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August 5, 1994

Mr. Samuel J. Chilk
Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

ATTN: Docketing and Service Branch

Subject: Entergy Operations, Inc. Comments on Consideration of Changes to
Fitness-for-Duty (FFD) Requirements

Reference: Federal Register Volume 59, Page 24373, dated May 11, 1994

CNRO-94/00017

Dear Mr. Chilk:

The referenced Federal Register listing invited comments on the NRC's Consideration of Changes to Fitness for Duty Requirements. Entergy Operations, Inc., the licensee for Arkansas Nuclear One, Units 1 and 2, Grand Gulf Nuclear Station, River Bend Station, and Waterford 3 Steam Electric Station has reviewed the Federal Register notice and offers the following comments for your consideration.

Entergy Operations commends the Commission for recognizing the need to review its regulations from time to time seeking less burdensome requirements that maintain public health and safety. We appreciate NRC's concern to protect individual freedoms; however, EOI believes it is more important to ensure that all persons working at our nuclear power plants are trustworthy and reliable. We are concerned that of the options proposed, each of them adds sufficient administrative burden to render them impracticable.

We believe a reduction in the amount of FFD testing is warranted and can best be achieved in the manner already adopted by the Commission, that is by reducing the percentage of the total population tested each year. Our experience shows that these reductions do not decrease the desired deterrence effect that random testing has and that further reductions, based on performance, from 50% to 25% or 10% are justified. Our letter dated June 22, 1993, discusses our basis for this recommendation.

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Additional benefits can be realized by authorizing licencees to allow individuals entry who have been drug free when tested in the past after collection of a urine specimen but prior to obtaining the test results.

In addition to our specific comments noted herein, Entergy Operations, Inc. has reviewed and concurs with the comments submitted by the Nuclear Energy Institute (NEI) in regard to this request for comments.

We appreciate the opportunity to provide our comments on this Consideration of Changes and welcome any attempts for the industry and NRC to work together for issuance of guidance, as appropriate, that can resolve NRC concerns without being unduly burdensome.

Our detailed comments are included as Attachment 1 to this letter.

Sincerely,

JGD/LAE/baa
attachment
cc:

Mr. T. W. Alexion
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Mr. R. B. Bevan, Jr.
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ENTERGY OPERATIONS COMMENTS ON
CONSIDERATION OF CHANGES TO FITNESS FOR DUTY REQUIREMENTS

General

Entergy Operations, Inc. is providing the following responses to the seven questions posed in 59FR24373 dated May 11, 1994 to assist the Nuclear Regulatory Commission in evaluating its approaches for designation of persons who should be subject to random drug testing.

Discussion

1. *"Should the Commission retain the current scope of the random drug testing requirements in 10CFR26, which requires that all persons granted unescorted access to protected areas at nuclear power plants be subjected to random drug testing? (Option 1)"*

EOI feels the Commission should retain the current scope of the random drug testing requirements in 10CFR26, which requires all persons granted unescorted access to protected areas at nuclear power plants to be subject to random drug testing. EOI believes in a drug free workplace as espoused by the federal government. The random selection pool serves as a deterrent to the abuse of alcohol and illegal drugs. If individuals know they are subject to random testing, they are more likely not to abuse illegal drugs or alcohol. Continuing the current approach would not have an economic impact since it maintains the existing program. While an individual's assigned tasks may not directly effect plant safety, protected area workforce members will have confidence in the reliability of all of their fellow workers based upon the equality and universality of the FFD program.

2. *"Should the Commission revise the scope of the 10CFR26 random drug testing requirements to adopt one or more of the following approaches?"*

EOI believes the Commission should not revise the scope of the 10CFR26 random drug testing to adopt any of the following approaches. The complications that could arise in administering a program with different groups (Options 2, 3, or 4) where work taskings can change quickly, could create an administrative burden with potential security vulnerabilities that would require significant increased management attention. For example:

- a. *"Exclude from random drug testing certain groups of workers (e.g., clerical, administrative) who have unescorted access to protected areas but not to vital areas. (Option 2)"*

Option 2 would require an extensive list of what group(s) of workers actually fit the safety related categories. This option would leave to potentially differing interpretation of what is a safety related task. The major concern from the administration of the FFD program is how to monitor individuals whose job tasks change from their normal work task. This is especially a concern with contract workers during outages. Contract workers job locations may not be accurately known prior to assignment inside the protected area and would be harder to monitor once given access. From an economic standpoint, this option would potentially decrease the amount of testing but would contribute more administrative work due to the amount of monitoring involved.

- b. *"Limit random drug testing to only those workers who have unescorted access to vital areas of nuclear power plants. (Option 3)"*

Option 3 would not be practicable due to the number of individuals frequently changing their access levels to allow them temporary access into the vital areas. This access level change may only be for a couple of hours in one day. Adoption of this option may often require an individual to be in the random selection pool on one day and be removed the next day. Presently this option would allow the reduction of only approximately 200 random drug tests per year. It would also require a substantial increase in monitoring. From an economic standpoint this option would be the same as Option 2.

- c. *"Limit random drug testing to workers whose jobs involve safety- or security-related functions regardless of whether these workers have unescorted access to protected areas. (Option 4)"*

Option 4 has the same economic impact as Option B. An individual may not work on any safety related systems and equipment during the course of a single day's work but may on a random basis be involved in work on safety related systems and equipment, especially during outages.

- d. *"Allow use alternative testing methods in lieu of urinalysis for certain groups of workers who have unescorted access to protected areas (but not to vital areas) only because their normal workstations are within a protected area of the nuclear power plant. These methods could include performance-based testing, even though there are current technical limitations, primarily varying degrees of detectability, reliability, sensitivity, and accuracy. (See also question 7, below. (Option 5))"*

Having different drug testing requirements by worker type is an undesirable condition. Saliva screening may become a viable alternative. While performance testing appears to work, it has potential drawbacks; it is not specific for drugs and may be influenced by other factors such as fatigue, physical illness and normal hormonal cycle.

3. *"For each of the four approaches above (2.a-2.d), 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 risk increase or decrease to any significant degree, or will they remain unchanged?"*

In each of the four approaches (a, b, c, and d) above, the potential for effects on risks to public health and safety or vulnerability of nuclear power plants resulting from accidental acts and deliberate acts such as sabotage does exist. Substance abuse could increase the probability of a person committing a deliberate act such as sabotage or vandalism.

4. *"What would be the expected effect on the need for random drug testing under each of the four approaches above (2.a-2.d) if vital area access controls are reduced (e.g., allowing certain vital area doors to normally be unlocked, but be capable of (i) being remotely locked on demand in the event of a security contingency, and (ii) generating an alarm if a vital area door is opened without an authorized keycard)?"*

If any one of the four options is adopted, the impact on each of those options would result in an increased administrative burden due to the changing number of people contained in the random pool. There would be less assurance that some individuals would remain trustworthy relative to drug and alcohol abuse.

5. *"Does substance abuse increase the probability of a person committing a deliberate act such as sabotage or vandalism? These acts might be caused by indirect influences of drugs on a person's attitude or susceptibility to being influenced by others. What data exist to show a relationship between drug abuse and deliberate acts? Is random drug testing an appropriate means to control the risk of deliberate acts associated with substance abuse and, at the same time, not encroach unreasonably into individual privacy expectations?"*

It would be a reasonable assumption that substance abuse might increase the probability of a person committing a deliberate act such as sabotage or vandalism in order for the individual to maintain their drug habit. EOI has no specific data other than speculative deduction to support this belief.

6. *"Does the Commission's policy in 10CFR26 deter the introduction of illegal substances into protected areas of nuclear power plants? If so, what aspect(s) of the FFD program creates this deterrent effect? If not should the Commission require licensees to implement measures to cause this deterrent effect, and what type of measures should be required? (Information describing the measures in sufficient detail to show the cause and effect relationship between the deterrent measure and the resulting reduction/elimination of illegal substances being brought into the workplace would be useful.)"*

The Commission's policy in 10CFR26 does deter the introduction of illegal substances into the protected areas of nuclear power plants. The consequence of such activity is a notification to the Commission, the removal of the individual from the protected area and denial of access for the individual. Industry data supports a downward trend over the last four years in discovered contraband.

7. *"Should the Commission continue to investigate new testing methods that could be used for all workers who have unescorted access to protected areas? What are some methods that might be acceptable and effective alternatives to the existing approach? For proposed methods, please provide data that establishes accuracy (i.e., test's error rate), specifically (i.e., degree to which the test can measure what it's supposed to measure), reliability (i.e., the precision with which the test can be repeated and the consistency of test results), and similar supporting parameters. The Commission is specifically interested in data on the validity of performance testing measures."*

The Commission should continue to investigate new testing methods that could be used for all workers who have unescorted access to protected areas. Such new methods should not be used in lieu of urinalysis for

certain groups of individuals. There are other alternatives to the existing approach that could improve efficiency while reducing the burden of the current more than sufficient drug testing requirements.

Because of the industry's good performance data, NRC's rules should be changed to allow individuals temporary access into the protected area who have been drug free when tested in the past after collection of a pre-access test specimen for a period of up to ten days. Currently the rule permits random specimens screened as presumptive positive be confirmed as positive or be declared as negative within ten days. This flexibility should be extended to the pre-access portion of the rule. The ability to allow temporary access, pending drug test results would result in significant cost savings while increasing productivity.

A scheme parallel to that being forwarded by the Department of Transportation (59FR7464, paragraph 219.680(c)(1)) which states that when the minimum annual percentage rate for random alcohol testing is 25% or more, the Administrator may lower this rate to 10% of all covered employees if the Administrator determines that the data received for two consecutive calendar years indicate that the violation rate is less than 0.5% should be pursued by the NRC. Also, the random drug testing rate under the DOT program may be reduced from 50% to 25% if the number of positive tests remains below 1.0% for 2 calendar years (59FR7614).

We believe each of these alternatives would reduce the burden of drug and alcohol testing without diminishing the results of the program, and are more beneficial than the options discussed above.