

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
OFFICE OF NUCLEAR REACTOR REGULATION &  
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS  
WASHINGTON, D.C. 20555

December 24, 1990

NRC INFORMATION NOTICE NO. 90-81: FITNESS FOR DUTY

Addressees:

All U.S. Nuclear Regulatory Commission (NRC) materials and non-power reactor licensees.

Purpose:

This information notice is to inform licensees not currently subject to NRC-required fitness-for-duty programs, of the importance the NRC places on the drug-free workplace concept in all aspects of nuclear material usage, management, and handling. The notice also describes Federal legislation that may impact such licensees with respect to fitness-for-duty issues and briefly describes the status of regulatory activities in this area.

Background:

On November 18, 1988, the Congress, in the Anti-Drug Abuse Act of 1988 (Public Law 100-690), established a national policy of a drug-free America by 1995. It also enacted Title V, Subtitle D, the Drug-Free Workplace Act of 1988, (the Act), which requires that entities who have been awarded a Federal contract for procurement of \$25,000 or more and entities who have been awarded a grant provide a drug-free workplace. The requirements of this statute are applicable to NRC licensees who are Federal contractors or grant recipients.

In part, the Act calls for affected entities to certify to the contracting or grantor's agency that it will provide a drug-free workplace through the following measures:

- The publication of a statement of policy regarding a drug-free workplace, outlining actions to be taken for violations of the policy;
- The establishment of a drug-free awareness program;
- The distribution of the statement of policy to employees engaged in the contract activities;
- The establishment of certain conditions of employment based on the drug-free workplace concept;
- The timely notification to the contracting agency of employee drug convictions; and
- The establishment of a good-faith effort to continue to maintain a drug-free workplace through these measures.

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In addition, Section 5301 of the Anti-Drug Abuse Act provides that persons convicted of possession or distribution of controlled substances may be declared by a sentencing court to be ineligible for Federal benefits. A "Federal benefit" is defined in the Anti-Drug Abuse Act to include any professional or commercial license provided by an agency of the United States or appropriated funds of the United States.

Thus, all individuals who are applicants for or holders of an NRC specific or general license or who conduct licensed activities authorized by an NRC license should know that, pursuant to the Anti-Drug Abuse Act, a conviction for possession or distribution of a controlled substance may result in loss of eligibility for an NRC license, denial or revocation of an NRC license, or removal from NRC-licensed activities.

#### Discussion:

Drug and alcohol abuse is a social, medical, and safety problem affecting every segment of our society. The NRC recognizes that such abuse may also exist among persons who possess and use nuclear materials. The Commission believes it prudent for all licensees to manage licensed activities so that every person who is under the influence of alcohol or any other substance, legal or illegal, that affects his/her ability to safely perform duties associated with the use of nuclear materials, would not have access to: (1) hazardous nuclear material; (2) safety or safeguards systems; or (3) equipment that contains radioactive material of a nature that, if mishandled, might be harmful to that person, co-workers, or the public.

Individuals should also know that, even if a conviction for possession or distribution of a controlled substance does not result in a declaration of ineligibility for Federal benefits by the sentencing court, the NRC may, in accordance with its independent responsibility to protect the public health and safety and the common defense and security, act on its own to deny, revoke, suspend, or modify a license or remove an individual from licensed activities, upon such conviction.

For Category I fuel facilities and shipments subject to 10 CFR 73.20, the Commission plans to promulgate a rule that would impose specific fitness-for-duty requirements. Individuals affected would include those who have direct access to significant quantities of strategic special nuclear material, those who are directly responsible for protecting the material, and those who are responsible for transporting the material.

Fitness-for-duty program requirements for other licensees have either been established or are under consideration by the NRC. Nuclear power reactor licensees are subject to the Commission's fitness-for-duty regulations in 10 CFR Part 26. This regulation requires, among other things, that facility licensees conduct random testing for drug and alcohol use and impose sanctions against individuals who violate program requirements.

This information notice requires no specific action or written response. If you have any questions about the information in this notice, please contact one of the contacts listed below or the appropriate regional office.

*Richard E. Cunningham*

Richard E. Cunningham, Director  
Division of Industrial and Medical  
Nuclear Safety  
Office of Nuclear Material Safety  
and Safeguards

*Charles E. Rossi*

Charles E. Rossi, Director  
Division of Operational Events Assessment  
Office of Nuclear Reactor Regulation

Technical Contacts: L. L. Bush, Jr., NRR  
(301) 492-0944

R. O'Connell, NMSS  
(301) 492-0627

Legal Contact: R. Fonner, OGC  
(301) 492-1643

Attachments:

1. List of Recently Issued NRC Information Notices
2. List of Recently Issued NMSS Information Notices

LIST OF RECENTLY ISSUED  
 NRC INFORMATION NOTICES

Information Notice No.	Subject	Date of Issuance	Issued to
90-80	Sand Intrusion Resulting in Two Diesel Generators Becoming Inoperable	12/21/90	All holders of OLs or CPs for nuclear power reactors.
90-79	Failures of Main Steam Isolation Check Valves Resulting in Disc Separation	12/20/90	All holders of OLs or CPs for nuclear power reactors.
90-78	Previously Unidentified Release Path from Boiling Water Reactor Control Rod Hydraulic Units	12/18/90	All holders of OLs or CPs for boiling water reactors (BWRs).
90-77	Inadvertent Removal of Fuel Assemblies from the Reactor Core	12/12/90	All holders of OLs or CPs for pressurized-water reactors (PWRs).
88-23, Supp. 3	Potential for Gas Binding of High-Pressure Safety Injection Pumps During A Loss-Of-Coolant Accident	12/10/90	All holders of OLs or CPs for pressurized-water reactors (PWRs).
90-76	Failure Of Turbine Overspeed Trip Mechanism Because of Inadequate Spring Tension	12/7/90	All holders of OLs or CPs for nuclear power reactors.
90-75	Denial of Access to Current Low-Level Radioactive Waste Disposal Facilities	12/5/90	All Michigan holders of NRC licenses.
90-74	Information on Precursors to Severe Accidents	12/4/90	All holders of OLs or CPs for nuclear power reactors.
90-73	Corrosion Of Valve-To-Torque Tube Keys in Spray Pond Cross Connect Valves	11/29/90	All holders of OLs or CPs for nuclear power reactors.
90-72	Testing of Parallel Disc Gate Valves in Europe	11/28/90	All holders of OLs or CPs for nuclear power reactors.

OL = Operating License  
 CP = Construction Permit

LIST OF RECENTLY ISSUED  
NMSS INFORMATION NOTICES

Information Notice No.	Subject	Date of Issuance	Issued to:
90-75	Denial of Access to Current Low-Level Radioactive Waste Disposal Facilities	12/5/90	All Michigan holders of NRC licenses.
90-71	Effective Use of Radiation Safety Committees to Exercise Control Over Medical Use Programs	11/6/90	All NRC licensees authorized to use byproduct material for medical purposes.
90-70	Pump Explosions Involving Ammonium Nitrate	11/6/90	All uranium fuel fabrication and conversion facilities.
90-38, Supp. 1	License and Fee Requirements for Processing Financial Assurance Submittals for Decommissioning	11/6/90	All fuel facility and materials licensees.
90-67	Potential Security Equipment Weaknesses	10/29/90	All holders of OLs or CPs for nuclear power reactors and Category 1 fuel facilities.
90-63	Management Attention to the Establishment and Maintenance of A Nuclear Criticality Safety Program	10/03/90	All fuel cycle licensees possessing more than critical mass quantities of special nuclear material
90-62	Requirements for Import and Distribution of Neutron-Irradiated Gems	09/25/90	All irradiated gemstone importers and distributors, and all non-power reactor licensees
90-59	Errors in the Use of Radioactive Iodine-131	09/17/90	All medical licensees

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*The final draft of this info notice was discussed with J. B. Blaha in the EPO's office on 12/18/90. M.A. B. Blaha note for C.E. Rossi*

\*SEE PREVIOUS CONCURRENCES

\*OGCB:DOEA:NRR  
RJKiessel  
11/20/90

\*D/SGTR:NMSS  
RFBurnett  
11/21/90

\*D/IMNS:NMSS  
RECunningham  
12/03/90

D/BOEA:NRR  
CERossi  
12/19/90  
\*OGC  
RFonner  
11/21/90

\*C/OGCB:DOEA:NRR  
CHBerlinger  
11/26/90  
\*D/DRIS:NRR  
BKGrimes  
11/28/90

A proposed amendment to 10 CFR Part 55 would establish a new condition of an operator's license that will prohibit the conduct of licensed duties while under the influence of alcohol or any prescription, over-the-counter, or illegal substance that would adversely affect performance of licensed duties. The proposed amendment would be applicable to both power and non-power reactor licensed operators. This rulemaking is not intended to apply the provisions of 10 CFR Part 26 to non-power facility licensees, but to make it clear, to all licensed reactor operators (power and non-power), through a condition of their license, that use of drugs or alcohol, in any manner that could adversely affect performance of licensed duties, would subject them to enforcement action.

Furthermore, the NRC believes that use or misuse of these substances or the possession, distribution or sale of illegal drugs by a licensed operator indicates that that person fails to meet acceptable standards for reliability, integrity, and trustworthiness.

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Document Name: INFO NOTICE - DWYER, KIESEL

<i>MJE</i> OGCB:DOEA:NRR RJKiesel 11/20/90	<i>RB</i> D/SEIR:NMSS RFBurnett 11/17/90	<i>CNB</i> D/DOEA:NRR CERossi 11/ /90 D/IMNS:NMSS RECunningham 11/3 /90 <i>by note 9A</i>	<i>CHB</i> C/OGCB:DOEA:NRR CHBerlinger 11/26/90 D/NMSS RMBerbero 11/ /90	<i>DRIS</i> D/DRIS:NRR BKerimes 11/22/90 OGC RFonner 11/21/90 <i>mlm</i>
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