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RECORD #216

TITLE: Fitness For Duty Rule

FICHE:

December 7, 1989

MEMORANDUM FOR: Ronald R. Bellamy, Chief, EPRPB, RI
Douglas M. Collins, Chief, EPRPB, RII
L. Robert Greger, Chief, RPB, RIII
Blaine Murray, Chief, RPSB, RIV
Gregory P. Yuhas, EPRPB, RV

FROM: LeMoine J. Cunningham, Chief, PRPB, NRR

SUBJECT: FITNESS FOR DUTY RULE

In November of 1988, the NRC published a proposed rule concerning the Fitness for Duty issue (10 CFR Part 26). Paragraph 26.24(a)(3) of this proposed rule lists instances that require drug testing "for cause". In part, this paragraph requires drug testing "immediately... after accidents involving a failure in individual performance resulting... in a radiation exposure or release of radioactivity in excess of regulatory limits." A strict reading of this criteria provides a very low threshold since even a minute amount of activity in a solid form, inadvertently released from site would be in excess of regulatory limits.

We have received several questions from the regions about the impact of Part 26 on the inspection program. NUREG 1385 was issued to respond to several industry questions regarding the implementation of Part 26. Response No. 4.4 in this NUREG, addressing testing for cause, states that "the NRC will use reasonable interpretation of 10 CFR Part 26 to determine if the licensee acted prudently." During a recent seminar on Part 26 implementation, Brian Grimes, one of the rules authors, verified that the reference to release of radioactivity refers to plant effluents and was not intended to apply to inadvertent releases of minor amounts of solid waste. Brian also stated that once Part 26 is finalized, a Temporary Instruction will be issued and Team Inspections will be conducted to ensure proper licensee compliance. As part of this effort, inspection teams will be given appropriate training to ensure consistency of review.

If you have any questions regarding this guidance, contact Roger Pedersen at 492-1079.

Original signed by LeMoine J. Cunningham

LeMoine J. Cunningham, Chief
PRPB/DREP/NRR

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