



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

December 23, 1986

Docket No. 50-298

Mr. D. E. Schaufelberger
President and Chief Executive Officer
Nebraska Public Power District
P. O. Box 499
Columbus, Nebraska 68601

Dear Mr. Schaufelberger:

The purpose of this letter is to convey formally my support for any drug testing program implemented for Nebraska Public Power District employees and contractors that contributes to the policy as described in the July 1986 Policy Statement on Fitness for Duty of Nuclear Power Plant Personnel (enclosed). That Statement indicates that, at a minimum, an acceptable fitness for duty program at a nuclear power plant should include effective drug monitoring and testing procedures to provide reasonable assurance that personnel with access to vital areas of the plant are fit for duty.

While acknowledging the national debate on drug testing, it is expected that operating reactor licensees will take all reasonable precautions to ensure that drug use does not adversely impact the safe operation of nuclear power plants and the public's safety. I encourage the use of Constitutional and effective drug testing methods, as an element of comprehensive fitness for duty programs, to make sure that nuclear power plant personnel are and remain free from the effects of drug use. Licensees may choose to establish and administer proper and effective pre-employment, annual, for cause, accident, random, and other drug testing programs for their employees and contractors with unescorted access to vital areas in their nuclear power plants. With regard to such programs being applicable to U.S. Nuclear Regulatory Commission (NRC) employees requiring access to your plant, the NRC intends to have its own fitness for duty program so it can certify NRC employees. In light of the ongoing Federal program associated with drug testing, there are a number of complex questions that we need to address and which need further study. We will communicate with you later when we have addressed such questions.

It is noted that your current testing programs have resulted in the identification of drug use by some persons with access to vital areas. I endorse and support Nebraska Public Power District's efforts to implement a drug screening and testing program to be responsive to and consistent with the Commission's expectations.

Sincerely,

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P PDR

A handwritten signature in dark ink, appearing to read "Victor Stello, Jr.".

Victor Stello, Jr.
Executive Director for Operations

Enclosure:
Policy Statement

Mr. D. E. Schaufelberger

- 2 -

cc w/enclosure:

Mr. George A. Trevors
Division Manager-Nuclear Support
Nuclear Power Group
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DISTRIBUTION:

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DI Reading

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PFMcKee

JCunningham

LBush

JPMurray, OGC

Wolmstead, OGC

TDorian, OGC

HRDenton

RBernero

DRMuller

WLong

SNorris

ACRS (10)

OFC	:IE:DIR/	:IE:DIR	:OGC	:EDO	:	:	:
NAME	:JPartlow	:JMTaylor	: Wolmstead	:VStello	:	:	:
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Handwritten notes:
 - Above first row: *By phone*
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 - Above third row: *23*

Commission Policy Statement on Fitness for Duty of Nuclear Power Plant Personnel

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement.

SUMMARY: This statement presents the policy of the Nuclear Regulatory Commission (NRC) with respect to fitness for duty of nuclear power plant personnel and describes the activities that the NRC will use to execute its responsibilities to ensure the health and safety of the public. To provide reasonable assurance that all nuclear power plant personnel with access to vital areas at operating plants are fit for duty, licensees and applicants are developing and implementing fitness for duty programs using guidance of the Edison Electric Institute's (EEI's) "EEI Guide to Effective Drug and Alcohol/Fitness for Duty Policy Development." It remains the continuing responsibility of the NRC to independently evaluate applicant development and licensee implementation of fitness for duty programs to ensure that desired results are achieved. Nothing in this Policy Statement limits NRC's authority or responsibility to follow up on operational events or its enforcement authority when regulatory requirements are not met. However, while evaluating the effectiveness of this guidance, the NRC intends to exercise discretion in enforcement matters related to fitness for duty programs for nuclear power plant personnel and refrain from new rulemaking in this area for a period of at least 18 months from the effective date of this Policy Statement. The Commission invites interested members of the public to provide comments on this policy statement.

DATES: Effective Date: August 4, 1986. Submit comments by November 3, 1986.

ADDRESSES: Comments should be sent to: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch. Hand deliver comments to: Room 1121, 1717 H Street NW., Washington, DC between 8:15 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Loren Bush, Operating Reactor Programs Branch, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (202) 492-8080.

SUPPLEMENTARY INFORMATION:

Introduction

The Nuclear Regulatory Commission (NRC) recognizes drug and alcohol

abuse problems to be a social, medical, and safety problem affecting every segment of our society. Given the pervasiveness of the problem it must be recognized that it exists to some extent in the nuclear industry. Prudence, therefore, requires that the Commission consider additional appropriate measures to provide reasonable assurance that a person who is under the influence of alcohol or any substance legal or illegal which affects that person's ability to perform duties safely, is not allowed access to a vital area at a nuclear power plant.

The nuclear power industry, with assistance from programs developed and coordinated by EEI and the Institute of Nuclear Power Operations (INPO), has made and is continuing to make substantial progress in this area.

Background

A Task Force on Drug Abuse Problems, Policies, and Programs established in 1982 by EEI's Industrial Relations Division Executive Advisory Committee, published guidelines in 1983 to help the industry address the issue of how to establish comprehensive fitness for duty programs. They were subsequently revised in 1985 as the "EEI Guide to Effective Drug and Alcohol/Fitness for Duty Policy Development" and were provided to all nuclear utilities.

A series of EEI sponsored regional conferences in the fitness for duty area in 1982 and 1983 provided a forum for discussion of industry concerns related to development and implementation of fitness for duty programs. Topics addressed at the conferences included union participation, legal aspects, training, and methods for handling controlled substances. An industrywide conference sponsored by EEI in October 1985 provided the basis for additional discussions on fitness for duty based on the current EEI guidelines which had been expanded to include information on chemical testing. As a result of increased awareness in this area, the nuclear industry has worked to develop and implement improved fitness for duty programs. These programs concentrate on the training of managers, supervisors, and others in methods for identifying and dealing with personnel potentially unfit for duty.

On August 5, 1982, the Commission published in the *Federal Register* a proposed rule on fitness for duty (47 FR 33980). The proposed rule would have required licensees to establish and implement written procedures for ensuring that personnel in a nuclear power plant are fit for duty. Due to the initiatives taken by the nuclear industry,

the Commission has decided to defer implementation of the rule subject to successful implementation of fitness for duty programs by the industry as described in this Policy Statement. NRC is publishing a separate notice in the *Federal Register* withdrawing the proposed rule, analyzing the comments on the rule, and explaining its intent to reassess the possible need for rulemaking after an 18-month period, if circumstances warrant. The following statement sets forth the Commission's policy on fitness for duty and describes how it will execute its responsibilities in this area to ensure the health and safety of the public.

Policy Statement

The Commission recognizes that the industry, through the initiatives of the Nuclear Utility Management and Resources Committee (NUMARC), EEI, and INPO, has made progress in developing and implementing nuclear utility employee fitness for duty programs. The Commission stresses the importance of industry's initiative and wishes to further encourage such self-improvement.

Subject to the continued success of industry's initiatives in implementing fitness for duty programs and NRC's ability to monitor the effectiveness of those programs, the Commission will refrain from new rulemaking on fitness for duty of nuclear power plant personnel for a minimum of 18 months from the effective date of this Policy Statement. The Commission's decision to defer implementation of rulemaking in this area is in recognition of industry efforts to date and the intent of the industry to utilize the EEI Guidelines in developing fitness for duty programs. The Commission will exercise this deference as long as the industry programs produce the desired results. However, the Commission continues to be responsible for evaluating licensee's efforts in the fitness for duty area to verify effectiveness of the industry programs. The Commission will reassess the possible need for further NRC action based on the success of those programs during the 18-month period.

At the Commission's request, the industry agreed to undertake a review of the program elements and acceptance criteria for a fitness for duty program. EEI modified and issued the revised "EEI Guideline to Effective Drug and Alcohol/Fitness for Duty Policy Development." Further, INPO enhanced its performance objectives and criteria for its periodic evaluations to include appropriate criteria for fitness for duty. Copies of the documents describing the

program elements and criteria for fitness for duty programs developed by the industry are provided to NRC for review and comment.

The NRC will evaluate the effectiveness of utility fitness for duty programs by its normal review of industry activities, through reviews of INPO program status and evaluation reports, periodic NRC observation of the conduct of INPO evaluations, and direct inspections conducted by the NRC's Performance Appraisal Teams, Regional Office, and Resident Inspectors. NRC will also monitor the progress of individual licensee programs.

By way of further guidance to licensees, Commission expectations of licensee programs for fitness for duty of nuclear power plant personnel may be summarized as follows:

- It is Commission policy that the sale, use, or possession of alcoholic beverages or illegal drugs within protected areas at nuclear plant sites is unacceptable.
- It is Commission policy that persons within protected areas at nuclear power plant sites shall not be under the influence of any substance, legal or illegal, which adversely affects their ability to perform their duties in any way related to safety.
- An acceptable fitness for duty program should at a minimum include the following essential elements:
 - (1) A provision that the sale, use, or possession of illegal drugs within the protected area will result in immediate revocation of access to vital areas and discharge from nuclear power plant activities. The use of alcohol or abuse of legal drugs within the protected area will result in immediate revocation of access to vital areas and possible discharge from nuclear power plant activities.
 - (2) A provision that any other sale, possession, or use of illegal drugs will result in immediate revocation of access to vital areas, mandatory rehabilitation prior to reinstatement of access, and possible discharge from nuclear power plant activities.
 - (3) Effective monitoring and testing procedures to provide reasonable assurance that nuclear power plant personnel with access to vital areas are fit for duty.

The industry, by periodic briefings or other appropriate methods, is expected to keep the Commission informed on program status. The NRC may also from time to time ask individual licensees to provide such information as the Commission may need to assess program adequacy.

Enforcement

Violations of any applicable reporting requirement or instances of a person being unfit for duty such that plant safety is potentially affected will be subject to the enforcement process. Any NRC staff enforcement action pertaining to fitness for duty of nuclear power plant personnel during the 18-month grace period will be undertaken only with Commission concurrence.

In addition to required reports and inspections, information requests under 10 CFR 50.54(f) may be made and enforcement meetings held to ensure understanding of corrective actions. Orders may be issued where necessary to achieve corrective actions on matters affecting plant safety.

In brief, the NRC's decision to use discretion in enforcement to recognize industry initiatives in no way changes the NRC's ability to issue orders, call enforcement meetings, or suspend licenses should a significant safety problem be found.

Nothing in this Policy Statement shall limit the authority of the NRC to conduct inspections as deemed necessary or to take appropriate enforcement action when regulatory requirements are not met.

The separate views of Commissioner Asseltine follow:

This Policy statement is a step in the right direction. Human error is a dominant factor in the risk associated with the operation of nuclear power plants. An adequate fitness for duty program is essential to reduce the chance that human error will be caused by utility personnel performing safety-related work in a drug or alcohol impaired state. This policy statement puts the Commission on record as endorsing the concept of a drug and alcohol free workplace at plant sites, and that is useful. The statement also gives some guidance on what the Commission expects of licensee fitness for duty programs. However, I believe that the Commission should have gone further.

Instead of merely issuing a policy statement, the Commission should have promulgated a rule. The rule should be a relatively simple, nonprescriptive rule which would do two things. First, it would prohibit anyone who is unfit for duty from being permitted access to vital areas of plants. Second, it would require licensees to have a program and procedures to ensure that no one who is unfit for duty gains access to vital areas. The Commission should then work with the industry to develop guidance on what are the essential elements of an adequate fitness for duty program. There

are several reasons why I believe that this would be a better approach.

The most important reason for my preference for a rule and specific guidelines is that a rule is enforceable while a policy statement is not. With a rule the Commission would have a clear basis for enforcement action in all cases in which a utility fails to establish and maintain an effective fitness for duty program. The NRC has broad authority under the Atomic Energy Act to take enforcement action by issuing an order should there be an immediate threat to public health and safety. The Commission would also be able to take enforcement action if it could tie a specific safety problem to a lapse in the licensee's fitness for duty program. However, the Commission is unlikely to be able to do so. For example, if a maintenance worker makes a mistake in assembling safety equipment because he is under the influence of drugs or alcohol and equipment later malfunctions, it is unlikely that the true cause of the mistake would be discovered. In fact, the problem would most likely be attributed to some defect in the worker's training. Further, waiting until a specific safety problem surfaces or an immediate threat occurs and then trying to correct the fitness for duty program after the fact is not the best way to ensure that licensees have effective fitness for duty programs. Thus, our general enforcement authority does not provide us with enough flexibility to deal with all potential fitness for duty problems in a timely manner. Absent a specific event, it would not allow us to do much of anything if a licensee simply has not developed or implemented an adequate program. This policy statement represents a continuation of the reactive approach to regulation which has so often failed in the past.

A second reason for my preference for a rule with minimum guidelines is that the policy statement is too amorphous. Even the "specific" guidance the Commission does provide is fairly vague. The policy statement provides little insight into what the Commission considers to be an adequate fitness for duty program or what standard the staff is supposed to use as it monitors the progress of the industry over the next eighteen months.

The Commission should work together with the industry to identify the essential elements of an adequate fitness for duty program. While the policy statement comments favorably upon the EEL guidelines developed by the industry, those guidelines are optional, not mandatory. The utilities can, therefore, pick and choose among

the various elements and decide whether to include them in their programs. Moreover, the EEI guidelines themselves are quite general in nature, and are subject to varying interpretations. Absent further guidance on what is an acceptable fitness for duty program, the utilities can and probably will adopt widely differing approaches on such elements as chemical testing and offsite drug use. Not all approaches are likely to be acceptable. The Commission should not wait until 18 months from now, when all the utilities are supposed to have their programs in place, to let the industry know whether the Commission agrees with what they have done. The Commission and the industry ought to decide now which elements are absolutely essential to an adequate program, and then everyone will be working from a common base of understanding.

The Commission and the industry should also establish the specific criteria against which individual licensee programs will be evaluated so that the ground rules for evaluating programs and for monitoring progress will be in place before the 18 month monitoring period begins. Absent such guidelines, it is difficult to see how INPO and NRC staff reviews of these programs will provide any meaningful insights as to their adequacy.

Thus, to ensure enforceability, to set the ground rules in advance and to ensure that all utilities meet at least a minimum set of standards, I believe the Commission should issued a rule and should establish guidance, in cooperation with the industry, on just exactly what are the essential elements of a fitness for duty program.

The additional views of the Commission follow:

The Commission does not share Commissioner Asselstine's great concern about the legally non-binding character of the policy statement per se. The Commission's hands are not tied if it finds inadequate compliance with straight-forward and explicit policy guidelines. The Atomic Energy Act confers broad authority for the Commission to take prompt enforcement action should any licensee facility, in the Commission's judgment, not be operated in a manner that protects the public health and safety. A policy statement, at this juncture, offers the quickest means to achieve the end we all desire.

Dated at Washington, DC, this 30th day of July 1986.

For the Nuclear Regulatory Commission.
Lando W. Zach, Jr.,
Chairman.
[FR Doc. 86-17497 Filed 8-1-86; 8:45 am]
BILLING CODE 7880-01-M

SMALL BUSINESS ADMINISTRATION

Agency Information Collection Activities

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the *Federal Register* notifying the public that the agency has made such a submission.

DATE: Comments should be submitted within 21 days of this publication in the *Federal Register*. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Copies of forms, request for clearance (S.F. 83s), supporting statements, instructions, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Richard Vizachero, Small Business Administration, 1441 L Street, NW., Room 200, Washington, DC 20416, Telephone: (202) 653-8538

OMB Reviewer: Patricia Aronsson, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395-7231

Title: Executive Qualifications Questionnaire

Frequency: On occasion

Description of Respondents: This information is requested from applicants for SES positions to assist in evaluating qualifications for a vacancy.

Annual Responses: 400

Annual Burden Hours: 400

Type of Request: Extension

Title: Secondary Participation Guaranty and Certification Agreement and Request for Certification

Form nos. SBA 1085, 1086

Frequency: On occasion

Description of Respondents: These forms describe the rights and responsibilities of the SBA, a lender, and the investor when the guaranteed portion of a loan is sold.

Annual Responses: 3,200

Annual Burden Hours: 12,000

Type of Request: Extension

Title: Profile of Score/ACE Volunteer with international trade experience

Form no. SBA 1202

Frequency: On occasion

Description of Respondents: Information is collected by SCORE/ACE chapters when new members join the organization, if they have international trade experience.

Annual Responses: 500

Annual Burden Hours: 34

Type of Request: Extension

Title: Financial assistance request to participate in International Trade Exhibition or mission

Form no. SBA 1369

Frequency: On occasion

Description of Respondents: The information requested is necessary for SBA to evaluate a firm's eligibility to receive a grant or financial assistance to participate in an international trade exhibition or mission.

Annual Responses: 100

Annual Burden Hours: 175

Type of Request: Extension

Title: Client Export File

Form no. SBA 1174

Frequency: On occasion

Description of Respondents: This information is necessary in order to identify the firm's needs and is used to create a program of export development for the small business requesting counseling in international trade.

Annual Responses: 5,000

Annual Burden Hours: 850

Type of Request: Extension

Title: Personal Financial Statement

Form no. SBA 413

Frequency: On occasion

Description of Respondents: This information is used to assist the Agency in determining the financial strength of an individual for a loan or loan guaranteed by SBA.

Annual Responses: 76,500

Annual Burden Hours: 76,500

Type of Request: Revision

Title: Inquiry Record

Form no. SBA 149

Frequency: On occasion

Description of Respondents: This information is required at the time of interview so that the applicant can communicate the loan needs to agency, and to determine the size and