

May 18, 1982



SECY-82-196

May 17, 1982

RULEMAKING ISSUE (Affirmation)

For: The Commissioners

From: William J. Dircks
Executive Director for Operations

Subject: PROPOSED RULEMAKING REQUIRING FITNESS FOR DUTY FOR PERSONNEL WITH UNESCORTED ACCESS TO PROTECTED AREAS

Purpose: To obtain Commission approval to publish a proposed rule for comment (Enclosure A).

Issue: Should commercial and industrial facilities licensed under 10 CFR 50.22 be required to establish and implement procedures to assure that personnel with unescorted access to protected areas are not under the influence of drugs or alcohol and are not otherwise unfit for duty due to mental or temporary physical impairments that could affect their performance.

Discussion: The number of reported drug-related incidents in which nuclear power plant licensee or contractor employees were arrested or terminated has increased substantially during the past three years. At this time, NRC does not have regulations which specifically address this concern and the broader issue of fitness for duty of personnel employed at nuclear power reactors. Since operation of a nuclear power reactor by personnel not fit for duty would degrade the licensee's ability to operate the facility in a safe manner, development of a requirement concerning the determination of fitness for duty with respect to the consumption of alcoholic beverages, the use of drugs which affect the faculties in a way contrary to safety, and mental or physical impairments is necessary to protect the health and safety of the public.

As a result of these incidents, the NRC Office of Inspection and Enforcement has established a Drug Abuse Task Force to develop a generic approach to the problem of possible drug (including alcohol) abuse by licensee or contractor personnel. The Task Force is developing a NUREG Report, "Survey of Industry and Government Programs to Combat Drug and Alcohol Abuse," which describes current practice by other regulatory organizations and by industry with regard to the abuse of drugs and alcohol.

Contact:
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PDR SECY
82-196 PDR

The proposed amendment would require commercial and industrial facilities licensed under 10 CFR 50.22 to establish and implement adequate written procedures designed to assure that personnel with unescorted access to protected areas (both licensee and contractor personnel) are not under the influence of drugs or alcohol or not otherwise unfit for duty. Each licensee will develop procedures which take into consideration not only fairness to and due process for its employees but also any conditions or circumstances unique to its facility.

The definition of protected area used in this proposed rule was taken verbatim from §73.2(g). It was selected because any person with unescorted access to a protected area may have the opportunity to adversely effect the health and safety of the public through an unobserved act whether intentional or inadvertent.

Personnel would be considered unfit for duty if their faculties were affected in a way contrary to safety by substances such as alcohol or drugs. Additionally, the phrase "... or otherwise unfit for duty..." is intended to require consideration of other factors when determining an individual's fitness for duty, such as the effects of fatigue, stress, illness, and temporary physical impairments.

Consideration was given to incorporating this proposed rule into the proposed revision to 10 CFR 73.56 (Access Authorization Rule) which is being developed. Because of the different orientations of the two rules, i.e., trustworthiness (73.56) versus fitness (50.54), and the need to rapidly establish a regulatory basis from which to address the drug problem, the decision was made to keep the two rulemakings separate, at least initially. After one or two years of experience have been gained from the implementation and use of these rules, the staff will reconsider whether these rules should be combined. The resource impact on the NRC staff of this rule, if promulgated, is one person-day per facility per year.

Recommendations:

That the Commission:

1. Approve publication of the proposed rule as set forth in Enclosure "A," which would amend 10 CFR 50.2 and 50.54 by requiring commercial and industrial facilities licensed under 10 CFR 50.22 to establish, document, and implement adequate written procedures designed to ensure that, while on duty, their and their contractors' personnel with unescorted access to protected areas are not (1) under the influence of alcohol, (2) using any drugs that affect their faculties in any way contrary to safety, or (3) otherwise unfit for duty because of mental or temporary physical impairments.
2. In order to satisfy the requirements of the Regulatory Flexibility Act, 5 U.S.C. 605(b), certify that this rule, if

promulgated, will not have a significant economic impact on a substantial number of small entities. This certification is included in the enclosed Federal Register notice.

3. Note:

- a. That the notice of proposed rulemaking in Enclosure "A" will be published in the Federal Register allowing 60 days for public comment.
- b. That, if after expiration of the comment period no significant adverse comments or significant questions have been received and no substantial changes in the text of the rule are indicated, the Executive Director for Operations will arrange for publication of the amendment in final form.
- c. That, in accordance with 10 CFR 51.5(d)(3) neither an environmental impact statement nor a negative declaration need be prepared in connection with this rulemaking action since the amendment is nonsubstantive and insignificant from the standpoint of environmental impact.
- d. This proposed rule contains information collection requirements that are subject to review by the Office of Management and Budget. Upon Commission affirmation, formal request for OMB review and clearance will be initiated. OMB review may take 60-90 days from the date of publication in the Federal Register. Therefore, such requirements will be made effective only after that period. If approval is denied by OMB, the Commission will be notified.
- e. That the Subcommittee on Nuclear Regulation of the Senate Committee on Environment and Public Works and the Subcommittee on Energy and Power of the House Committee on Interstate and Foreign Commerce will be informed.
- f. That a public announcement will be issued (Enclosure D).
- g. That the proposed action complies with E.O. 12291/ Task IV.G.2 of the TMI Action Plan. (Enclosure E)
- h. That ADM will send copies of the proposed rule to all affected licensees and other interested persons following Commission approval for publication of the proposed rule.
- i. That the Chief Counsel for Advocacy of the Small Business Administration will be informed of the

certification and the reasons for it as required by the Regulatory Flexibility Act.

Scheduling: Recommend affirmation at an open meeting.



William J. Dircks
Executive Director for Operations

Enclosures:

- A - Notice of Proposed Rulemaking
- B - IE Information Notice No. 82-05:
Increasing Frequency of Drug-
Related Incidents
- C - Value/Impact Statement
- D - Draft Public Announcement
- E - Analysis with Respect to Periodic
Systematic Review of Regulations

Commissioners' comments or consent should be provided directly to the Office of the Secretary by c.o.b. Wednesday, June 2, 1982.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT Wednesday, May 26, 1982, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

This paper is tentatively scheduled for affirmation at an Open Meeting during the week of June 7, 1982. Please refer to the appropriate Weekly Commission Schedule, when published, for a specific date and time.

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ENCLOSURE A

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Personnel with Unescorted Access to
Protected Areas; Fitness for Duty

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to amend its regulations to require commercial and industrial facilities licensed under 10 CFR 50.22 (primarily nuclear power plant licensees) to establish and implement controls designed to assure that personnel with unescorted access to protected areas are not under the influence of drugs or alcohol or otherwise unfit for duty. The proposed amendment was developed because of a concern that certain personnel could become unfit for duty due to the effects of substances such as alcohol or drugs and, thereby, could perform actions that might adversely impact the health and safety of the public.

DATES: Comment period expires . Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit written comments and suggestions on the proposal and/or the supporting value/impact analysis to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Single copies of the value/impact analysis may be obtained on request from the contact person listed

below. Copies of comments received on the proposed amendment and the value/impact analysis may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. between 8:15 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ellis W. Merschhoff, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301)443-5942.

SUPPLEMENTARY INFORMATION: The Commission has found that the number of reported drug-related incidents in which licensee or contractor employees were arrested or terminated has increased substantially over the past three years. In 1979 there was one such reported incident, in 1980 there were five, and in 1981 there were twelve. These incidents have involved both onsite use or possession of drugs and personnel reporting to work under the influence of controlled substances. Marijuana has been the most frequently reported controlled substance involved in these incidents; however, incidents involving amphetamines, cocaine, hashish, and methaqualone have also been reported.

As a result of these incidents, the NRC Office of Inspection and Enforcement (IE) has established a Drug Abuse Task Force to develop a generic approach to the problem of possible drug (including alcohol) abuse by licensee or contractor personnel. A NUREG report which describes current practice by other regulatory organizations and by industry with regard to the abuse of drugs and alcohol is being developed by IE. The NUREG report is entitled "Survey of Industry and Government Programs to Combat Drug and Alcohol Abuse" and should

prove useful to licensees when they develop the fitness for duty programs that would be required by the proposed rule.

The proposed rule would apply to the licensees' employees and contractor personnel with unescorted access to protected areas of facilities issued operating licenses under 10 CFR 50.22. This category of personnel was chosen because any person with unescorted access to a protected area may have the opportunity to adversely effect the health and safety of the public through an unobserved act, whether intentional or inadvertent. It does not include NRC personnel.

Persons would be considered unfit for duty if their faculties were affected in a way contrary to safety by substances such as alcohol or drugs. Additionally, the phrase "...or otherwise unfit for duty..." is intended to require consideration of the effects of other factors when determining an individual's fitness for duty such as fatigue, stress, illness, and temporary physical impairments.

The proposed rule would require commercial and industrial facilities licensed under 10 CFR 50.22 to establish, document, and implement procedures to assure that personnel with unescorted access to the protected area of the licensed facility are not unfit for duty.

At this time, establishment of specific criteria to be used to determine fitness for duty and specific methods of implementation of this requirement have been left to the licensee. The Commission solicits public comment on (1) the establishment of specific fitness criteria (such as the Federal Aviation Administration's regulations regarding crewmembers of civil aircraft in 14 CFR 91.11(a)) for nuclear plant personnel, (2) specific methods of implementation of the Fitness

for Duty Rule, including the use of breath tests, background investigations, psychological tests, behavioral observation programs, employee awareness programs, employee assistance programs, and other possible implementation measures, and (3) limiting the scope of the rule to personnel with unescorted access to vital areas (generally, a protected area is any area encompassed by physical barriers and to which access is controlled while a vital area is any area that contains vital equipment; these terms are specifically defined in 10 CFR 73.2).

The Commission wants to allow each licensee to develop procedures which take into consideration not only fairness to and due process for its employees but also, any conditions or circumstances unique to its facility. Therefore, the proposed rule is broadly worded. The Commission invites public comment on the level of specificity that should be included in the proposed rule.

PAPERWORK REDUCTION ACT

This proposed rule will be submitted to the Office of Management and Budget for clearance of its information collection requirements as required by the Paperwork Reduction Act of 1980, Public Law 96-511.

REGULATORY FLEXIBILITY ACT CERTIFICATION

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This proposed rule affects personnel with unescorted access to protected areas of facilities licensed under the provisions of 10 CFR 50.22 for which an operating license has been granted. The companies that own these facilities do not fall within the scope of

"small entities" set forth in the Regulatory Flexibility Act or the small business size standards set out in regulations issued by the Small Business Administration in 13 CFR Part 121.

LIST OF SUBJECTS IN 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting requirements.

Therefore, pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendment to 10 CFR Part 50 is contemplated.

PART 50 - Domestic Licensing of
Production and Utilization Facilities

1. The authority citation for Part 50 reads as follows:

Authority: Secs. 103, 104, 161, 182, 183, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2239); secs. 201, 202, 206, 88 Stat. 1243, 1244, 1246 (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100-50.102 issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10(a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10(b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949,

as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. A new paragraph (x) is added to §50.2 to read as follows:

§50.2 Definitions.

* * * * *

(x) "Protected area" means an area encompassed by physical barriers and to which access is controlled.

3. A new paragraph (z) is added to §50.54 to read as follows:

§50.54 Conditions of licenses.

* * * * *

(z) Each licensee with an operating license issued under §50.22 shall establish, document, and implement adequate written procedures designed to ensure that, while on duty, its and its contractors' personnel with unescorted access to protected areas are not (1) under the influence of alcohol, (2) using any drugs that affect their faculties in any way contrary to safety, or (3) otherwise unfit for duty because of mental or temporary physical impairments that could affect their performance in any way contrary to safety.

Dated at _____ this _____ day of _____, 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk
Secretary of the Commission

ENCLOSURE B

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF INSPECTION AND ENFORCEMENT
WASHINGTON, D.C. 20555

March 10, 1982

IE INFORMATION NOTICE NO. 82-05: INCREASING FREQUENCY OF DRUG-RELATED INCIDENTS

Description of Circumstances:

Based on data reported to the Nuclear Regulatory Commission (NRC) and either published or to be published in the Safeguards Summary Event List (NUREG-0525), the number of drug-related incidents in which licensee or contractor employees were arrested or terminated has increased dramatically in the past year. During the last 5 years, the increasing trend is as follows: two in 1977; none in 1978; one in 1979; five in 1980; and twelve in 1981. Thus far in 1982, Regional Preliminary Notifications dealing with at least four new drug-related incidents have been issued. The reported incidents implicate a range of licensee or contractor personnel, including personnel in construction, operations and security. The reported incidents are widespread geographically, and involve power reactor sites in each of the five NRC regions.

Reported incidents have involved both onsite use or possession of drugs and personnel reporting to work under the influence of controlled substances. Marijuana was the most frequently reported controlled substance involved in these events; however, incidents involving amphetamines, cocaine, hashish, phencyclidine and methaqualone have also been reported.

Given the alarming increase in reported drug-related incidents, the wide range of personnel implicated, and the pervasiveness of the reports on a national basis, the Office of Inspection and Enforcement (IE) has established a Drug Abuse Task Force to address the problem on a generic basis. IE has given top priority to the prompt and effective development of a generic approach to the problem of possible drug (including alcohol) abuse by licensee or contractor personnel. As such, IE solicits relevant licensee experience in this undertaking. Teams from the Task Force are presently gathering information in a series of visits to selected licensees to discuss the drug problem and possible generic approaches that would best address the problem.

The Task Force is also collaborating with other members of the NRC staff to explore several regulatory approaches to the drug problem. The information obtained from the series of utility visits will be factored into the results of the inter-office efforts.

This information notice is provided as an early notification of a potentially significant matter. It is expected that recipients will review the information for applicability to their facilities. No specific action or response is required at this time. If you have any questions regarding this matter, please contact the Regional Administrator of the appropriate NRC Regional Office.

Enclosure B

ENCLOSURE C

VALUE/IMPACT STATEMENT FOR PROPOSED ACTION TO ASSURE
PERSONNEL WITH UNESCORTED ACCESS TO PROTECTED AREAS
ARE NOT UNDER THE INFLUENCE OF DRUGS OR ALCOHOL OR
OTHERWISE UNFIT FOR DUTY

1. PROPOSED ACTION

1.1 Description

The proposed action would require each commercial and industrial facility licensed under 10 CFR 50.22 to establish and implement procedures designed to assure that personnel with unescorted access to protected areas are not under the influence of drugs or alcohol and are not otherwise unfit for duty.

1.2 Need for Proposed Action

The Commission has found that the number of reported drug-related incidents in which licensee or contractor employees were arrested or terminated has increased dramatically in the past year. During the last 5 years, the increasing trend has been as follows: two in 1977; none in 1978; one in 1979; five in 1980; and twelve in 1981. Thus far in 1982, Regional Preliminary Notifications dealing with at least four new drug-related incidents have been issued. The reported incidents implicate a range of licensee or contractor personnel, including personnel in operations and security. The reported incidents are widespread geographically, and involve power reactor sites in each of the five NRC regions.

Reported incidents have involved both onsite use or possession of drugs and personnel reporting to work under the influence of certain controlled substances. Marijuana was the most frequently reported controlled substance involved in these events; however, incidents involving amphetamines, cocaine, hashish, and methaqualone have also been reported.

Since operation of a nuclear facility by personnel not fit for duty would degrade a licensee's ability to operate the facility in a safe manner, development of a regulation concerning the determination of fitness for duty with respect to the consumption of alcoholic beverages, the use of drugs which affect the faculties in a way contrary to safety, stress, and temporary physical impairment is necessary to protect the health and safety of the public.

1.3 Value/Impact of Proposed Action

1.3.1 NRC Operations

The value of the proposed action to the NRC would be enhanced capability to carry out its mission with respect to ensuring the health and safety of the public by requiring licensees to focus on fitness for duty of personnel authorized unescorted access to protected areas of their facilities.

The impact of the proposed action on the NRC will be the time spent developing and enforcing the regulation.

1.3.2 Other Government Agencies

The proposed action would not impact other government agencies, unless the government agency is a licensee, such as TVA.

1.3.3 Industry

The value of the proposed action to industry would be enhanced assurance of safety of facility operation. Implementation of this regulation would also potentially benefit the licensee by avoiding plant downtime or equipment damage caused by errors committed by personnel unfit for duty. The impact on the industry would be the cost of developing and implementing the procedures. Supervisors would have to be trained to recognize the signs which may indicate that an individual is unfit for duty, qualified professionals would have to verify the safety of drugs used by every person with unescorted access to protected areas, and records might have to be maintained regarding which drugs are approved for use.

This approach would allow licensees to develop the specifics of the program taking into consideration fairness to and due process for their employees while a regulation that attempted to do this in the most minute detail could be cumbersome, inflexible, and unnecessarily detailed.

1.3.4 Public

The value of the proposed action to the public would be greater assurance of safer and more reliable operation of nuclear facilities. The impact on the public could be imperceptibly higher electricity costs due to the increased cost to the industry discussed in 1.3.3.

1.3.5 Decision on Proposed Action

Licensees should be required to establish and implement procedures designed to assure that personnel with unescorted access to protected areas are not under the influence of drugs or alcohol or otherwise unfit for duty.

2. TECHNICAL APPROACH

Various methods of establishing a program to assure that personnel with unescorted access to the protected area of commercial and industrial facilities licensed under 10 CFR 50.22 have been considered. The procedures used by the Federal Aviation Administration (FAA) were reviewed for their applicability to nuclear facilities as were the recent changes proposed to this program. The current FAA regulations state that:

- "(a) No person may act as a crew member of a civil aircraft-
- (1) Within 8 hours after the consumption of any alcoholic beverage;
 - (2) While under the influence of alcohol; or
 - (3) While using any drug that affects his faculties in any way contrary to safety."

The proposed change to the FAA regulations would add a fourth point:

- "(4) While having 40 milligrams percent or more by weight of alcohol in the blood."

It was felt that imposing specific blood alcohol level limits and a required period of abstention from alcoholic beverages as used by the FAA would be premature for application to nuclear facilities since no studies have been performed to support quantitative restrictions on nuclear facility personnel.

Consideration was also given to incorporating the provisions of this proposed rule into the behavioral observation program which is being developed as a part of the proposed changes to 10 CFR 73.56 (Access Authorization

Rule). This was not done because it was felt that broadening the scope of the Proposed Access Authorization Rule would complicate and delay this proposed rule. The importance of establishing a regulation which addressed the specific issue of fitness for duty while on duty necessitated proceeding independently with this proposed rule. After some experience has been gained through the implementation of both the proposed fitness for duty rule and the proposed Access Authorization Rule, consideration will be given to combining them.

A broad administrative approach was chosen to accomplish the proposed action. Each licensee would be required to establish and implement procedures which would ensure that personnel with unescorted access to protected areas are not under the influence of alcohol or drugs or otherwise unfit for duty. The category of personnel was restricted to those personnel with unescorted access rather than anyone with access to a protected area because an individual with unescorted access may have the opportunity to perform an unobserved action which could effect the public health and safety. It includes all licensee employees and contractors who have been authorized unescorted access to the protected area but does not include NRC personnel. The method of implementing this requirement would be left to the licensee rather than by issuing a very detailed and cumbersome regulation in order to allow licensees to focus on the problem and provide solutions which will take into consideration the rights of their employees and any circumstances unique to their facility.

3. PROCEDURAL APPROACH

3.1 Procedural Alternatives

3.1.1 Specific Regulation - issue a regulation which requires personnel with unescorted access to protected areas to be fit for duty as specifically defined in the regulation.

3.1.2 Broad Regulation - issue a regulation which requires personnel with unescorted access to protected areas to be fit for duty in accordance with general guidelines.

3.1.3 Policy Statement - issue a Commission policy statement which delineates Commission policy regarding fitness for duty of personnel with unescorted access to protected areas.

3.2 Value/Impact of Procedural Alternatives

The value to the NRC of alternative (1), a specific regulation, is that it would have the full force and authority of a law. The impact on the NRC of alternative (1) is that a regulation which attempted to fully define all instances when an individual should be considered unfit for duty while protecting the rights of the individual involved would necessarily be cumbersome and less than an optimal approach for any particular facility.

The value to the NRC of alternative (2), a broad regulation, is it would have the full force and authority of a law, it would provide a basis for future regulatory guides, and would allow each licensee to develop procedures which take into consideration not only fairness to and due process for its employees but also any conditions or circumstances unique to its facility. The impact on the NRC of alternative (2) is that it would be harder to enforce since it would not require industry wide standardization of their fitness-for-duty programs.

The value to the NRC of alternative (3), a policy statement, is it would provide the greatest degree of flexibility for implementation since conformance to the established policy by the licensees would be voluntary. The impact on the NRC of alternative (3) is that it would not provide a regulatory basis for enforcement.

3.3 Decision on Procedural Approach

The proposed action should be accomplished by publishing a broad regulation which would require licensees to assure that personnel with unescorted access to protected areas are not under the influence of alcohol or drugs or otherwise unfit for duty. This was determined to be the least burdensome of the acceptable alternatives.

4. STATUTORY CONSIDERATIONS

4.1 NRC Regulatory Authority

Authority for the proposed action is derived from the safety requirements of section 103 of the Atomic Energy Act of 1954, and from section 201 of the Energy Reorganization Act of 1974.

4.2 Need for NEPA Statement

An environmental impact statement is not required since, under 10 CFR 51.5(d)(3), the proposed action is not a major action that may significantly affect the quality of the human environment.

5. RELATIONSHIP TO OTHER EXISTING OR PROPOSED REGULATIONS OR POLICIES

The restrictions provided by the proposed action are not addressed by existing regulations or policies, nor are they addressed by other proposed regulations or policies. The relationship between this proposed rule and the proposed change to 10 CFR 73.56 (Access Authorization Rule) under development has been carefully considered. The decision has been made to proceed separately with this two rulemakings and to reconsider combining them after experience has been gained from their implementation.

6. SUMMARY AND CONCLUSIONS

A broad regulation dealing with fitness for duty of personnel with unescorted access to protected areas should be proposed.

ENCLOSURE D

NRC PROPOSES LICENSEE PROCEDURES TO ASSURE FITNESS
FOR DUTY AT NUCLEAR POWER PLANTS

The Nuclear Regulatory Commission is proposing to amend its regulations to require that utilities licensed to operate nuclear power reactors establish procedures to assure that personnel with unescorted access to protected areas of a facility are not under the influence of drugs, alcohol and otherwise unfit for duty.

The Commission believes the proposed change to Part 50 of NRC regulations is needed to assure that personnel unfit for duty, because of mental or temporary physical impairments, are not given the opportunity to adversely affect the health and safety of the public in the operation of a nuclear power plant.

The Commission has found that the number of reported drug-related incidents in which licensee or contractor employees were arrested or terminated has increased substantially over the last three years. In 1979, there was one such incident. In 1980, there were five incidents and in 1981 there were 12. The incidents have involved both onsite use or possession of drugs and personnel reporting to work under the influence of drugs.

As a result of these incidents, the NRC Office of Inspection and Enforcement has established a Drug Abuse Task Force to develop an approach to the problem on a generic basis.

At this time, specific criteria to determine fitness for duty would be left to the individual licensee. However, the Commission is requesting public comment on the use of breath tests, psychological tests, behavioral observation programs, and other possible implementation measures.

The Commission additionally proposes to require consideration of effects of other conditions when determining an individual's fitness for duty, such as fatigue, stress, illness and temporary physical impairments.

The proposed rule has been broadly worded to allow each licensee to develop procedures which consider not only fairness to, and due process for, its employees but also any conditions or circumstances that may be unique to its facility.

Written comments on the proposed rule change should be submitted within 60 days of publication in the Federal Register on _____. Comments should be addressed to the Secretary of the Commission, Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

ENCLOSURE E

Analysis with Respect to Periodic Systematic Review of Regulations
(TMI Action Plan Task IV.G.2)

SUBJECT: Requirement For Licensees to Assure that Personnel with Unescorted Access to Protected Areas of Commercial and Industrial Facilities Licensed Under 10 CFR 50.22 are Fit for Duty

Criteria for Periodic and Systematic
Review of Regulations

NRC Compliance

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- | | |
|---|---|
| 1. The proposed regulation is needed. | The need for the proposed regulation is discussed in the Value/Impact Assessment prepared in connection with the rulemaking (Enclosure C). |
| 2. The direct and indirect effects of the regulation have been adequately considered. | The direct and indirect effects of this rulemaking were considered in the Value/Impact Analysis prepared in connection with the proposed rule. (Enclosure C) |
| 3. Alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen. | Alternative methods for providing restrictions on the consumption of alcoholic beverages and the use of drugs by nuclear facility personnel have been considered in the Value/Impact Assessment, and the least burdensome of the acceptable alternatives has been chosen. |
| 4. Public comments have been considered and an adequate response has been prepared. | The proposed amendment is being issued for public comment. |
| 5. The regulation is written in plain English and is understandable to those who must comply with it. | The proposed amendment has been reviewed and edited for the specific purpose of ensuring that the regulation is clear and can be understood by persons who are required to comply with it. |
| 6. An estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the regulation. | The proposed action will result in an additional reporting burden on the licensee and the NRC. The new recordkeeping requirements for licensees will be submitted to the Office of Management and Budget for approval as required by the Paperwork Reduction Act of 1980. |
| 7. The name, address, and telephone number of a knowledgeable agency official is included in the publication. | The <u>Federal Register</u> notice promulgating the proposed rule contains the name, address, and telephone number of a knowledgeable agency official. |
| 8. A plan for evaluating the regulation after its issuance has been developed. | This regulation, if promulgated will be reviewed in the second cycle of NRC's periodic and systematic review process (1986-1991). |

Enclosure E