

Industry Rationale for Random Drug and Alcohol Test Rate During Construction

The industry does not agree with the NRC staff's position that a 100 percent random Drug and Alcohol testing rate for construction workers is necessary or appropriate. This rate is higher than the 50 percent random test rate required for operating plants, including transient outage workers; higher than the random test rate required by new Part 26 for new plant construction personnel that have critical management and oversight responsibilities; and higher than the rate required by new Part 26 for new plant construction workers if licensees choose not to apply optional Subpart K. A 100 percent random test rate is counter to the purpose of Subpart K, which, as described in SECY-06-0244 on the final FFD rule, is to provide FFD requirements for construction workers that are more flexible than for operating plant personnel and less stringent than requirements for new plant construction personnel in critical oversight responsibilities.

The industry believes that a 25 percent testing rate is a sufficient deterrent to drug and alcohol abuse among construction workers and has incorporated this random test rate in NEI 06-06, *Fitness for Duty Program Guidance for New Nuclear Power Plant Construction Sites*. We believe this testing rate is appropriate considering:

- 1) The absence of radiological risk during the construction phase,
- 2) The effectiveness of pre-access and for-cause testing in identifying drug and alcohol abusers,
- 3) For cause testing, behavioral observation and other elements of the FFD Program, and
- 4) Quality assurance and quality control activities and extensive pre-service and start-up inspection and testing activities that assure the construction work has been correctly performed and the plant is ready to commence operation.

The following provides additional basis for this industry position:

- We know of no published scientific data that supports any specific random testing rate, whether it is 100 percent or 25 percent or other rate. The NRC has noted that 100 percent was used in the past for utility workers and is used today by some government agencies. These facts provide historical and benchmarking perspective, but do not provide sufficient technical basis for adopting a rate of 100 percent for workers constructing new nuclear power plants.
- The industry believes the 25 percent rate provides a sufficient deterrent for drug and alcohol abusers. The real deterrent value of the random testing program comes from the workers knowledge that the program is in-place and functioning regardless of the testing rate.

- The increase in deterrent value in the absence of a radiological risk of testing at 25 percent as opposed to 100 percent is negligible. For example, even if the higher 100 percent test rate is used, the daily chance that a worker will be selected is less than 0.3%. Therefore, the industry concludes that the 100 percent testing rate does not add any significant deterrent value to the random testing program.
- NUREG/CR-6470, *Fitness for Duty in the Nuclear Industry: Update of the Technical Issues 1996* states that: "In fact, there is no empirical data to justify the random testing rates currently used in FFD programs." (page 2-6, section 2.5.3, 3rd paragraph). In addition, it states that: "Accordingly, judgment and common sense must be the basis for establishing and modifying random testing rates and selection methods." (page 2-6, section 2.5.3, last paragraph).
- Pre-access and for-cause drug and alcohol testing have historically been the most effective methods for "catching" the abuser. In the 2006 industry data, 84 percent of the positive tests were attributed to this type of testing. Random testing, on the other hand, only accounted for 13 percent of the positive tests.