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OFFICE OF SECRETARY
DOCKETING & SERVICE
DR. DONALD L. KNUTH
President

Mr. Samuel F. Chilk
Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

JACKET NUMBER
PROPOSED RULE PR-50

40

(47 FR 33980)

ATTENTION: Docketing and Service Branch

RE: Proposed Rule on Fitness
for Duty; 47 Fed. Reg. 33980

Dear Mr. Chilk:

On August 5, 1982, the Commission published, in the Federal Register, a proposed rule which would require that licensees establish procedures to assure that personnel with unescorted access to protected areas be "fit for duty." As written, the rule applies only to personnel of licensees and their contractors. The Physical Security Coordinating Group (which includes the utilities listed in Enclosure 1) and KMC, Inc. are pleased to provide the following comments.

We do not take issue with the concept that utilities should establish mechanisms designed to exclude persons who are unfit for duty from unescorted access to protected areas. Many utilities, in fact, already have such programs in effect. Our concern is that adopting a fitness of duty rule may serve as an excuse for delaying NRC action on the Access Authorization (personnel screening) Program.

The Access Authorization Program is a comprehensive, multi-faceted mechanism to help assure the reliability of persons with unescorted access to nuclear power plants. The Program would include personnel history reviews, criminal record checks, psychological testing, and continued observation as elements of an overall personnel screening program. "Fitness for duty" would be a necessary component of the continued observation portion of the program. The Physical Security Coordinating Group has taken an active role in the development of the Access Authorization Program, and has been urging the NRC to promptly move forward to establish the regulatory framework for this program. We believe that issuing a fitness for duty rule could be perceived as sanctioning additional delay in establishing the Access Authorization

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Program. It is already almost two years since the Commission's decision to establish an Access Authorization Program. CLI-80-37, 12 NRC 528 (1980). We would urge the Commission to move forward promptly with an overall program, instead of the piecemeal approach exemplified by the proposed fitness for duty rule.

If the Commission does proceed with the fitness for duty rule, we would recommend two changes. First, we are concerned that the proposed rule may fix an unreasonable standard which would expose licensees to inappropriate enforcement actions. The language proposed calls for licensees to "establish, document and implement adequate written procedures to ensure that" personnel are fit for duty. These words could be interpreted as imposing a requirement that the procedures operate perfectly; any after-the-fact discovery of alcohol or drug use could be argued to be a prima facie violation of the regulatory requirement. Particularly where a program of this type must "take into consideration ... fairness and due process for [a licensee's] employees", 47 Fed. Reg. at 33981, it must be recognized that administration of the program cannot operate perfectly. To remedy this problem, we would suggest that a "reasonable assurance" standard be substituted.

The second change which we would recommend deals with the proposed rule's exclusion of certain persons from its scope. As written, the rule applies only to "[the licensee's] and its contractors' personnel." The statement of consideration accompanying the proposed rule explicitly states that "[i]t does not include NRC personnel." 47 Fed. Reg. at 33981. In addition, there may be other individuals, such as inspectors from State agencies and other Federal agencies, who are normally given unescorted access and would fall outside the scope of the proposed rule. We see no reason for excluding these categories of people from the rule's reach. Although it might be argued that government employees are less likely to be under the influence of drugs or alcohol (a proposition that might be difficult to prove), there is no basis for concluding that these individuals are less prone to be "otherwise unfit for duty because of mental or temporary physical impairments that could affect their performance in any way contrary to safety." The proposed rule should therefore apply to "all persons with unescorted access to protected areas."

In conclusion, we would recommend that the Commission not adopt the proposed fitness for duty rule, but rather expedite the Access Authorization Program. However, if a fitness for duty rule is adopted, we would recommend the following changes:

"(z) Each licensee with an operating license issued under §50.22 shall establish, document, and implement adequate written procedures designed to ensure provide reasonable assurance that, while on duty, ~~its and its contractors' personnel~~ all persons 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."

We appreciate the opportunity to submit these comments.

Sincerely

Donald F. Knuth

Donald F. Knuth
KMC, Inc.

PHYSICAL SECURITY COORDINATING GROUP

Arizona Public Service Company
Baltimore Gas & Electric Company
Carolina Power & Light Company
Commonwealth Edison Company
Consumers Power Company
Detroit Edison Company
Duke Power Company
Duquesne Light Company
Florida Power & Light Company
GPU Nuclear Corporation
Maine Yankee Atomic Power Company
Nebraska Public Power District
Niagara Mohawk Power Corporation
Northeast Utilities Service Company
Northern States Power Company
Pennsylvania Power & Light Company
Public Service Electric & Gas Company
Public Service Company of N.H.
Rochester Gas & Electric Company
Sacramento Municipal Utility District
South Carolina Electric & Gas Company
Southern California Edison Company
Toledo Edison Company
Wisconsin Electric Power Company
Wisconsin Public Service Corporation
Yankee Atomic Electric Company

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October 1, 1982
L-82-425

OFFICE OF SECRETARY
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BRANCH

Office of the Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

33

RE: 10 CFR Part 50
Personnel With Unescorted Access to
Protected Areas; Fitness for Duty

-50
(47 FR 33980)

Dear Sir:

Florida Power & Light Company has reviewed the Proposed Rule concerning the subject topic published in the Federal Register on August 5, 1982 (47 FR 33980).

Florida Power & Light Company has actively participated in the preparation of comments submitted by the Edison Electric Institute Nuclear Security Subcommittee, and thereby supports the consideration of these comments. Additionally, the following discussion is provided:

The Nuclear Regulatory Commission is proposing a new paragraph (x) to 10 CFR 50.54, which would require each commercial and industrial facility licensed under 10 CFR 50.22 to establish and implement procedures designed to ensure that personnel with unescorted access to Protected Areas are not under the influence of drugs or alcohol, and are not otherwise unfit for duty.

This proposed action is apparently based on twenty-four (24) reported drug-related incidents in which licensee or contractor employees were arrested or terminated from 1977 to the present. NRC background data does not indicate whether or not these persons were cleared for unescorted access or that these incidents contributed to safety related incidents.

A Drug Abuse Task Force, established by the NRC, Office of Inspection and Enforcement (IE), surveyed licensees to determine the extent of the problem and methods utilized by licensees to deal with that problem. A generic approach to the problem of possible drug and alcohol abuse was sought to be developed. NUREG 0903, "Survey of Industry and Government Programs to Combat Drug and Alcohol Abuse" has been published by the task force. This report reflected that utilities surveyed were keenly aware of the potential threat of drug and alcohol abuse, had developed clear, firm policies and were implementing appropriate disciplinary action under these policies when warranted.

Based on the foregoing, the necessity for the subject regulation as proposed or otherwise, is questioned. The NRC's own study reflects that the industry is aware of the problem and has developed policies for action, implementing these policies.

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add: Ellis Merschaff 5650 NL

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Personnel With Unescorted Access to
Protected Areas; Fitness for Duty

The relatively few incidents, twenty-four (24) over more than a five (5) year period, do not justify regulatory action. The regulation, as written, is not only impossible to comply with, but could substantially increase operating cost, and may significantly impact business decisions which should rightfully be within the purview of licensee management.

The proposed regulation requires the licensee to "ensure" (guarantee) that each person granted unescorted access to a Protected Area, and while working within that area are not (1) under the influence of alcohol; (2) using any drugs (emphasis added -all drugs illegal, prescribed by a physician or over-the-counter) 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. To guarantee any of the above in every case is not possible.

For example, the detection of alcohol or drugs in a person's system can only be established with any degree of certainty through laboratory analysis of body fluids. This would require the taking of blood or urine, acts which would certainly be considered an invasion of privacy and which would contribute to a reduction of employee morale, possibly in itself causing adverse consequences. As the licensee must guarantee on a daily basis that persons are free of alcohol or drugs which may affect their faculties adversely, any reasonable frequency of said tests would not conclusively guarantee compliance. Even the detection of trace elements of a drug in an individual's system would not in itself indicate that the drug adversely affects that person's faculties, since an individual's body weight and metabolism influence alcohol/drug effect. Analysis of laboratory tests by a physician may, therefore, be necessary thereby adding to cost and adverse impact on operational efficiency and employee morale.

Proposals from clinical laboratories reflect that a comprehensive toxicology analysis to include qualitative analysis and quantitation would cost approximately ninety dollars (\$90.00). Less extensive examinations would range from twenty-two dollars (\$22.00) for a routine screen to fifty-five dollars (\$55.00) for a qualitative drug profile. The latter two (2) examinations would not seem to meet the burden of guarantee.

Assuming a very conservative figure of one thousand five hundred (1,500) employees (includes outage personnel) granted unescorted access to the Protected Area of a nuclear power plant in the course of a calendar year, when multiplied by the median cost of fifty-five dollars (\$55.00) for a qualitative drug profile, results in a cost for this facility for one test of eight-two thousand, five hundred dollars (\$82,500.00).

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10 CFR Part 50
Personnel With Unescorted Access to
Protected Areas; Fitness for Duty

This cost would be increased by frequency of examination and number of nuclear facilities.

The guarantee burden of meeting the "otherwise unfit for duty" portion of the proposed regulation is equally impossible to meet. We know of no type of medical or psychological examination which can "ensure" that an individual has no "mental or temporary physical impairments that could affect their performance in any way (emphasis added) contrary to safety."

Due to the impossibility of compliance with this regulation as proposed, the licensee is placed in a position of violation of the regulation following any after-the-fact disclosure or determination of alcohol, drug use, mental or temporary physical impairment.

Additional consideration must be given to the exposure of licensees in implementing this regulation as proposed, in light of the National Labor Relations Board's "joint employer" doctrine. This proposed regulation places licensees, using contractors which in turn use craft union labor, in a position of controlling the terms of employment of contractor employees. The licensee may thereby be determined to be a joint employer of the contractor employee. The consequence of such a finding is that collective bargaining and other obligations may accrue to the licensee as well as the employer. The NRC must exercise due care to avoid placing licensees in a position where business decisions properly within the purview of licensee management, are abrogated by government regulation.

If a rule is to be established, the NRC's decision to write a broadly worded rule is considered more satisfactory as opposed to specific fitness criteria such as the Federal Aviation Administration's (FAA) regulations regarding crew members. Several points are worth noting regarding the FAA regulations.

1. The FAA does not impose the guarantee burden as in the NRC proposed regulation.
2. The FAA regulation is strongly oriented toward the detection of alcohol and the use of a breath test for verification. Verification testing of body fluids required to detect drugs is not contemplated without the basis of "reasonable grounds".
3. The FAA admits that their current program is difficult to enforce without implied consent provisions. Such would probably be the case within the nuclear industry. The ability to obtain implied consent from licensed flight crew members would also seem to be much easier than to obtain same from the large numbers of non-licensed personnel required to have unescorted access to a nuclear power facility.

The limiting of the scope of the proposed regulation to those personnel with unescorted access to vital areas would seem, on the surface, to provide some relief. The administrative burden of applying this rule to a larger group of personnel may prove to be excessive and would, in all probability, be considered prejudicial by those against whom it was applied.

As the licensee must be ultimately responsible for the safe operation of the licensed facility, the licensee must have the ability to apply imposed standards for access evenly to all personnel authorized unescorted access. Should one group, i.e. NRC personnel, be excluded (an exclusion based solely on the identity of an employer, as opposed to an individual), the need for the rule itself would seem to be negated. As a minimum, the NRC should establish standards for its own personnel and certify to the licensee that NRC personnel authorized unescorted access meet these standards.

Record-keeping related to individuals should be commensurate with record retention relating to background checks. In this light, proposed Section 50.54 (x) should not require absolute documentation that all on-duty personnel are fit for duty. We therefore propose the following alternate wording of the introduction to Section 50.54 (X) (1):

"Each licensee with an operating license issued under Section 50.21(b) or 50.22 shall establish and implement adequate written procedures designed to provide reasonable assurance that ..."

The current proposed regulation, with its guarantee burden, renders compliance impossible and, as such, is of no value. The promulgation of this rule is significantly more burdensome than acceptable alternatives, such as a policy statement. Great latitude for implementation, even though voluntary and without regulatory basis for enforcement, would, in all probability, provide a better end product than would a rule that defies compliance.

The NRC has provided no indication that past incidents have adversely affected the safety and reliability of operation of nuclear facilities.

As NRC research has indicated that utilities are keenly aware of the potential threat of drug and alcohol abuse and, have developed clear, firm policies, taking disciplinary action under these policies when warranted, the most cost effective and practical approach may be the inclusion of a policy statement covering this subject. Background investigations, behavioral observation and related programs already in force and contemplated to be addressed more fully in an Access Authorization Rule (Proposed 10 CFR 73.56), are the most effective and practical means of dealing with the problem. This is especially so when coupled with a policy statement and the background and guidance set forth in NUREG 0903.

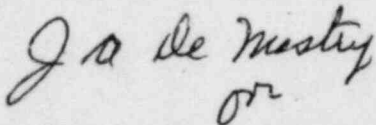
Page 5
10 CFR Part 50
Personnel With Unescorted Access to
Protected Areas; Fitness for Duty

In conclusion, should the current proposed rule be promulgated, the following is recommended:

- 1) Delete the ensure (guarantee) requirement, replacing that level of certainty with reasonable assurance.
- 2) Delete the "otherwise unfit" section of the proposed rule.
- 3) Include within the proposed rule, NRC personnel through standards established by the NRC.
- 4) Clarify document retention requirements.

Should the proposed rule be expanded to include additional requirements, it is essential that the rule be republished in proposed rule form for additional comments.

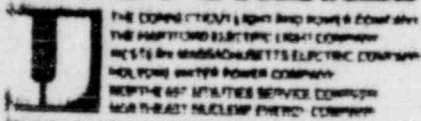
Yours very truly,



Robert E. Uhrig
Vice President
Advanced Systems & Technology

REU/DAC/cab

cc: Harold F. Reis: Lowenstein, Newman, Reis & Axelrad, P.C.
K. L. Caldwell: FPL Security



P.O. Box 270
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October 1, 1982

DOCKETED
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Docket Nos. 50-213

50-245

50-336

50-423

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OFFICE OF SECRETARY
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Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Attention: Docketing and Service Branch

Reference: (1) 47 Federal Register 33980, dated August 5, 1982.

DOCKET NUMBER
PROPOSED RULE PR-50

29

Dear Sir:

(47 FR 3398)

Haddam Neck Plant
Millstone Nuclear Power Station, Unit Nos. 1, 2, and 3
Comments on Proposed Rule Regarding Employee Fitness for Duty

In Reference (1), you provided the opportunity to comment on your proposed rule regarding the fitness for duty of personnel with unescorted access to protected areas in nuclear power plants. The proposed rule was developed because of a concern that certain personnel could become unfit for duty due to the effects of drugs or alcohol and, thereby, could perform actions that may adversely impact the health and safety of the public. If approved, the rule would require licensees to implement a program to assure that such personnel are not unfit for duty. On behalf of the Connecticut Yankee Atomic Power Company (CYAPCO) and the Northeast Nuclear Energy Company (NNECO), Northeast Utilities Service Company (NUSCO) hereby offers the following comments on this proposed rule:

- A. A rule is not necessary since the NRC's own study reflects that the industry is well aware of the issue and has already developed and implemented policies for action. It is in a company's best interest to have this type of program in effect from the perspective of worker productivity and effectiveness, and also because the licensee is ultimately responsible for the safe operation of the facility. For example, our own company employs background investigations, pre-employment psychological tests, supervisor training in behavioral observation and employee assistance and rehabilitation programs, all without any regulatory inducement.

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add: E Meuschaff
5650 NL

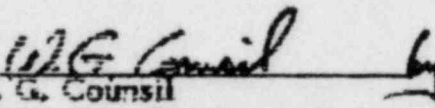
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- B. Continual reference is made to the substantial increase in drug-related incidents at nuclear sites over the past several years. It should be recognized however, that the number of nuclear support personnel has more than doubled in that same time period due to federally mandated backfits and installations, and new plants being brought on-line. We feel that it would be safe to say that compared to other industries, the nuclear industry has one of the lowest records of drug and alcohol-related incidents.
- C. The proposed regulation requires that licensees "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 determination that a person is unfit for duty by being under influence of drugs, alcohol or other factors such as stress requires an in-depth investigation, unless the individual is obviously incapacitated. This determination cannot be done in a nonintrusive manner such as the screening for weapons by passing through a metal detector. Therefore, the effectiveness of any implementable program to detect unfit personnel who are not extremely and obviously unfit is questionable and virtually impossible to "assure" or guarantee.
- D. We strongly oppose the use of random chemical testing (i.e. — breath, blood or urine testing). To implement such would be counterproductive and would erode employee moral and confidence. Not only would such tests be costly, but they would be time consuming and would require trained technicians to administer them. This would greatly compromise the role of medical personnel by taking them out of their appropriate "care giver" role and putting them into the enforcement role. In addition, we question the legality of conducting such tests which, at a minimum, would be subject to labor laws and grievances.
- E. The proposed rule would not apply to NRC inspectors who have unescorted access to protected areas. The NRC should not require the licensee, who has the ultimate responsibility for the safety and security of the facility, to exempt anyone from the fitness for duty rule. There is no reason to believe that persons not in the employment of the utility (such as NRC inspectors) are totally immune to having problems with drug or alcohol abuse.

- F. The lack of specific requirements in the rule is apt to result in differences of interpretation between the licensee and the NRC with no firm basis to resolve such differences. The result could be items of non-compliance and subsequent civil penalties against the licensee created by the vagueness of the rule. Rather, we would suggest that the proposed rule, if adopted at all, be changed to a policy statement as it would provide the degree of flexibility necessary for a rule such as this, yet it would still delineate the Commission's position on employee fitness for duty.

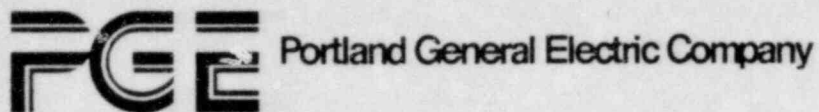
We appreciate the opportunity to provide our comments on this proposed rule and trust that you will find them beneficial. We remain available to discuss with you, further details on these comments.

Very truly yours,


W. G. Council
Senior Vice President


Robert W. Bishop
Corporate Secretary

To: Samuel Chilk



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Bart D. Withers Vice President

OFFICE OF SECRETARY
DOCKETING & SERVICE
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September 30, 1982

Secretary of the Commission
U. S. Nuclear Regulatory Commission
ATTN: Docketing and Service Branch
Washington DC 20555

DOCKET NUMBER 38
PROPOSED RULE PR-50
(47 FR 33980)

Dear Sir:

Federal Register Comments
Proposed Rule Related to Fitness for Duty

Portland General Electric Company (PGE) offers the attached comments for your consideration related to the Proposed Rule on Fitness for Duty, as promulgated in the August 5, 1982 Federal Register (Volume 47, 33980).

In summary, PGE is opposed to the adoption of this proposed rule as written. Although the rule is intended to ensure fitness for duty, we believe the rule would be difficult, if not impossible, to implement. It is also subject to misinterpretation and duplicates other ongoing regulatory proposals. Current Company policies and programs, meeting existing regulatory requirements and industry standards, already adequately ensure that personnel with unescorted access to protected areas of nuclear power plants are fit for duty. Your careful consideration of our comments will be appreciated.

Sincerely,

Bart D. Withers
Vice President
Nuclear

Attachment

*DS 10
add: E Marchant
5650 NW*

Acknowledged by card 10/7/82 emp

PORTLAND GENERAL ELECTRIC COMPANY'S
COMMENTS ON PROPOSED RULE RELATED TO
FITNESS FOR DUTY

Portland General Electric Company (PGE) has reviewed the proposed rule of August 5, 1982, 10 CFR 50.54(x), related to fitness for duty. The stated purpose of this rule is to provide greater assurance of safer and more reliable operation of nuclear facilities by establishing and implementing 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. While we concur with the purpose of this proposed rule, we neither believe it is necessary, nor that it would measurably ensure fitness for duty, for the following reasons:

1. "Adequate written procedures" would be difficult, if not impossible, to implement to a degree that would "ensure" fitness for duty.

Chemical tests would be necessary to "ensure" that personnel with unescorted access to protected areas are not unfit for duty. These tests would have to be administered on a daily basis to the entire plant work force in order to absolutely "ensure" fitness for duty. Such a program would be impractical. The only other reasonable alternative, random sampling, would perhaps act as a deterrent, but would still not "ensure" fitness for duty.

Moreover, it is not certain what measures could be adequately designed into procedures to ensure the personnel are not "otherwise unfit for duty because of mental or temporary physical incurments that could affect their performance in any way contrary to safety". Consideration of factors in this category, such as fatigue, stress, illness and temporary physical impairments, can only be detected by trained supervisory personnel and not testing procedures.

2. Licensee security screening programs already provide reasonable assurance that personnel are not unfit for duty.

Current screening programs ensure a high degree of personnel reliability and trustworthiness. These programs include background checks of previous employment, education, references and criminal records, as well as psychological evaluations. Also, on a continuing basis, individuals are observed by plant management personnel as part of their supervisory responsibilities, for indication of aberrant behavior. The effectiveness of these programs will be further enhanced by conformance to the access authorization provisions of recently issued ANSI/ANS-3.3-1982, "Security for Nuclear Power Plants". Many licensees have, in fact, already implemented these provisions.

3. It duplicates a recently developed industry standard and another proposed NRC rule which afford licensees greater flexibility in implementing "fitness for duty" programs.

Paragraph 5.4.5.1(f) of ANSI/ANS-3.3-1982 requires that a continued observation program be established to recognize unusual behavior of employees in the performance of job-related duties. A program similar to this ANSI Standard is envisioned by the NRC in proposed 10 CFR 73.56. These programs would accomplish the same objectives as intended by the subject proposed rule (10 CFR 50.54(x)). In lieu of the latter, which would codify a vague requirement that could be easily misinterpreted and misapplied through the NRC review and inspection process, we recommend the NRC endorse the ANSI standard referenced above via a Regulatory Guide or Standard Review Plan. This approach would be consistent with ongoing industry and NRC efforts and would provide needed certainty and flexibility in implementing access authorization programs.

4. Employee morale would be adversely affected. This, in turn, could affect plant reliability and/or safety.

"Ensuring" that personnel are not unfit for duty will require chemical means of detection, eg, breath, blood or urine tests. Requiring that persons submit to these tests raises legal questions about invasion of privacy. The threat of random testing may also create employee resentment. Moreover, the exclusion of NRC personnel from the requirements of this rule would be an affront to the integrity and professionalism of many industry personnel.

BOSTON EDISON COMPANY
EXECUTIVE OFFICES
800 BOYLSTON STREET
BOSTON, MASSACHUSETTS 02199

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THEODORA S. CONVISSER
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(617) 424-2339

October 1, 1982

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Mr. Samuel J. Chilk, Secretary
U. S. Nuclear Regulatory Commission
1717 H Street, N. W.
Washington, D. C. 20555

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

34

FR - 50

47 FR 33980

ATTENTION: Docketing and Service Branch

RE: Proposed Amendment to 10 C.F.R. Part 50:
"Personnel With Unescorted Access to
Protected Areas; Fitness for Duty", 47
Fed. Reg. 33980 (August 5, 1982)

Dear Secretary Chilk:

Boston Edison Company (the "Company") submits the following comments in response to the Proposed Rule of the Nuclear Regulatory Commission (the "Commission") entitled "Personnel With Unescorted Access to Protected Areas; Fitness for Duty". 47 Fed. Reg. 33980 (August 5, 1982). The Company is the owner and operator of Pilgrim Nuclear Power Station, a nuclear power plant located in Plymouth, Massachusetts licensed under the provisions of the Atomic Energy Act of 1954, as amended, and the rules and regulations of the Commission promulgated thereunder, and as such has a substantial interest in the issues raised by the Proposed Rule.

It is the position of the Company that a separate Commission rule dealing with fitness for duty is redundant and unnecessary in that such issues have already been amply addressed by the Commission in existing site security regulations and by licensees in site security plans as an inextricable element of site security. The Company and its contractors, for example, presently have in place, both as a part of the Pilgrim site security plan and as a matter of general policy, numerous procedures to satisfy the various concerns the Proposed Rule is designed to meet. These procedures are described briefly below:

1. The Company's long-standing policy regarding alcohol abuse is embodied in a written rule, similar to that of the Federal Aviation Administration cited in the Proposed Rule, which prohibits all employees from

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add. E. Merschoff
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Acknowledged by card 10/7/82 emp

imbibing during working hours. Employees who violate this rule are denied access to the work place, and in addition are subject to disciplinary action, including suspension and discharge. Moreover, the Company since 1970 has had in effect a comprehensive employee alcohol and drug awareness and assistance program under the direction of the Company's Medical Department. Components of this program include periodic teaching programs regarding the dangers of abuse, and drug and alcohol counseling, treatment and rehabilitation programs conducted both under Company auspices and in coordination with various community programs.

2. In regard to Pilgrim Station in particular, the unescorted access screening process currently in effect includes various procedures to identify and exclude the habitual drug and alcohol offender. Before being granted unescorted access, persons entering the site are routinely required to take the psychological examination known as the Minnesota Multiphasic Personality Inventory ("MMPI") and to participate in an interview with a trained psychologist. Unescorted access applicants are also subjected to a criminal history check and a background check. The detection of a history of alcohol and drug abuse is a criterion under each of these screening procedures.
3. Persons employed at Pilgrim Station are also subject to a continuous review process under the direction of the Company's Medical Department designed to detect the presence of such factors as drug and alcohol abuse, stress, fatigue and other short and long-term psychological problems.
4. All persons entering the Pilgrim site are subjected to a visual behavioral observation process conducted by the station security force, which has been trained to detect and deny access to persons showing signs of unfitness due to such problems as drug or alcohol abuse or short-term physical or psychological impairment.

It is the position of the Company that the foregoing procedures, which have been devised in response to existing Commission regulations and are already in effect at Pilgrim Nuclear Power Station, and similar procedures presently in effect at other nuclear sites, amply meet the concerns raised in the proposed Fitness for Duty Rule and obviate the need for a separate rule-making on the subject.

Alternatively, if the Commission decides that a separate Fitness for Duty Rule is required, the Company submits that the procedures set forth above constitute the appropriate methods of implementation. In particular, the Company strongly advises against the introduction of any mechanical or chemical alcohol testing procedure, such as the breathalyzer, or the promulgation of any specific fitness criteria in connection therewith. It is the opinion of the Company that the introduction of such procedures would add little or nothing to the safeguards outlined above, but would inevitably give rise to a host of labor relations and legal problems which could have serious deleterious effects on plant operations. Some of the problems foreseeable with the introduction of the breathalyzer and other mechanical or chemical testing procedures are set forth below.

1. Operational Problems. The procedure for administering the breathalyzer, the most commonly used mechanical alcohol testing device, is extremely time-consuming, requiring seven minutes per individual, with a two or three minute delay between tests. At a rate of ten minutes per test, or six tests per hour per operator and machine, the process of administering the breathalyzer to all entrants on the site, particularly during an outage when the site population greatly expands, could consume a significant portion of the working day. (It is also necessary to wait fifteen minutes before administering the breathalyzer to a subject to assure that the reading registers blood alcohol levels, as opposed to breath alcohol which could be triggered by a recent dose of cough or cold medicine.)

If a random selection breathalyzer testing program were instituted as an alternative to reduce delay, however, this would seem to defeat the purpose of the mechanical test. A truly random administration would not guarantee that all alcohol users were identified and would be of merely token deterrent value. On the other hand, if subjects for mechanical testing were chosen on the basis of physical observation, nothing would be added to procedures already in place, since these people are already denied access in any event. Also, it must be recognized that any pattern of mechanical testing, no matter how carefully administered, would most probably give rise to charges of discrimination and similar legal entanglements.

2. The Problem of Specific Standards. Rather ironically, the promulgation of a specific standard of intoxication

e.g., a blood alcohol level of .10 - could result in licensees being compelled to grant entry to persons they may now have the power to exclude under behavioral observation programs. The setting of a particular standard could be taken as an implication that any level of blood alcohol below that standard is not grounds for denying access. Were arbitrators to take such a position in interpreting the application of the rule to licensee collective bargaining agreements, the introduction of the breathalyzer could weaken rather than strengthen licensee alcohol detection programs.

Similar questions arise regarding the setting of standards concerning what testing machinery is appropriate, what equipment standards are required, what qualifications and training must be given operators, etc. In each case, the introduction of an overly specific procedure may detract from the present scope of the licensee's freedom to deny access by providing technical arguments to those so denied which could be raised under applicable collective bargaining procedures.

3. Labor Relations Problems. On the other hand, if the Commission seeks to obviate the above problems by choosing a broader regulatory approach and letting each licensee set its own testing standards, the licensee is thereby exposed to various labor relations challenges without the protection of being able to represent that its actions are mandated by federal law. This problem is well highlighted by the recent problems experienced by licensees in regard to the administration of the MMPI. With the introduction of screening procedures such as the MMPI or the breathalyzer, which are objectionable to labor in that they limit job access, a challenge by labor under applicable collective bargaining agreements may be readily anticipated. Since such agreements often antedate the proposed procedure, as would be the case with any mechanical or chemical alcohol testing, the agreements do not specifically authorize management to initiate the procedure in question. Licensee collective bargaining agreements do, of course permit management to implement requirements mandated by the Commission. However, where the Commission chooses general as opposed to specific regulation, as has to date been its approach in connection with security screening issues, the licensee is left at risk that a particular procedure which it selects in order to comply with the Commission's general mandate will be determined by an arbitrator not to be "required" by the Commission and therefore beyond the power of the licensee

to implement in its collective bargaining agreements or beyond the power of its contractors to adopt under agreements with subcontractors. It can be seen from the foregoing that whether the Commission chooses a broad or a specific regulatory approach in regard to employee screening, labor relations problems arise for the licensee. These problems are not of course insurmountable, but neither are they insignificant. For this reason, it is suggested that the Commission regulate in this area with great care, and impose only such requirements as are both necessary and effective.

4. Limited Utility and Effectiveness. It is submitted that when judged under a "necessary and effective" standard, the use of the breathalyzer or other mechanical or chemical alcohol testing device should be abandoned. Even assuming that a workable breathalyzer testing procedure could be devised, it must be noted that the breathalyzer is of limited utility as an overall fitness for duty detection device in that it deals only with alcohol abuse. Licensees will still have to rely on physical observation programs in order to identify drug usage, stress, fatigue, short-term physical and psychological problems and other fitness concerns. Also, recent court decisions have added further complexity in the area of chemical and mechanical testing, raising such questions as whether the test administrator has a duty to retain samples so that the recipient of the test can independently challenge the results. The proliferation of such issues, and the legal problems which they will necessarily engender for licensees, should be taken into account by the Commission in assessing the value of such testing procedures.

In summary, Boston Edison Company takes the position for the reasons stated above that a further rule-making by the Commission regarding fitness for duty is unnecessary. Alternatively, if the Commission nonetheless decides that such a rule-making is required, the Commission should recognize the existence of an overlap between the concerns addressed by the unescorted access screening procedure and the issue of daily fitness for duty. Unescorted access screening procedures already in place include psychological examinations, psychological interviews, and criminal history and background checks, all of which are designed to detect persistent fitness

for duty problems. When these procedures are augmented by behavioral observation programs by trained professionals and employee drug and alcohol awareness and assistance programs, it is submitted that the Commission's fitness for duty concerns have been fully and satisfactorily addressed. Mechanical and chemical alcohol testing, including in particular the breathalyzer, will add little or nothing to the foregoing safeguards in the way of site security, but will raise legal, labor relations and operational problems of the most serious nature.

Finally, the Company wishes to request the right to make further comment regarding the foregoing issues when the presently pending NUREG report of the Drug Abuse Task Force of the Commission's Office of Inspection and Enforcement entitled "Survey of Industry and Government Programs to Combat Drug and Alcohol Abuse" is issued. The Commission notes in the Supplementary Information to the Proposed Rule that this report should prove useful to licensees in developing fitness for duty programs, and the Company therefore believes that a public comment period regarding the report will be helpful to the Commission in assessing the report's utility and the weight which it should be given should the Commission draft any further rule on these issues.

Respectfully submitted,

BOSTON EDISON COMPANY

By

Theodora S. Convisser

Theodora S. Convisser
Senior Counsel

ILLINOIS POWER COMPANY

DOCKET #
USNP



U-0556
L10-82(09-29)-6
500 SOUTH 27TH STREET, DECATUR, ILLINOIS 62525

'82 OCT -4 A11 :

September 29, 1982

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Attention: Docketing and Service Branch

Dear Sir:

Personnel with Unescorted Access to Protected Areas

Illinois Power Company herewith offers the following comments on the Federal Register notice of August 5, 1982 (FR Vol. 47, No. 151, page 33980) of proposed rule to require licensees action to assure fitness for duty of personnel with unescorted access to protected areas.

- .The proposed rule should be worded to include all personnel entering the protected area.
- .If specific blood - alcohol levels were to be required, which we feel that they should not be, then the final regulation should be so worded to remove any conflict between existing laws, i.e., Privacy and Freedom of Information Acts.
- .Definition and wording should be provided to clarify the words "adequate written procedures" in the proposed paragraph 50.54(x)(1).

36

-50
(47 FR 33980)

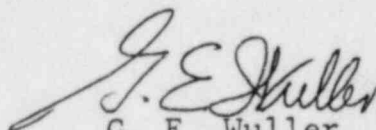
DS10
add: E Marschoff
5650 N2

Approved by cert. 10/7/82 emp

U-0556
L10-82(09-29)-6
September 29, 1982
Page 2

.The phrase "ensuring that", in the proposed paragraph 50.54(x)(1), not only needs to be defined but should be broadened to encompass a percentage of accuracy. Since alcohol and/or drugs effect people in different ways the current phrase "ensuring that" leaves the interpretation that if one person out of a hundred or five hundred, etc., manages to enter the protected area undetected, the licensee is in violation of law, provided no definition and/or percentage factor is assigned to the screening reliability.

Sincerely,



G. E. Wuller
Supervisor - Licensing
Nuclear Station Engineering

GEW/lt

cc: L. J. Koch, B-25
T. F. Plunkett, T-31
N. J. Waddock, T-31
J. D. Geier
A. J. Budnick, T-32
A. L. Ruwe



KANSAS GAS AND ELECTRIC COMPANY

DOCKETED
USNRC

GLENN L KOESTER
VICE PRESIDENT - NUCLEAR

'82 OCT -4 P1:19

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH
October 1, 1982

Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

37

Attn: Docketing and Service Branch

47 FR 33980 - 50

KMLNRC 82-244

Re: Advance Notice of Proposed Rulemaking on Personnel
with Unescorted Access to Protection Areas, Fitness
For Duty

Dear Sir:

On August 5, 1982, the Nuclear Regulatory Commission ("Commission") published in the Federal Register an advance notice proposed rulemaking, 47 Fed. Reg. 33980. The advance notice observed that the Commission is proposing to amend its regulations to require commercial and industrial facilities licensed under 10CFR50.22 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, and that the Commission is now soliciting public comments on the establishment of these controls. Kansas Gas and Electric Company is pleased to submit the following comments.

To "assure" or guarantee that personnel are not under the influence of drugs or alcohol or otherwise unfit for duty would require that each employee prior to entering the plant would undergo: a) blood or urine analysis to ascertain influence of drugs or alcohol with analysis results received prior to personnel entry; and b) some type(s) of medical or psychological examination to ascertain "unfitness for duty" from mental or temporary physical impairments. Item a) is impractical because of the cost and time required to process each analysis, especially if required to be completed prior to plant entry. Item b) is impractical because no known type of medical or psychological examination exists that can "assure" or guarantee "fitness for duty".

The regulation, as proposed with its assurance burden, renders compliance impossible and is of no value. As an alternative, a policy statement would in all probability, provide a better end product than would a rule that defies compliance.

The NRC has provided no indication that incidents already surfaced have adversely affected the safety and reliability of operation of nuclear

DSIO
add: E. Merschhoff
5650 N 4th

10/8/82 emp

Secretary of the Commission
U.S. Nuclear Regulatory Commission
KMLNRC 82-244

-2-

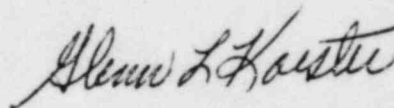
October 1, 1982

facilities; whereas, NRC research has indicated that utilities are keenly aware of the potential threat of drug and alcohol abuse, have developed clear, firm policies and are taking disciplinary actions under these policies when warranted. We feel the utility approach is the most cost effective and practical approach to the problem.

In response to Commissioner Gilinsky's request, the Licensee is ultimately responsible for the safe operation of the licensed facility. Therefore, the Licensee must have the ability to apply any imposed standards for access evenly to all authorized unescorted access personnel. Should one group of personnel, such as NRC personnel, be excluded, an exclusion based solely on the identity of an employer as opposed to an individual's fitness, the logic of the need for the rule itself would seem to fail.

In conclusion, we feel that a rule with specific criteria is inappropriate, costly and defies compliance. We would suggest replacing the rule with an appropriate policy statement.

Yours very truly,



GLK:bb

DUKE POWER COMPANY DOCKETED
P.O. BOX 33189 USNRC
CHARLOTTE, N.C. 28242

September 29, 1982

82 OCT -4 A11:22

TELEPHONE
(704) 373-4531

HAL B. TUCKER
VICE PRESIDENT
NUCLEAR PRODUCTION

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Attention: Docketing and Services Branch

30
PR-50
47 FR 33960

Subject: Fitness for Duty of Personnel with
Unescorted Access to Protected
Areas; Proposed Rule

Dear Sir:

The subject proposed rule has a basic premise which is certainly reasonable: that is, that personnel with unescorted access to protected areas do not compromise the health and safety of the public, plant personnel, or the safe operation of the plant as a result of being under the influence of drugs or alcohol, or otherwise unfit for duty. However, it is the opinion of Duke Power Company that the rule would be impractical, if not impossible, to effectively enforce; that the impact on employee morale would be serious; and that such legislation is unnecessary.

In order to ensure that personnel are not under the influence of drugs or alcohol, as the rule would require, each person who enters a protected area would have to receive a blood test or urinalysis. The impracticality of this procedure should be obvious. In addition, each individual would need to be searched to ensure the alcohol or drugs are not being carried into the protected area.

The detrimental impact on morale that the proposed rule would have is another consideration which merits serious attention. The Commission is, in effect, telling each employee at each nuclear station that he or she cannot be trusted to perform their duties in a competent and professional manner. The rule could quite possibly have a negative impact on safety; an individual who feels that he or she is not being accorded the trust, professionalism, and respect he or she deserves may be less inclined to devote that professionalism to his or her job. That job, and consequently the overall safe operation of the plant, may suffer.

The Commission has also not established that any real need for the regulation exists. The Commission has cited 24 drug-related incidents, dating back to 1977. No mention was made of any safety significance of these incidents. Thousands of people have reported for work in the five-year span during which the 24 incidents were reported; it does not appear that such a potentially significant rule as is proposed is justified by the frequency or severity of the incidents.

DS10
add: E. Merschhoff
5650 N

Admitted by card 10/7/82 emp

Secretary of the Commission
September 29, 1982
Page Two

The Federal Register notice in which the proposed rule appeared requested comment on specific aspects of the implementation of the rule. While such comments may be considered moot in light of the above objections, they are presented below, in the event the Commission elects to pursue the matter over what will certainly be industry-wide disapprobation.

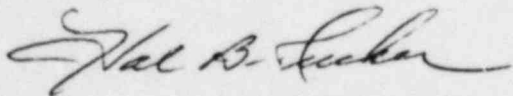
The notice makes reference to the use of background investigations, psychological tests, behavioral observation programs, and other procedures which may be used to predict, detect, and correct tendencies toward alcohol or drug abuse, stress, or other problems which may contribute to a reduced efficiency. While use of these programs may be encouraged, and to a large extent are already common industry practice, they do not address the intent of the rule—to prevent a person unfit for duty from compromising safety—and therefore, should not be included in a rule.

Similarly, specific criteria such as blood alcohol content are inappropriate for the purposes of this rule. A combination of factors, including perhaps relatively insignificant blood alcohol content, a drug such as cold medicine or antihistamines, and fatigue could combine to create a chemically insignificant but nevertheless detrimental effect on a person's ability to perform his or her duties. Reliance on specific criteria, then, is at best an incomplete tool. Such inabilities, or impairments to abilities, are most properly the responsibility of an individual's supervisor to detect and deal with. As noted in NUREG-0903, "Survey of Industry and Government Programs to Combat Drug and Alcohol Abuse," the industry is aware of the potential problem and has, to a large extent, taken steps to deal with it. At Duke Power, for example, supervisors and security officers are given training in the detection of aberrant behavior. Such voluntary measures on the part of the industry further obviate the need for the rule.

A final point which merits comment is that of fairness to and due process for employees. To require employees to submit to the indignities and inconveniences of blood, urine, or breath tests without probable cause can certainly not be considered fair, or an exercise of due process. To arbitrarily exempt NRC employees is inconsistent with the objective of safety, unfair to the licensee's employees, and unjustifiable.

In summary, it is the opinion of Duke Power Company that the Commission should withdraw the proposed rule on the grounds that it is impractical, detrimental to employee morale, and unnecessary. The incidence of drug or alcohol abuse has not, and may never, reach a level which would justify the measures proposed in the rule.

Very truly yours,



Hal B. Tucker

SAG:scs

DOCKETED
USNRC

BEHAVIORDYNE PSYCHOLOGICAL CORPORATION

82 OCT -4 P3:34

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

October 1, 1982

Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C.: 20555
Attn: Docketing and Service Branch

DOCKET NUMBER
PROPOSED RULE

(39)
PR-50

(47 FR 33980)

Dear Mr. Secretary:

I am submitting comments on the Proposed Rule published in the Federal Register on August 5, 1982 entitled "Personnel With Unescorted Access to Protected Areas; Fitness for Duty".

I would like to indicate my qualifications for submitting comments on this topic. I am the president of a professional corporation which, as consultants, has performed approximately 11,000 psychological evaluations for commercial utilities with nuclear plants. Our evaluations are based on the requirements of ANSI 18.17 (ANS 3.3) and consist of both psychological testing and clinical interviews by highly qualified clinical psychologists. We have followed, since 1977, the various proposed Access Authorization Rules which have resulted in Proposed 10 CFR 73.56. We have been in continual contact with the NRC staff regarding our experience in the nuclear field and have submitted both written and oral testimony to the NRC Hearing Board at hearings held in July, 1978 on the then proposed Access Authorization Rule.

It would appear that the "Fitness Rule" is being proposed as an alternate or substitute for the proposed "Access Rule". I am assuming this on the basis of the material provided in NUREG - 0903, "Survey of Industry and Government Programs to Combat Drug and Alcohol Abuse". Nuclear utility representatives were asked to comment on both programs and there appears to be clear support for the Access Rule. Being aware of the amount of NRC staff time invested, the expenditure of public and private funds, and the recommendations of the Hearing Board, it is extremely difficult to understand why the NRC staff would now recommend a substitute rule. The 1978 Hearing Board clearly recommended to the Commission that an industry-run program, incorporating the standards existing in ANSI 18.17, be developed and adopted. The Board further recommended that the standards or requirements be more specific than in ANSI 18.17 in order to aid in the review and enforcement of the new Access Rule.

DS10
add: E. Meuschoff - 5650 NK

Acknowledged by card. 10/7/82 emp

2.

I am opposed to the adoption of the proposed "Fitness for Duty" rule for the following reasons.

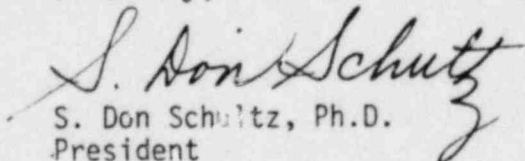
1. The existing access program requiring background investigations, psychological evaluations, and continual behavioral observation deal very effectively with the problems of drug and alcohol abuse. With regard to the psychological evaluations our organization performs, drug and alcohol problems are a very specific focus. The responses given to the Minnesota Multiphasic Psychological Inventory (MMPI) are scored on both alcohol and drug addiction bands. We have research data indicating these bands are very effective in identifying those people who have the potential to develop problems or who have existing problems with alcohol or drug. Each person interviewed is questioned regarding substance abuse and, when there are high scores on either the alcohol or addiction bands, potential problems are thoroughly investigated. Behavioral Observation programs carried out by trained supervisory personnel are effective in detecting any type of atypical behavior, including alcohol or drug abuse.

2. The proposed use of random urinalysis tests, breath tests, trained dogs and other procedures to detect alcohol or drug use would be an obvious invasion of privacy and would not only be strongly resisted by employees but have a devastating effect on the morale of the entire nuclear industry.

3. Any program that will effectively screen out those persons with problems and whose work behavior has the potential to adversely impact the health and safety of the public must be sensitive to a much broader range of problems than just drugs and alcohol. A person must be evaluated and observed for indications of emotional problems which could affect their judgment, ability to function under stress, or develop behavior which could be dangerous to other employees or the facility. I believe, as do the utility representatives who were consulted, that the proposed "Access Rule" meets these requirements much more adequately than the proposed "Fitness Rule".

Should the Commission decide to proceed with the proposed "Fitness Rule" I would like to request that public hearings be held.

Sincerely,


S. Don Schultz, Ph.D.
President

SDS/jv

BENSINGER, DUPONT & ASSOCIATES, INC.

20 NORTH WACKER DRIVE
CHICAGO, ILLINOIS 60606
(312) 726-8620

DOCKETED
USNRC

September 29 1982
82 OCT -4 A11:23

Secretary
Nuclear Regulatory Commission
Attention: Docketing and Service Branch
Washington, D.C. 20555

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

32

DOCKET NUMBER PR-50
PROPOSED RULE (47 FR 33980)

Dear Sir:

This is in response to the Nuclear Regulatory Commission's proposed Rule 10CFR, Part 50, "Personnel with Unescorted Access to Protected Areas: Fitness for Duty."

The proposed rule regarding fitness for duty strikes at the core of an important and fundamental licensee responsibility, and that is to ensure that personnel working in sensitive operations affecting the public are in a fit condition to perform their jobs. In this respect, the promulgation of a rule requiring the establishment of a written policy on drug and alcohol abuse and fitness for duty, establishing the requirement to demonstrate that the policy and practice are in effect and enforceable, and to assure the public that the licensee has implemented and is enforcing such a requirement, is appropriate and in the public interest.

The proposed rule does raise a question with respect to the level of specificity of such fitness criteria and policy and program training, and further concludes that each licensee shall maintain written records of such procedures for the life of each plant.

It is in this latter area that I find the proposed rule could be interpreted to apply in such a way as to be of unnecessary burden from a record keeping and documentation standpoint. It seems to me that the Nuclear Regulatory Commission is correct in establishing that fitness for duty be a criteria for continuing access and in fact safe operation of licensee equipment. It further seems to me correct that the commission be in a position to audit the promulgation of such rules and the establishment and implementation of such a policy, and such training and orientation procedures as would make this meaningful and enforceable. I do not believe, however, that the licensee should maintain a record of each employee who has participated in a drug awareness training program, nor should such documentation be required on each individual employee with unescorted access privileges. Rather, we would propose the NRC should be in a position

DS10
add: E. Merschhoff 5650 NL

Acknowledged by card. 10/7/82 ramp

Secretary
Nuclear Regulatory Commission
September 29, 1982
page 2

to audit the practices and procedures at any plant or licensee facility to ensure that the objective of the rule was being carried out. This would include for unescorted access personnel, for example:

- (a) assurance that all new employees be provided an orientation on drug and alcohol abuse and an awareness of the company and NRC policy on this matter;
- (b) that fitness-for-duty training be provided to licensee plant supervisory personnel with respect to signals or signs of deteriorating job performance including an orientation on drug and alcohol abuse symptomatic behavior;
- (c) that procedures be established for the licensee to take should supervisors find any individual employee in a licensee's plant questionable as to fitness for duty;
- (d) that licensees establish appropriate safety and in-service training programs designed to address the fitness-for-duty issue and that its subsequent actions be consistent with this policy.

In this respect, documentation on fitness-for-duty referrals, on the number of training programs per plant, on the establishment of any specialized safety and supervisory training sessions should be sufficient to meet the requirement of record maintenance.

The proposed rule's application to contractor personnel may cause difficulty in interpretation--not from the standpoint of prohibiting alcohol or drug use by contractor personnel, nor from the standpoint of fitness for duty standards for such individuals, but from the specificity required for temporary and non-licensee controlled contractor employees. We recommend that contractor personnel with unescorted access be subject to licensee standards on drug and alcohol use and that fitness for duty be a requirement. The licensee should assume responsibility for assuring that such measures as are appropriate and necessary are taken in terms of screening, training and supervision of contractor personnel to ensure that this objective is met.

Secretary
Nuclear Regulatory Commission
September 29, 1982
page 3

What should not be proposed is a new set of rules, procedures and tests for contractor employees such as were referenced in the proposed 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." The level of specificity should not be this detailed for contractor or, for that matter, licensee personnel. What should be required is a program that meets the objective of the rule and that is to assure fitness for duty and to provide greater safety and more reliable operation of nuclear facilities.

We would urge the Commission to consider in its rule-making promulgation that its objective should be to ensure that licensees regard the fitness-for-duty standard as the principal objective of their action. We believe the NRC should not specify what type of tests or training programs must be conducted in such a detailed way as to establish the curriculum and testing procedures per se.

Very truly yours,

Peter B. Bensinger
PETER B. BENSINGER

PBB/jz