

April 25, 1996

FOR: The Commissioners  
 FROM: James M. Taylor /s/  
 Executive Director for Operations  
 SUBJECT: NRC'S DRUG TESTING PROGRAM

- PURPOSE:
- CATEGORY:
- ISSUE:
- BACKGROUND:
- DISCUSSION:
- SUMMARY:
- RECOMMENDATION:
- COORDINATION:

#### **PURPOSE:**

To respond to the Commission's request for a status report on NRC's positive drug testing rate during the past two years and for a recommendation as to whether any change in the testing rate for NRC is warranted.

#### **CATEGORY:**

This paper covers a significant policy aspect of the NRC Drug Testing Program.

#### **ISSUE:**

Whether to modify NRC's testing rate at this time for random drug testing based on an additional two years of experience at the 50 percent testing rate.

#### **BACKGROUND:**

On June 5, 1992, the Commission approved the staff's recommendation in SECY-92-176, NRC's Drug Testing Program, to reduce NRC's drug testing rate from 100 percent to 50 percent for all of NRC's testing designated positions (TDPs). The Commission also directed the staff through SECY's Staff Requirements Memorandum dated June 5, 1992, to provide a report, after two years of experience at the lower testing rate, on whether any changes in the positive rate results have been observed and on the appropriate future testing rate.

The staff responded to the Commission's request in SECY-94-164, dated June 17, 1994, and recommended that the Commission maintain the current 50 percent testing rate for all of NRC's TDPs to determine any changes in NRC's positive rate resulting from the lower initial screening threshold for marijuana metabolites. This course of action would also maintain comparability with the 50 percent testing rate approved by the Commission on December 21, 1993, for random testing in the licensed industry. The Commission approved maintaining the current 50 percent testing rate and directed the staff through SECY's Staff Requirements Memorandum, dated July 14, 1994, to provide a status report in two years with a recommendation as to whether any change in the testing rate is warranted.

Against the current pool of approximately 1,720 employees subject to random testing, the 50 percent testing rate means that 860 tests are scheduled each year.

#### **DISCUSSION:**

This discussion reflects information regarding NRC's experience at the 50 percent testing rate during the past two years and the impact of the revision to the Department of Health and Human Services (HHS [EXIT](#)) Mandatory Guidelines for Federal Workplace Drug Testing Programs that became effective on September 1, 1994.

During 1994, one employee at a regional office tested positive for marijuana, out of 852 random tests conducted, for an annual positive rate of 0.12 percent. During 1995, one headquarters employee tested positive for marijuana, out of 857 random tests conducted, also for an annual positive rate of 0.12 percent. These rates compare with an annual positive rate of 0.12 percent for 1993, 0.09 percent for 1992, 0.18 percent for 1991, and 0.20 percent for each of years 1989 and 1990. Since implementation of NRC's Program, the number of TDPs has fluctuated between 1,700 and 1,800 due to Commission approval of additional TDP categories in April 1993 based on new guidance from the Office of National Drug Control Policy. As new TDPS were identified during 1993, they were added to the testing population. The current TDP criteria are listed in the attachment. The annual positive rate has remained constant at 0.12 percent since the staff last reported to the Commission two years ago.

In June 1994, the revised HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs were published. One of these changes was to lower the initial screening threshold for marijuana metabolites from 100 nanograms per milliliter (ng/ml) to 50 ng/ml. At that time, staff discussions with HHS as well as NRC's contract Medical Review Officer and testing laboratories, indicated that this lower threshold may result in a greater number of confirmed positives for marijuana across the entire testing population, but not necessarily in any one Federal agency's program. NRC's experience since implementation of the lower screening threshold for marijuana shows no difference in the number of positives. This finding is consistent with the experience reported to us by Northwest Toxicology (Northwest), NRC's testing laboratory. Northwest informed us that they have seen a negligible increase in the percentage of positive test results since the initial screening level for marijuana was lowered. HHS informed us that they are still collecting and analyzing data, and that during the recent HHS Advisory Board meeting, several laboratory directors reported an increased number of marijuana positives.

Based on our evaluation of NRC's consistent positive testing rate over the past several years, and our overall operating experience, we believe the prudent course of action is to maintain the 50 percent random testing rate.

Even though the NRC tests at a higher rate than many other Federal agencies, HHS has advised that testing rates among other Federal agencies vary widely, e.g., from 5 percent to 130 percent, with many agencies falling into the

10 percent to 25 percent range. In addition, maintaining a 50 percent testing rate for NRC is consistent with the testing rate approved by the Commission on December 21, 1993, for random testing in the licensed industry.

**SUMMARY:**

We have not observed any significant changes in the annual positive testing rate during the past two years. The reduced initial screening threshold for marijuana metabolites implemented in September 1994 by HHS has not resulted in more individuals at NRC testing positive.

**RECOMMENDATION:**

That the Commission maintain the current 50 percent testing rate for all of NRC's TDPs. We will advise the Commission when any meaningful change in the NRC positive rate results has been observed.

**COORDINATION:**

The Office of General Counsel has no legal objection to the recommendation in this paper.

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Attachment: [NRC Criteria for Selecting TDPs](#)

cc: SECY  
OGC  
OPA  
OCA

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[ATTACHMENT](#)

**NRC CRITERIA FOR SELECTING TESTING DESIGNATED POSITIONS**

1. Regional and headquarters employees who have unescorted access to vital areas of nuclear power plants (including Category I fuel facilities).
2. Employees who have assigned responsibilities or are on call for regional or headquarters incident response centers.
3. Employees with access to Sensitive Compartmented Information (SCI), Foreign Intelligence Information (FII) or who require access more than once or twice a year to classified information, (e.g., National Security Information or Restricted Data).
4. Employees who are motor vehicle operators carrying passengers