



Babcock & Wilcox

a McDermott company

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USNRC

Naval Nuclear Fuel Division

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OFFICE OF SECRETARY
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BRANCH

Dr. Ivan Selin, Chairman
U. S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

October 21, 1992

Dear Chairman Selin:

Babcock and Wilcox, Naval Nuclear Fuel Division, has reviewed the proposed amendments to 10 CFR 73 which were published in Volume 56, Number 40 of the Federal Register dated December 13, 1991 and to 10 CFR 26, 70, and 73 which were published in Volume 57, Number 84 of the Federal Register dated April 30, 1992. Based on this review, B&W believes that a need for additional requirements has not been established and that the proposed regulations are too expensive and burdensome. B&W further believes that current programs provide an equivalent level of performance which meets the intent of the proposed amendments and that additional regulations are unnecessary. Specific comments to support our beliefs are enclosed.

B&W has submitted comments on the proposed rules and has discussed them with your staff. We are concerned that a decision for rule making has already been made. We request that the Commission reconsider the need for additional expensive rule making at this time. If the Commission concludes that additional rules are necessary, we request the proposed rules be modified as indicated in the enclosure to be less burdensome and expensive. We are available to discuss this issue with you at your convenience.

Sincerely,

J. A. Conner

Vice President & General Manager

Enclosure

cc: Commissioner Kenneth C. Rogers
Commissioner James R. Curtiss
Commissioner Forrest J. Remick
Commissioner E. Gail de Planque

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Dr. Ivan Selin, Chairman
U.S.N.R.C.

October 21, 1992

Enclosure

Comments on Proposed Amendments to 10 CFR 73 (FR 56240) and
10 CFR 26, 70, and 73 (FR 5784)

A. Physical Fitness

1. Licensee security officers have consistently demonstrated acceptable levels of physical fitness while responding to realistic adversary encounters during required Tactical Response Exercises. These exercises are the most accurate evaluations of officers' abilities to perform during a tactical response situation which requires high intensity exertion in order to reach the scene of an incident or a designated post. The level of performance demonstrated during tactical exercises indicates that additional requirements are unnecessary.
2. If a need for increased physical fitness can be established, B&W recommends that licensee responsibility be limited to employing only those personnel who are capable of meeting or exceeding increased physical performance testing criteria.

B. Firearms Qualification

1. Current approved qualification courses at B&W are patterned after those used by area public law enforcement agencies and are considered an adequate measure of officer proficiency. The difficulty in obtaining the minimum qualifying score on the proposed courses of fire constitutes an additional burden on the licensee where no need for more stringent criteria has been established.
2. The most significant and potentially costly proposed changes to firearms qualification are the waiting periods between qualification attempts. No justification for this change is given.
3. Current commitments in the B&W Training & Qualification Plan require that an officer who fails to achieve the minimum qualifying firearms score undergo a documented period of retraining prior to subsequent attempts to qualify or requalify. It is B&W's position that this documented retraining is sufficient to meet the objectives of the proposed minimum waiting periods. If rule making is necessary, retraining rather than waiting should be the requirement.

Dr. Ivan Selin, Chairman
U.S.N.R.C.

October 21, 1992

C. Fitness for Duty

1. Adequate drug and alcohol programs are already in place at NNFD.
 - a. NNFD is currently in compliance with Subtitle D of Title V of public Law 100-690, "Drug-Free Workplace Act of 1988."
 - b. NNFD requires pre-access drug screening of all employees, periodic alcohol and drug testing of all security and key management personnel, and testing for cause if there is reason to believe that an individual is misusing alcohol or drugs. This type of testing has proven to be more effective at detection than random testing.
 - c. All employees at NNFD are required to maintain a minimum of three security clearances. All individuals who are authorized unescorted access to any part of the NNFD facility must undergo federal investigations every five years to retain their clearances. Evidence of drug or alcohol abuse can result in clearance terminations.
2. Public safety could not be seriously threatened by impaired workers.
3. Successful diversion of special nuclear material is not more likely by persons with drug or alcohol problems. Current regulations assume that all persons granted access to the facility could participate in or conceal a diversion of SNM. Persons with substance abuse or other problems who may be untrustworthy or unreliable do not represent an additional or unique security threat. No critical human component of the safeguards system relies on a lone individual to prevent the theft or diversion of SNM.
4. Discussions with the NRC staff identified only one potentially real need for testing, i.e. for security personnel to assure response effectiveness. Therefore, if a rule is needed, random drug and alcohol testing should be limited to security personnel only.