

The Honorable Alan Simpson, Chairman
Subcommittee on Nuclear Regulation
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The NRC has sent to the Office of the Federal Register for publication the enclosed proposed amendment to the Commission's rules in 10 CFR Part 50. The amendment, if adopted, would require licensees of nuclear power plants for which an operating license has been granted to establish, document, and implement procedures to ensure that personnel with unescorted access to protected areas are not under the influence of drugs, alcohol, or otherwise unfit for duty because of mental or temporary physical impairments that could affect their performance in any way contrary to safety.

The Commission is issuing the proposed rule for public comment and has specifically requested comments with respect to the scope, level of specificity, and methods of implementation of the rule.

Sincerely,

RS
Robert B. Minogue, Director
Office of Nuclear Regulatory Research

cc: Senator Gary Hart

IDENTICAL LETTERS SENT TO ATTACHED MAILING LIST

Distribution

R. Minogue	C. Overbey
D. Ross	E. Merschoff
K. Goller	Central Files
W. Morrison	RES Alpha
J. Norberg	

GRESS:SS
D-3/J-B
7/23/82

RES
EMerschoff:clf
7/23/82
JB

JAN
RES
COverbey
7/23/82
CMR

RES
WMorrison
7/23/82

RES
KGoller
7/23/82

RES
DRoss
7/ /82

RES
RMinogue
7/23/82

91

MAILING LIST

The Honorable Morris K. Udall, Chairman
Subcommittee on Energy and the Environment
Committee on Interior and Insular Affairs
United States House of Representatives
Washington, DC 20515

cc: Rep. Manuel Lujan

The Honorable Toby Moffett, Chairman
Subcommittee on Environment, Energy
and Natural Resources
Committee on Government Operations
United States House of Representatives
Washington, DC 20515

cc: Rep. Joel Deckard

The Honorable Richard L. Ottinger, Chairman
Subcommittee on Energy Conservation and Power
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

cc: Rep. Carlos Moorhead

JUL 29 1982

The Honorable Alan Simpson, Chairman
Subcommittee on Nuclear Regulation
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The NRC has sent to the Office of the Federal Register for publication the enclosed proposed amendment to the Commission's rules in 10 CFR Part 50. The amendment, if adopted, would require licensees of nuclear power plants for which an operating license has been granted to establish, document, and implement procedures to ensure that personnel with unescorted access to protected areas are not under the influence of drugs, alcohol, or otherwise unfit for duty because of mental or temporary physical impairments that could affect their performance in any way contrary to safety.

The Commission is issuing the proposed rule for public comment and has specifically requested comments with respect to the scope, level of specificity, and methods of implementation of the rule.

Sincerely,

/s/
Robert B. Minogue, Director
Office of Nuclear Regulatory Research

cc: Senator Gary Hart

IDENTICAL LETTERS SENT TO ATTACHED MAILING LIST

Distribution

R. Minogue	C. Overbey
D. Ross	E. Merschoff
K. Goller	Central Files
W. Morrison	RES Alpha
J. Norberg	

CRESS:SS
D-3/J-B
7/23/82

RES
EMerschoff:clf
7/23/82
JD Boehm

GAW 7/23/82
RES
COverbey
7/23/82
CWR

RES
WMorrison
7/23/82

RES *KGB*
KGoller
7/23/82

RES
DRoss
7/ /82

RES *RM*
RMinogue
7/ /82

94

MAILING LIST

The Honorable Morris K. Udall, Chairman
Subcommittee on Energy and the Environment
Committee on Interior and Insular Affairs
United States House of Representatives
Washington, DC 20515

cc: Rep. Manuel Lujan

The Honorable Toby Moffett, Chairman
Subcommittee on Environment, Energy
and Natural Resources
Committee on Government Operations
United States House of Representatives
Washington, DC 20515

cc: Rep. Joel Deckard

The Honorable Richard L. Ottinger, Chairman
Subcommittee on Energy Conservation and Power
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

cc: Rep. Carlos Moorhead

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 rule 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. The result of the proposed rule would be the implementation of fitness for duty programs industry-wide that would be designed to provide greater assurance of safer and more reliable operation of nuclear facilities.

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 and copied for a fee 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. Merschoff, 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, phencyclidine, 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. IE is developing a NUREG report which describes current practice regarding the abuse of drugs and alcohol by other regulatory organizations and by industry. The NUREG

report, entitled "Survey of Industry and Government Programs to Combat Drug and Alcohol Abuse," 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 50.21(b) or 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 affect adversely 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, specific blood alcohol level limits, background investigations, psychological tests, behavioral observation programs, employee awareness programs, employee assistance programs, and other possible implementation measures; (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); and (4) broadening the scope of the rule to include NRC personnel.

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

As required by Public Law 96-511, this proposed rule has been submitted to the Office of Management and Budget for clearance of its information collection requirements.

REGULATORY FLEXIBILITY ACT CERTIFICATION

Based upon the information available at this stage of the rulemaking proceeding and in accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that, if promulgated, this rule 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. While it is recognized that the contractors may fall within the scope of small entities, it has been determined that the impact on those contractors due to the implementation of this rule does not meet the threshold of a significant economic impact. However, if any independent contractor who services nuclear power plants or components believes there would be significant economic impact, the contractor should comment on this to the Commission.

LIST OF SUBJECTS IN 10 CFR PART 50

Part 50 - Antitrust, Classified information, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting requirements.

For the reasons set out in the preamble and 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 continues to read 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 (y) is added to §50.2 to read as follows:
§50.2 Definitions.

* * * * *

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

3. A new paragraph (x) is added to §50.54 to read as follows:
§50.54 Conditions of licenses.

* * * * *

(x)(1) Each licensee with an operating license issued under § 50.21(b) or § 50.22 shall establish, document, and implement adequate written procedures designed to ensure that, while on duty, the licensee's and its contractors' personnel with unescorted access to protected areas are not--

- (i) Under the influence of alcohol;
- (ii) Using any drugs that affect their faculties in any way contrary to safety; or
- (iii) Otherwise unfit for duty because of mental or temporary physical impairments that could affect their performance in any way contrary to safety.

(2) Each licensee shall maintain the written records of these procedures for the life of the plant.

Dated at Washington, DC

this _____ day of _____, 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,
Secretary of the Commission