the adjudicated criminal history required by 10 CFR 73.57.

Since there were no files, the licensee had to locate and review the FBI fingerprint submittal returns to ensure that everyone's criminal records had been reviewed. Prior to the end of this inspection, the licensee staff determined that one of the 308 grandfathered personnel did not have a record indicating that his fingerprints had been submitted and any results adjudicated by the licensee. That individual was immediately removed from the site, his fingerprints taken, and then was allowed temporary unescorted access pending the arrival of the information.

In addition, the licensee was unable to demonstrate, that on October 28, 1990, all 308 personnel met the requirements for grandfathering by having unescorted access on that date. The licensee was actively reviewing access records to ensure that the 308 personnel met the requirement.

1.2.2 Temporary Unescorted Access

The inspector reviewed the temporary access authorization files of several employees. Regulatory Guide 5.66, under Clarification to the Guidelines, paragraph 2, states that while it is permissible to grant temporary unescorted access for 180 days, a licensee cannot grant back-to-back temporary unescorted access. Paragraph 6.2.2 of Cooper Nuclear Station Procedure AAAP3.3, Revision 1, states, that "once a temporary background clearance has been completed, the expanded background clearance must be completed within 180 days." Further, in paragraph 6.6.1, the procedure requires that the results of the investigation be documented in a formal report of investigation.

During the inspection, the inspector determined that at least two files documented that the licensee had approved of back-to-back temporary unescorted access authorizations. As an example, a cover sheet on the first completed background investigation for one individual indicated that derogatory information had been discovered, and access was not to be reinstated upon the return of the employee without adjudication of that information. When the employee returned, another temporary access authorization was granted and the former information was not adjudicated as far as could be determined from the records. Further, the licensee granted a third temporary unescorted access authorization for the same individual without completing the original background investigation.

During the review of the files, the inspector determined that the licensee did complete formal reports of investigation during the 1990 to early 1993 time frame. After early 1993, however, the licensee stopped consistently completing the reports of investigation. Approximately 50 percent of the files reviewed had no indication that derogatory information discovered during the background investigations had been adjudicated. Several of the files had information that should have been adjudicated and had the potential for access to be denied.

Paragraph 6.5.1 of Procedure AAAP3.3, Revision 1, states, that if derogatory information is developed, a non-accusatory interview will be conducted. The inspector determined that no interviews had been conducted even when derogatory information was clearly evident during the background investigation. Paragraph 6.5.2 requires that the interview results be documented in an interview log. The licensee staff did not complete an interview log. This issue also was identified in NRC Inspection Report 50-298/93-21.

1.2.3 Criminal History

The licensee identified and the inspector confirmed that some records indicated that personnel were granted unescorted access to Cooper Nuclear Station without a criminal history review.

One example reviewed by the inspector involved an employee who was granted temporary unescorted access on September 20, 1991. The report of investigation indicated that fingerprints had been submitted to the FBI, however, no record of that submittal was in the record file. Further, there was no record that a criminal records check had been received or adjudicated. The criminal history of the temporary unescorted checklist was marked "N/A", which would appear to indicate that the request was never made.

The inspector reviewed a file that involved an individual who had an extensive criminal background. His personal history questionnaire required him to list any alcohol related criminal offenses within the last ten years. He listed a driving while intoxicated charge that was outside the 10 year period. When his criminal history file came back from the FBI, it indicated that he had been charged for the crime inside the 10 year period. There was a five year difference from the date submitted in the personnel history questionnaire. No adjudication was made to determine if he had falsified the document. Further, he had just completed probation for arson which he had been convicted of 3 years previously. His credit report contained numerous bad credit entries and he had recently filed for bankruptcy. None of this derogatory information was adjudicated, no record of investigation was completed, and no interview was completed and documented. However, he was granted unescorted access to Cooper Nuclear Station.

NRC Inspection Report 50-298/93-21 referenced a non-cited violation in which the licensee did not adjudicate or review derogatory information. At that time, it was a singular incident. The licensee's response to the violation was apparently not sufficient to prevent recurrence.

1.2.4 Character References

The licensee identified and investigated an incident during 1995 in which a licensee Access Authorization Program Technician supposedly directed two contractor Access Authorization Program Technicians to revise a personnel history questionnaire and destroy the old one. The data to be changed were the listed references of three individuals who were requesting unescorted access to Cooper Nuclear Station. Paragraph 6.2.5 of Regulatory Guide 5.66 requires that the applicant's emotional stability, reliability, and trustworthiness be examined through contact with two references supplied by the applicant and at least two additional references (not related to the applicant) developed during the background investigation. When the two contractor technicians conducting the background investigation could not develop references, the Cooper Nuclear Station technician apparently instructed them to have the applicants complete a new personnel history questionnaire leaving off some of the listed references. The listed references that were removed from the original personnel history questionnaire were then used as developed references. He also reportedly instructed the contractors to destroy the old personnel history questionnaires. The licensee's investigation confirmed and the technician admitted that he did instruct the contractors to change and then destroy the personnel history questionnaires.

1.2.5 Update Background Investigations

During its review of updated background investigation files, the licensee reported that updated background investigations were not complete as related to references and criminal history. When employees with unescorted access leave Cooper Nuclear Station, a complete background investigation is not required if they return within 365 days. If they return after 365 days, an update background investigation is required for that period of time that they were not subject to an access authorization program. Common practice at Cooper Nuclear Station was to do only one listed reference and one developed reference for update background investigations; in addition, no criminal history was developed and adjudicated.

1.2.6 Military Service

Regulatory Guide 5.66, paragraph 6.2.4, requires that if a military period of service was within five years of an applicant requesting unescorted access, it must be verified by receipt of a Department of Defense (DD) Form 214 from the National Personnel Records Center. The licensee may grant temporary unescorted access prior to the receipt of the documentation. The licensee must maintain a record of the request which documents that the request for the military history was submitted within 10 working days of granting the temporary unescorted access.

The licensee identified and the inspector confirmed that, for one applicant who had been granted temporary unescorted access, there was no documentation on record. Further, the inspector reviewed a memorandum in that individual's file that indicated an access authorization technician had claimed to have sent two requests for the documentation in 1993. The memorandum was dated August 31, 1995, and prepared only after the current Security Services Supervisor was reviewing the file prior to the individual being granted access as an update background investigation applicant. The technician completed the memorandum and stated as a result of his two attempts in 1993, he considered the original requests to be a best effort. Best effort is not allowed for any of the background investigation elements except confirmation of employments. The supervisor requested the DD Form 214 and promptly received it. The DD Form 214 indicated that the individual had received an "Other than Honorable Discharge" in lieu of courts martial. His records have subsequently been marked as denied access.

When the inspector reviewed the entire file, he could not find any documentation that indicated that the two attempts to gain the military records had occurred. However, when the inspector reviewed the personnel history questionnaire filled out by the applicant in 1993, it was discovered that the individual had listed his discharge accurately. The licensee's staff at that time did not interview the applicant or adjudicate the information.

1.2.7 Reinstatement

The inspector reviewed several reinstatement files. If individuals had previously been granted unescorted access based on a complete background investigation, and had not been absent from an access authorization program for greater than 365 days, a licensee can reinstate their unescorted access by: (1) ascertaining what his activities were during his absence; and, (2) completing the suitable inquiry required by 10 CFR 26, Fitness-For-Duty (if the individual had any periods of time where the applicant was not under a Continual Behavior Observation Program).

Four of the records reviewed did not contain any information that the individuals activities, during periods of unemployment, were ascertained prior to granting access under a reinstatement. This was not a new issue with the licensee. NRC Inspection Report 50-298/93-21 documented a comment by the inspection team that the licensee did not have a procedure or practice in place that addressed measures for ascertaining activities during periods away from access authorization programs or fitness for duty programs. The 1993 Security Services Supervisor prepared a memorandum, undated but signed, that described this item as an action item and an NRC concern expressed during the Inspection Report 50-298/93-21 inspection exit meeting. Licensee Audit 94-03, dated March 5, 1994, observed that the access authorization program staff had not completed any action to resolve the identified concern.

1.3. Audits

The inspector reviewed the audit program to determine if audits of sufficient depth were conducted. Every 24 months, the licensee is required to conduct an independent evaluation of the established unescorted access authorization program and to ascertain conformance to the guidelines prescribed in Regulatory Guide 5.66.

The inspector reviewed the access authorization portions of the 1993, 1994, and 1995 quality assurance audits of the security program. The audits lacked depth, did not identify any of the significant program failures documented in the preceding paragraphs, and until the 1995 audit, did not use an audit team member who was familiar with the requirements of the access authorization requirements. The audits were not intrusive and did not cover all of the basic elements inherent to a successful access authorization program.

1.4 Conclusion

Most of the problem areas discussed in this inspection report were identified by the licensee's current access authorization staff. The scope of the problems and their overall implication with respect to the access authorization program are still being quantified by the licensee. The regulatory status of the access authorization program is considered an unresolved item pending the completion of licensee actions and further inspection of the program (298/9602-01).

ATTACHMENT

1 PERSONS CONTACTED

1.1 Licensee Personnel

- *M. Peckham, Senior Manager, Site Support
- *R. Godley, Licensing Manager
- *M. Hamm, Security Manager
- *J. Harrington, Security Services supervisor
- *R. Koepfel, Security Operations Supervisor
- *G. Smith, Quality Assurance Operations Manager
- *B. Toline, Quality Assurance Audit Supervisor

1.2 NRC Personnel

- *C. Skinner, Resident Inspector

*Denotes those that attended the exit meeting.

In addition to the personnel listed above, the inspector contacted other personnel during this inspection period. Those employees included members of the licensee's technical and management staff.

2 EXIT INTERVIEW

An exit meeting was conducted on February 2, 1996. The inspector presented the inspection findings at the conclusion of the inspection on February 16, 1996. The licensee acknowledged the findings presented.