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Washington, D. C. 20555

- References:
- 1) Fermi 2  
NRC Docket No. 50-341  
NRC License No. NPF-43
  - 2) Federal Register Notice, 10 CFR Part 26,  
Consideration of Changes to Fitness-For-Duty (FFD)  
Requirements, 59 FR 24373, dated May 11, 1994

Subject: Detroit Edison Comments on Consideration of Changes to  
Fitness-For-Duty Requirements

Detroit Edison has reviewed the NRC's Consideration of Changes to Fitness-For-Duty (Reference 2) and offers the following comments on the seven NRC questions published in the Federal Register:

- o Question 1 - Should the Commission retain the current scope of the random drug testing requirements in 10 CFR Part 26 which requires that all persons granted unescorted access to protected areas at nuclear power plants be subject to random drug testing? (Option 1)
- It is our recommendation that the random testing scope remain the same, which is Option 1. Any other option would be a burden on the organization to effectively administer, and could likely result in someone being left out of the random pool that should be included resulting in a violation of 10 CFR Part 26. Further, the present rule is the most effective of the four options for ensuring a drug free work-place.

Options provided as alternatives would result in increased administrative cost to utilities to run the random selection process and do not give adequate consideration to the impact of Balance-of-Plant (BOP) systems on plant safety.

The present program has proved to be an effective deterrent to alcohol/drug use and abuse. Individuals not subject to random testing may be more prone to drug use. With that increased likelihood, exists the greater opportunity for drug possession,

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or use on site. These individuals could also be a negative influence on others on site that are covered under the scope of the rule. The goal is to have a drug free work site. Any of the proposed changes from the present program would be a reduction in the programs effectiveness in attaining that goal.

- o Question 2 - Should the Commission revise the scope of the 10 CFR Part 26 random drug testing requirement to adopt one or more of the following approaches? (Options 2 - 5)
- Option 2 would eliminate certain groups of people from the random test pool, such as clerical and administrative workers that have unescorted access to the protected area, but not to vital areas, and do not perform safety related work.

This approach would require a greater administrative and data management burden to maintain. Additionally, administrative workers could include workers that perform engineering work on safety related equipment. Many support functions which could be classified as administrative support actual work activities in the plant. Basing the need for random screening on the criteria of vital area vs. protected area is flawed. Balance of Plant systems which may or may not be located in a vital area, can significantly affect plant operations. Examples of the impact of BOP systems will be further defined during implementation of the Maintenance Rule. Based on the above, this option is not desirable.

- Option 3 would exclude all workers not having access to vital areas. Reasons for not selecting this option are identified above. Additionally, safety related work assignments may be temporary in nature. Likewise, access to vital areas may be given for temporary periods. Separate mechanisms would be required to track these dynamic variables. Both situations result in a program that would significantly challenge the organization responsible for managing the fitness for duty program. The regulation requires that persons under the scope of the rule be immediately available for random selection. It is likely that someone in the affected group would not be in the pool when required.
- Option 4 would limit the random pool by only including personnel performing safety or security related functions. This option would be administratively difficult to implement. It is unclear, who would fall into the category of safety related work. Utilities have struggled with this classification in trying to implement Technical Specification limitations on hours worked. Inclusion of personnel under this category would be open to interpretation depending on the individuals perspective. Also, it is unclear how a random pool would be established and

maintained to ensure personnel are in the pool. Based on the above, this option is not desirable.

- Option 5 does not make it clear what other types of reliable non-intrusive technology exists to support this change. In order to utilize different analysis methods, DHHS and DOT would need to support alternate analysis methods. Certified Laboratories would need to develop analysis methodologies and validate the processes.
- o Question 3 - For each of the four approaches above, what are the potential effects on risk to public health and safety or on vulnerability of nuclear power plants resulting from accidental acts and deliberate acts such as sabotage or vandalism. Will vulnerability or risks increase or decrease to any significant degree, or will they remain unchanged?
- The random testing element is supported by pre-access testing, observation techniques, post accident testing and for-cause testing. Actual instances of substance abuse in the nuclear industry are low for utility employees. The number of positive results increases during inprocessing of contractors or travelers, which is implemented as part of the pre-access drug screen, under the Access Authorization rule and not 10 CFR 26. The entire Fitness-For-Duty (FFD) Program, based on the implementation of pre-access drug/alcohol screening, behavior observation practices and the chance of being randomly selected for a drug screen, significantly reduces the likelihood of a habitual user of either alcohol or drugs gaining and maintaining access at a nuclear facility. From this perspective, any of the above options could result in some increased risk to the public health and safety or result in an increase in vandalism or sabotage, but a significant increased risk would not be expected since other aspects of the FFD program would still be in effect.
- o Question 4 - What would be the expected effect on the need for random drug testing if vital area access controls are reduced allowing certain vital area doors to normally be unlocked, but capable of being remotely locked on demand?
- Access to vital and protected areas should not be utilized to determine who is tested. This position assumes that the random testing aspect is the main deterrent. As stated above, this aspect is just one element of the overall program.
- o Question 5 - Does substance abuse increase the probability of a person committing a deliberate act such as sabotage or vandalism? What data exists to show a relationship between substance abuse and deliberate acts? Is random drug testing an appropriate means to control the risks of deliberate acts associated with substance

abuse and, at the same time, not encroach unreasonably into individual privacy expectations?

- Clearly there is a link between substance abuse and criminal acts in the general public that is not present in the nuclear environment. The controlled environment of a nuclear worker is significantly different than that of an auto worker. By accepting positions in this field, it is acknowledged that personnel privacy expectations are reduced. Certain aspects of working in the nuclear environment are intrusive by any standard. Background investigations, suitable inquiries, performance expectations due to public health and safety concerns, and personnel accountability are a few intrusive aspects of nuclear work. It is unlikely that an individual working in the nuclear environment could sustain an addiction to drugs or alcohol and not be recognized. However, if an individual did abuse drugs at a level where addiction occurs, the Continual Behavioral Observation Program (CBOP) and for-cause testing program would be the first line of defense, not the random drug testing program. When an individual reaches this level, there is no deterrent effect in their mind, simply how long before they are identified.

There does not appear to be any relationship between substance abuse and deliberate acts of vandalism or sabotage at nuclear facilities. Most positives occur during inprocessing, prior to any access being granted.

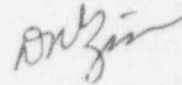
- o Question 6 - Does the Commission's policy in 10 CFR Part 26 deter the introduction of illegal substances into protected areas of nuclear power plants? What aspects of the FFD program creates this deterrent effect?
- Yes, 10 CFR Part 26 does deter the introduction of illegal substances into the protected areas of nuclear power plants. There are several program elements of the FFD program that cause the deterrent effect.
  1. Personnel are aware of the sanctions for being in the possession of, using or selling illegal substances - loss of ability to work in the nuclear industry for a minimum of 5 years.
  2. CBOP and FFD training implementation also deter this activity.
- o Question 7 - Should the Commission continue to investigate new testing methods that could be used for all workers who have access to the protected area?

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- Yes, as new methods are developed, consideration needs to be given to the practical application to the collection process. Current alternative methods do not appear to be any less intrusive than the collection of urine.

If you have any questions, please contact Mr. Girija S. Shukla at (313) 586-4270.

Sincerely,



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