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Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning

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General Comment

Insider mitigation program, 73.55b9-ii-B-2-ii. Disagree with eliminating all but two core FFD program elements (pre-access and for cause testing, behavioral observation). These proposed changes undermine the basic function of the FFD program. This list describes additional FFD program components that need to be included, without these core elements, you've stripped away almost all defense in depth.

- 1) FFD Policy and procedures - 26.27. How can NRC inspect a site with no policy and procedures requirements for the workers with PA only access. There are no worker protections regarding required and prohibited behaviors. For example, the policy requirement to not use alcohol 5 hours before at site, or prohibition of sale/use/possession of illegal drugs. What NRC is saying is that for PA only workers, drink alcohol all you want and use drugs when you want. As long as you don't appear impaired, we're ok with this. This simply cannot be. The site policies and procedures must apply to all workers at the decommissioning site, independent of access or job function
- 2) Training 26.29. No training requirements applicable. This is a significant omission. Training is a core worker protection. For example, an individual would be for cause tested if they seem impaired but NRC is providing no training on substances that could be impairing/that can impact ability to perform their job. This is not safe, this is not prudent. Training must be provided to all workers at the decommissioning site, independent of access or job function.
- 3) Conditions for testing 26.31(c). No random testing for protected area access only workers? What's this based on? NRC must provide an analysis of the actual random testing data at decommissioning sites to demonstrate that substance use is not being detected in these worker populations. By removing random testing you've eliminated the most effective means of identifying drug/alcohol use before it becomes a problem and now have ZERO deterrence to substance use. Instead of eliminating random testing, please consider maintaining the same testing requirement that applies to full FFD program (50% random testing rate per year). Change the drug specimen testing requirement from using urine to using oral fluid. Oral fluid is much easier to collect, requires almost no training of a collector, oral fluid specimens are much more stable because of the buffer solution as compared to urine specimens in a cup which require

refrigeration if not shipped quickly and urine is a more complex collection process with a lot of know problems (cheating). Oral fluid can also be collected in a place that just has visual privacy - no need for a bathroom. Oral fluid eliminates shy-bladders (can't produce urine and given 3 hours and water to try to provide a specimen - from a work place productivity scenario this is a significant). The biggest improvement on oral fluid is that it is observed. It can't be cheated, unlike urine which a donor goes behind a closed door. The savings of using oral fluid instead of urine would provide reasonable assurance, would maintain deterrence and detection, and would be easy to implement. While oral fluid window of detection for drugs is not as long as with urine, the reduction in the level of risk of the workforce is consistent with a shorter detection window.

4) Conditions for testing 26.31(c). No follow-up testing? So an individual has a prior positive test result at another Part 26 site. The NRC is saying that its ok to come work at a decommissioning site as long as you only work in the protected area and pass your pre-access testing. Individuals with prior FFD violations/substance abuse issues have a higher risk profile given a prior positive result. This action is also likely discriminatory because an individual that is in a follow-up program at any other Part 26 site and wants to work at decommissioning site would likely be turned away. Too much liability for the decommissioning site to bring on a worker with a known problem and yet no way to ensure the individual is continuing to not use by testing on follow up. Follow-up testing must apply to all workers at a decommissioning site to maintain reasonable assurance.

5) No minimum sanctions - 26.75. How can this be? For example, if an individual is caught cheating on a pre-access test, is the NRC's expectation that the licensee just impose whatever sanction they deem appropriate? A subversion is the definition of untrustworthy and unreliable behavior and results in a mandatory permanent denial of access. The proposed rule position of silence on minimum sanctions is not reasonable. We must have parity between all sites that apply Part 26, including covering all workers at decommissioning sites. Not only that, but the denials for FFD testing violations must be included in the industry database so that folks can't job hop to beat the consequence of a positive result/cheating incident.