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Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning

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General Comment

Insider mitigation program, 73.55(b)(9)(ii)(B)(2)(ii). Disagree with the elimination of all but two 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 the FFD program components that need to be included, without these core elements, you've stripped away almost all defense in depth.

6. No required drug testing panel. No required validity testing. No required use of HHS-certified laboratories. All serious and fundamental mistakes. All individuals subject to the FFD program at a decommissioning site must be tested for the same substances, using the same cutoff levels, and at the same HHS-certified laboratories. The reliability of the testing is fully dependent on these standard testing requirements. (26.31(d)(3); 26.153, 26.161, and 26.163)

7. No required medical review officer (MRO) - 26.183, no MRO review of drug test results - 26.185. No required substance abuse expert (SAE) - 26.187. How can you administer a drug testing program without standards and requirements to maintain donor protections, protect public health and safety, evaluate medical explanations for legitimate medication use. And ensure that individuals violating the drug and alcohol policy do not pose a threat to safe and secure operations at the site. Without these core FFD programmatic functions there is no ability to uniformly evaluate the fitness of individuals.

8. No determination of fitness requirements (26.189). So the protected area access only individuals are subject to the behavioral observation program. But what does that mean? It seems that this only means that the individuals would be tested if they seemed impaired from drugs or alcohol. But having no determination of fitness requirements basically is gutting the behavioral observation program. What the NRC is saying is that if you seem unfit, we'll test you and if you're negative on your testing, then it's ok. If you have any other fitness issue (depression, sleep apnea, etc) - go right back to work, its okay.

9. No records retention, protection, or maintenance requirements. How can a site be inspected. How can an individual feel that their records are protected and not released to anyone. (26.37 Protection of information; 26.713 Recordkeeping requirements for licensees and other entities)

10. No annual reporting requirements for testing data on protect area only individuals (26.717). The communities impacted by site operations deserve to have transparency into the entire workforce that is supporting decommissioning activities. How can NRC maintain trust with the public when no transparency is provided.

11. No questions to answer by protected area only individuals when seeking employment. How can the NRC seriously protect the public if no questions are asked of individuals seeking employment and no review of an individual prior work history/FFD issues is completed (26.61 Self-disclosure and employment history; 26.63 Suitability inquiry; and 26.69 Authorization with potentially disqualifying fitness-for-duty information.)

What's interesting about the limited FFD program provisions for protected area only workers is that NRC is saying that current decommissioning sites all implement full programs for all individuals. This action seems to be independent of any clear regulatory requirements because 73.55 insider mitigation program only includes the undefined "FFD program elements." So why change existing practice? To save utilities money? Or, NRC's information is bad about the current operations of FFD programs at decommissioning sites and if this is the case, then the regulatory analysis of savings isn't very accurate for FFD. That is, they're already doing less than you think and so the savings is lower than estimated. Either way, the fact that the NRC is still proposing full FFD programs for vital area access, FFD personnel, security personnel, and certified fuel operators means the decommissioning site licensee still has to maintain a full program. What's changing is to removal of almost every aspect of the FFD program from protected area only workers. This is not in the best interest of public health and safety. Please reconsider this approach.