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Director
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November 18, 1988

OFFICE
NRC

Secretary of the Commission
U. S. Nuclear Regulatory Commission
Mail Station P1-137
Washington, D. C. 20555

Attention: Docketing and Service Branch

Gentlemen:

SUBJECT: Grand Gulf Nuclear Station
Unit 1
Docket No. 50-416
License No. NPF-29
SERI Comments on Proposed Rule on
Fitness-for-Duty Program
AECM-88/0229

SERI appreciates the opportunity to provide comments on the NRC proposed rule titled "Fitness-For-Duty Program" published in the Federal Register (36795), Vol. 53, No. 184, on September 22, 1988.

The Commission's Policy Statement regarding fitness-for-duty provides adequate guidance. The industry initiatives in developing and implementing a fitness-for-duty program based on this guidance has been effective. SERI supports the continuation of industry resolutions and self-initiatives based on regulatory policy. We do however, understand the Commission's concerns regarding the matter of fitness-for-duty and the intent to issue a rule.

As a member of the Nuclear Management and Resources Council, Inc., (NUMARC), SERI joins in supporting the proposed rule. NUMARC has conducted a thorough review and analysis of the proposed rule. Important issues raised by the NUMARC review indicate the need for a number of significant changes in the rule to enable the industry to comply. SERI totally supports NUMARC comments to the Commission on this proposed rule.

The attachment to this letter provides SERI's answers to specific questions posed by the Commission in the proposed rule. In addition SERI has particular concerns about several requirements of the rule which we believe would have a significant adverse impact on the industry or effectiveness of the program. These concerns are:

- ° The cut-off level of 95 nanograms for THC is too high to achieve the program goal of a drug-free force. Industry experience indicates a cut-off level of 50 nanograms or lower would be more effective.

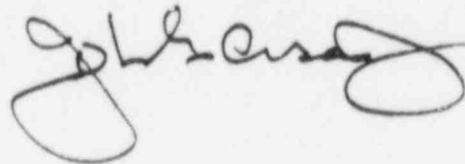
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- ° Random drug testing of 300% of the population annually is excessive. The industry average of 25% annually has provided an effective sampling. However, a higher sampling rate of 100% annually would provide a strong deterrent.
- ° Requirements to provide appeal processes and Employee Assistance Program referrals and services to contractors or require contractors to provide such programs would be an excessive and unnecessary cost to licensees. The necessity and benefit of such programs to contractors, especially temporary workers during outages, is questionable. The Commission should eliminate this requirement.
- ° Providing continuing observation training to escorts is unnecessary and would be unusually burdensome on licensees. All employees should receive drug educational and awareness training which would suffice for their duties as routine escorts.

SERI appreciates the opportunity to comment on the proposed rule.

Yours truly,



JGC:bms
Attachment

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Comments to Questions in Discussion Section of Fitness-For-Duty Proposed Rule

Question #1:

Are there practical alternatives to random testing not discussed herein that provide equivalent deterrence and detection to drug use?

Answer: No other practical method is available.

Question #2

What practical alternatives not discussed herein exist that could determine physical impairment?

Answer: Impairment should not be addressed. We should be concerned about illegal drug use.

Question #3:

What rates of random testing and retesting provide an acceptable probability of detection and adequate deterrence? What should be the basis for any further modifications in the rate for random testing?

Answer: The random selection rate should not exceed 100%. Extensive industry experience indicates that the 300% proposed selection rate would not produce any more effective results than 100%.

Question #4: Are there effective alternatives to the "Mandatory Guidelines for Federal Workplace Drug Testing Programs" issued by the Department of Health and Human Services (DHHS) on April 11, 1988 (53FR 11970) that the Commission should adopt as minimum standards for fitness-for-duty programs at nuclear power plants?

Answer: The Commission should provide specific guidelines in the rule. The DHHS guidelines do not apply to the nuclear industry and in fact

could be prohibitive in nature due to their requirement for a medical review officer certification prior to imposing sanctions such as withdrawing unescorted access.

Question #5: Are there any additional quality control measures or appeal procedures that should be considered to protect the rights of individuals being tested to ensure that individuals are not misidentified in the process as drug users and to provide a mechanism to correct any errors? Specifically, who should have access to knowledge of the results of unconfirmed initial test results (employee, immediate supervisor, higher management levels)? What procedures are necessary to assure appropriate privacy?

Answer: Sound procedures with standard laboratory processes and evidential custody methods will ensure individuals' rights are protected. Unconfirmed test results should be available to management responsible for access authorization to deny access pending confirmation. Confidentiality of access denial should be limited to the individuals' immediate management and security officials.

Question #6: Should the Commission provide general guidance on potential impairments such as alcohol abuse and prescription drugs? How should such guidance be implemented in a fitness for duty program? Should any random testing program be expanded to encompass legal drugs and alcohol? If so, should the response to a positive test for alcohol be the same as for illegal drugs? What should the response be to a positive test for legal drugs?

Answer: The industry normally conducts alcohol screening concurrent with other drug testing. Current industry guidelines on alcohol abuse are adequate. If alcohol abuse is to be regulated by the NRC it should be under a separate rule.

Question #7: How long should a person be barred from performing activities within the scope of the proposed rule following removal under the fitness for duty policy and under what circumstances should reinstatement be allowed? How long should records of this removal be retained to facilitate future employment decisions?

Answer: Minimum time frame requirements in the proposed rule imply everyone is rehabilitated at the same time. Reinstatement of access after the first positive should be based on a negative test result and a determination by management that an individual is suitably fit to return to work after consultation with qualified mental health professionals. A second positive drug test results for any reason usually results in a permanent denial of access.

Question #8: Are the categories of workers identified for testing appropriate, or is some other population necessary/sufficient for safety?

Answer: Only those employees with unescorted access to the protected area should be included.

Question #9: Should training on the items covered under 3, 4, and 5 of 26.22(a) be provided to all employees covered under the rule so each employee can recognize drugs; indications of the use, sale, or possession of drugs; and impairment of a person covered under the rule and know what action to take?

Answer: All employees should be made aware of drug abuse as part of the fitness for duty program. Training for observing behavior of employees in the work place should be required only for supervisors.

Question #10: Finally, the Commission is especially interested in receiving comments on the extent to which NRC regulations on fitness-for-duty should address other regulated activities not currently within the scope of this proposed rule.

In the matter of requirements for fitness-for-duty programs at nuclear power plants undergoing construction and pre-operational testing, the Commission requests views on: (1) the relative safety significance of the wide variety of specific construction steps and crafts involved, (2) the extent to which the controls described above do or do not tend to provide adequate identification or mitigation of individual failures in performance in these areas and, accordingly, (3) the nature and extent of any fitness-for-duty program elements which should be applied to these activities. An example might be the welding of reactor primary system boundaries, structures and supports, and safety-related systems, as opposed to balance of plant welding.

Answer: The scope of the fitness-for-duty regulation should be directed toward the protected areas of operating nuclear power plants and not extended to pre-operational construction activities.

APPENDIX QUESTIONS:

Question #1: Expand the scope of the rule to include other activities directly related to nuclear safety performed by licensee and contractor personnel. This could include engineering and quality assurance activities performed outside a protected area and activities performed by escorted licensee or contractor personnel within a protected area which, if not properly performed, could contribute to facility conditions adverse to public or worker safety.

Answer: This rule should not be expanded.

Question #2: Require that licensees take specific measures to deter onsite sale, possession, or use of alcohol and drugs and to achieve early detection should these problems exist.

Answer: Additional program requirements are not necessary.

Question #3: The NRC developed a list of data that appear to be appropriate based upon informed reviews by appropriate professionals in other organizations. To ensure consistency of data and to facilitate analysis, the draft form below could be utilized. The Commission seeks specific comments as to whether the data listed form a relevant basis for the evaluation of program performance and whether there are any other data which would be important in this regard.

Answer: The program performance data proposed by the rule far exceeds that necessary to measure performance. Numbers of positive test results for temporary outage workers would not present a true picture of effectiveness except for the testing process. This form should be revised to include only that data relative to program objectives.

Comments to NRC Query concerning the backfit rule:

SERI believes that current industry programs concerning fitness-for-duty are sufficient and a rule is not necessary to protect the public health and safety. SERI also believes the cost of implementing this proposed rule is greatly underestimated in the backfit analysis. Cost items not included were the employee work lost time due to the testing procedure itself and the excessive administrative and tracking programs and quality control requirements the additional testing would generate.