

March 4, 2016

NK21-CORR-00531-12687  
NK29-CORR-00531-13124  
NK37-CORR-00531-02533

Mr. B. Torrie  
Director General, Regulatory Policy Directorate  
Canadian Nuclear Safety Commission  
P.O. Box 1046  
280 Slater Street  
Ottawa, Ontario  
K1P 5S9

Dear Mr. Torrie:

Bruce Power comments on  
REGDOC-2.2.4 Human Performance Management: Fitness for Duty

The purpose of this letter is to comment on REGDOC-2.2.4, which introduces random drug and alcohol testing to high-security Canadian nuclear facilities and expands medical and psychological testing for workers.

At Bruce Power, ensuring the safety of our employees, the public and the environment is central to everything we do. Accordingly, we fully support what the CNSC is trying to achieve with this draft document.

As active members of the international nuclear community, we embrace the concept of adopting best practices and recognize that testing of this nature is common in many jurisdictions. In fact, this subject was identified during our recent International Atomic Energy Agency OSART Review and we believe regulatory and, more importantly, legislative changes are needed to make enhancements in this area. Against this backdrop, we appreciate the CNSC's efforts to ensure Canadian nuclear facilities are free from the influences of drugs and alcohol and workers in vital roles are physically and mentally ready to perform their duties.

Generally, we believe the requirements in this draft Regulatory Document are consistent with Bruce Power's existing, highly-effective fitness for duty protocols. We are proud of our mature, multi-faceted programs that keep our employees fit for duty and our plants and surrounding communities safe.

As might be expected, given the complexity of the subject and the introduction of new elements like random drug and alcohol testing, several technical and logistical questions have arisen from an extensive review of this early draft by subject matter experts within our organization. Our detailed comments, which were also developed in consultation with our industry peers at Ontario Power Generation, New Brunswick Power and

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Bruce Power Frank Saunders Vice President - Nuclear Oversight and Regulatory Affairs  
P.O. Box 1540 B10 4th floor W Tiverton ON N0G 2T0  
Telephone 519 361-5025 Facsimile 519 361-4559  
[frank.saunders@brucepower.com](mailto:frank.saunders@brucepower.com)



Canadian Nuclear Labs, are provided in Appendix A. Given the issues raised during these reviews, we recognize the challenges associated with implementing this document will be significant. It is Bruce Power's position that federal legislation will be a critical component to realistically introduce random drug and alcohol testing within the Canadian context. Our nation's social, legal and labour relations environments are unique and must be considered. In our experience, the necessary union negotiations, arbitration and potential litigation needed to fully implement all elements of this draft document could span a period of years.

Despite these complexities, we are committed to doing everything we can to support this initiative to enhance the already strong fitness for duty programs that ensure our nuclear facilities operate safely.

With respect, we recommend the CNSC:

**1) Incorporate random drug and alcohol testing requirements in legislation supported by a revised version of this Regulatory Document**

While Bruce Power endorses the overall objective of this document, we recognize the introduction of random drug and alcohol testing is likely to generate privacy concerns and legal challenges by workers or the unions that represent them.

Given this, we believe the CNSC, its licensees and the public are best served if legislative changes are made first to clearly detail the overarching legal requirements regarding random biomedical testing. Supporting details and guidance can then be contained in a revised version of this Regulatory Document. We believe this is the best way to facilitate proper public debate and reduce the potential for implementation delays brought about by legal challenges.

Without legislative support, we are concerned the conditions of this Regulatory Document will conflict with arbitration and court decisions on the subject. In the absence of legal clarity, the potential for conflicting requirements exist. This could lead to significant issues for operators who may be obliged to follow an arbitration decision rather than the Regulatory Document.

**2) Refine the scope to better reflect the truly safety-sensitive population and the level of testing**

Considering this document's goal is to enhance safety, we believe these requirements should focus on the subset of armed security and certified control room staff with an obvious and direct impact on nuclear safety.

While every employee at Bruce Power is vital to our success, many work in roles that do not explicitly impact nuclear safety. Yet under the requirements of this initial draft, hundreds of these workers would be subject to a testing regime with no evidence in the impact statement to indicate a need for additional controls beyond those already in



place. The level of effort and investment to create and maintain a round-the-clock organization for the proposed level of random and post-incident drug and alcohol testing would be substantial. So would the development of a suite of position-specific psychological and medical tests, which required nearly three years and extensive union negotiations to fully implement for our armed security personnel.

### **3) Reconsider the requirements regarding psychological assessments**

In our view, the requirement to psychologically assess workers in all safety-sensitive positions is too broad. We support the current obligation to test armed security staff before they assume their duties, but do not believe expanding it to other roles would demonstrably improve existing fitness for duty programs or selection processes.

Current requirements in Regulatory Document 204, Certification of Persons Working at Nuclear Power Plants, already ensure a robust system of selection, testing and evaluation of candidates for certified positions. We believe the rigorous certification and requalification processes already undertaken by certified staff precludes the need for additional psychological testing.

To be clear, Bruce Power will always fund and vocally support programs that improve nuclear safety. Our overall Safety Program is a complex series of interdependent initiatives, each one designed to address specific safety items and close identified gaps to excellence. As a responsible operator, our challenge is to ensure each initiative receives the level of investment and effort appropriate to the issue being addressed while protecting the integrity of the overall program. To aid our analysis of this particular initiative, we encourage the CNSC to revisit the impact statement associated with the Regulatory Document. As currently written, the statement is incomplete and does not provide the Commission enough information to understand the true level of implementation effort and cost needed to meet these requirements.

In closing, let me again emphasize Bruce Power's support for the overall intent of this document. With confirmation of its legal validity and refinements to its scope, we feel it will enhance the existing programs that already keep our workplace drug and alcohol free. We encourage the CNSC to take the necessary time to consider these suggestions and to gather additional feedback from impacted workers, unions and licensees through workshops or other appropriate forums. We are confident that feedback will allow the CNSC to amend this document in a way that aligns Canada with international best practices and enhances nuclear safety in an effective and truly workable fashion. As always, Bruce Power appreciates the opportunity to provide its views on this very important topic and we look forward to further participation as this process evolves.



If you require further information or have any questions regarding this submission, please contact Mr. Maury Burton, Manager, Regulatory Affairs, at 519-361-5291.

Yours truly,

A handwritten signature in black ink, appearing to be 'FS' with a flourish underneath, and the initials 'FOR' written below it.

Frank Saunders  
Vice President Nuclear Oversight and Regulatory Affairs  
Bruce Power

cc: CNSC Bruce Site Office (Letter only)  
K. Lafrenière, CNSC Ottawa  
L. Thiele, CNSC Ottawa

Attach.

## **Appendix A**

### **Bruce Power comments on REGDOC-2.2.4 Human Performance Management: Fitness for Duty**

## Appendix A: Bruce Power comments on REGDOC 2.2.4 Human Performance Management: Fitness for Duty

#	Document/ Excerpt of Section	Industry Issue	Suggested Changes (if applicable)	Major Comment/ Request for Clarification <sup>1</sup>	Impact on Industry, if major comment
<b>GENERAL COMMENTS</b>					
1.	<b>MAIN POINTS</b>	<p><b>Support intent:</b> Bruce Power supports the spirit and intent of this document. We embrace international best practices and recognize that testing of this nature is common in many jurisdictions. As such, we appreciate the CNSC's efforts to ensure Canadian nuclear facilities are free from the influences of drugs and alcohol and workers in vital roles are physically and mentally ready to perform their duties.</p> <p><b>Legislation to aid implementation:</b> While generally supportive, we believe requirements for random drug &amp; alcohol testing more properly belong in legislation supported by a refined version of this Regulatory Document. Random testing requirements are likely to generate privacy concerns and legal challenges by workers or the unions that represent them. A legislative change will ensure proper public debate can be seen to have occurred and reduce the probability of implementation delays brought about by legal challenges.</p> <p><b>Scope too broad:</b> Industry believes the requirements to test personnel in safety-sensitive positions as identified in this document are unduly expansive and would require hundreds of workers to be undergo costly drug, alcohol, medical or psychological testing with no corresponding impact on nuclear safety. While every employee at Bruce Power is vital to our success, many work in roles with no direct effect on reactor safety and should not fall under the broad requirements of this document as currently written. Specifically, industry believes the requirement to psychologically assess all safety sensitive positions is too sweeping</p>	<p>To aid implementation, we suggest the CNSC:</p> <ul style="list-style-type: none"> <li>• Incorporate random drug and alcohol testing requirements in legislation supported by a refined version of this Regulatory Document.</li> <li>• Refine the scope of this document to better reflect the truly safety-sensitive population and the level of ongoing random testing. This REGDOC would be greatly improved if its requirements focused on a subset of security and certified control room staff whose true relation to nuclear safety can easily be confirmed by risk-informed analysis.</li> <li>• Illicit additional feedback from workers, licensees, unions and other interested parties through facilitated workshops to ensure a consistent industry approach and realistic implementation time.</li> </ul>	<b>MAJOR</b>	<p>While the purpose of this document is understood and supported, the creation of an expanded drug, alcohol &amp; psychological testing system will profoundly impact the industry and its workers. As currently written, we anticipate it will:</p> <ul style="list-style-type: none"> <li>• Prompt our union partners to defend their members' privacy concerns by mounting legal challenges, which may delay implementation.</li> <li>• Generate conflict between regulatory requirements and arbitration rulings. As the CNSC is aware, Industry and its union partners use an arbitration process to help resolve differences over the interpretation of collective agreements. In the absence of legal clarity, the potential for conflicting requirements exist which would lead to significant issues for operators, who may be required to follow an arbitration decision rather than the Regulatory Document.</li> <li>• Impose a significant economic burden on industry where there has been no evidence presented in the impact statement to indicate a need for additional controls beyond those already in place. The level of investment required to create and maintain a round-the-clock organization for the level of random and post-incident testing required in this draft will be substantial.</li> <li>• Create an inadvertent chilling effect on the number of applicants to safety-sensitive positions and exacerbate minimum complement &amp; employee accommodation challenges. The cumulative effect of additional medical, psychological, drug and alcohol tests on top of the host of existing written and practical exams may be seen my applicants as too significant a burden. Similarly, we may see long-time certified personnel chafe under the growing suite of tests required to keep jobs for which they are already qualified &amp; leverage their union seniority to take roles not deemed safety-sensitive.</li> </ul>

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2. <b>IMPACT STATEMENT</b>	The Impact Statement is incomplete and underestimates the effort required to revise existing programmatic framework. It speaks only in broad terms with no true analysis of how these requirements will impact licensees' union agreements, medical infrastructure or worker accommodation challenges. It acknowledges that additional requirements will "impose immediate and long-term financial costs" on licensees, then declares those costs justified without offering data to support whether they are proportionate to the perceived risk being addressed.	Revise to acknowledge true programmatic burden in implementing expanded scope, and potential costs associated with significant implementation delays.	<b>MAJOR</b>	<ul style="list-style-type: none"> <li>Preliminary estimates suggest ongoing costs to implement these requirements -- assuming only certified and armed security staff are designated 'safety critical' -- are in the order of \$4,000,000/year for a multi-unit licensee.</li> <li>Aside from pure economic costs, the requirements of this REGDOC will impact relationships with our employees and their unions. Industry anticipates lengthy union negotiations with and potential legal challenges to implement the proposed changes.</li> <li>Industry acknowledges the potential deterrent effect of these programs, but has seen no evidence of an actual problem that requires resolution. Industry has several tools already available to ensure staff is fit for duty. Effort and costs to implement such as wide-spread program (not fully recognized here) will necessarily be diverted from other initiatives, and need to be balanced with actual benefits as licensees are constrained as to revenues.</li> </ul>
3. <b>Preface</b>	7th paragraph, final sentence, 'licensees are expected to review and consider guidance; should they choose not to follow it, they should explain how their chosen alternate approach meets regulatory requirements.'	Revise wording to, 'Licensees are expected to review and consider guidance.' <del>They should explain how their chosen alternate approach meets regulatory requirements</del>	<b>MAJOR</b>	Guidance is meant to be guidance. If the licensee is required to meet guidance criteria (even by other means), then it becomes a requirement, not guidance.
<b>SECTION 3 – PROGRAMMATIC ELEMENTS APPLICABLE TO THE BROAD POPULATION</b>				
4. <b>3.1</b>	Ordinarily, the 5th requirement to 'address stand-by, on call, and unexpected call in requirements related to fitness for duty' is directly negotiated with our unions and cannot be unilaterally dictated through an employer policy. The high-level policy already addresses this. The statement is too detailed for a Regulatory Document requirement	Remove this requirement or retain as guidance only.	<b>MAJOR</b>	This may involve licensees in lengthy grievances and arbitration, with subsequent negative impact on relations with our unions with no commensurate safety benefit. Supervisors are trained to detect and react to abnormal behaviours that could potentially indicate impairment or other fit-for duty concerns. Industry believes it will be able to address any emergent staffing issues arising from fitness for duty concerns through existing mechanisms. These do not need to be codified in a fitness for duty policy.
5. <b>3.4</b>	The final sentence in the third paragraph, 'These restrictions shall be reported as either temporary or permanent' is a business issue and not appropriate for a regulatory document. From a requirement's perspective, the regulator should only have an interest in whether the employee is fit, unfit, or fit to perform with restrictions. Whether an employee has permanent or temporary restrictions is a business issue.	Remove the sentence.	<b>Clarification</b>	



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6.	3.4	Under the guidance heading, please clarify whether 'directed referrals' are mandatory referrals.	Clarify language.	Clarification	
7.	3.6.2 & 3.8	The term 'detect' is inappropriate in the final three bullet points under the guidance sections -- 'the ability to <i>detect</i> , assess, and effectively respond'. Supervisors may be trained to recognize behaviours and warning signs for a number of employee matters, but they are not expert. The term detect indicates a higher level of expertise.	Replace 'detect' with 'recognize' in the last three bullet points under guidance.	Clarification	
<b>Section 4.1 -- IDENTIFICATION OF SAFETY SENSITIVE POSITIONS</b>					
8.	4.1	The list of positions deemed safety sensitive is too broad. As currently drafted, all certified workers, security personnel & minimum complement staff would automatically be designated safety-sensitive. However, a risk-informed analysis may show some minimum complement staff (e.g. Shift Advisor Technical, Shift Resource Coordinator, off-site survey team members, etc.) not to be safety-sensitive. Further, CNSC Regulatory Document RD-204 already establishes rigorous testing, competency and requalification requirements to "define requirements regarding certification of persons who work at Canadian nuclear power plants (NPP) in positions that have a direct impact on nuclear safety." Given this, Industry agrees with the designation of certified staff as safety sensitive. Due to the nature of their work, we further agree that armed Nuclear Response Team personnel hold safety-sensitive positions.	Limit the automatic designation of safety-sensitive positions to certified workers and armed Nuclear Response Team members. Rather than impose a blanket designation on all minimum complement positions, permit licensees to determine which minimum complement positions are truly safety sensitive through risk-informed analysis. Revise the opening sentence under Section 4.1 to read, "Safety-sensitive positions shall include the following unless documented as not safety-sensitive through risk-informed analysis."	<b>MAJOR</b>	Broad declarations such as 'safety-sensitive positions shall include' certified workers and minimum shift complement workers are unduly restrictive. Without the ability to use risk-informed analysis to truly determine safety-sensitive positions, this requirement may be applied to minimum shift complement roles with no corresponding safety benefit. The identity of specific minimum complement individuals is fluid due to staff transfers, promotions, shift changes, illness, vacation coverage, etc. This draft would require testing for a much larger population than the simple numbers specified in licensee minimum shift complement requirements.
9.	4.1	Clarity is required to ensure these requirements apply to regular staff only and not contractors, Appendix A employees, etc.	Insert a statement within section 4.1 that confirms, 'Companies with contract employees working in safety-sensitive positions at high-security nuclear facilities must enforce fitness for duty requirements consistent with this document.'	<b>Clarification</b>	



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10.	4.1	There should be additional information on how certified workers on temporary assignments to non-safety-sensitive positions are handled.	Add the following to section 4.1, 'Certified workers on temporary assignments in positions that are not identified as safety-sensitive may be treated the same as the broad population of workers. When the certified workers are providing relief coverage during their temporary assignment, all Section 4 requirements shall apply. The licensee shall document the treatment of certified staff on temporary assignments in their governing documents.'	MAJOR  Request for Clarification	If applied to all certified staff performing any role, this requirement this will lead to undue administrative burden with no corresponding safety benefit.
<b>Section 4.3 -- MEDICAL ASSESSMENTS</b>					
11.	4.3.1	Additional clarification is required regarding the guidance statement, 'When conducting the certified workers' medical assessment, the medical practitioner should be guided by a recognized medical standard' such as American National Standards Institute (ANSI) 3.4 <i>Medical Certification and Monitoring of Personnel Requiring Operator Licences for Nuclear Power Plants</i> .	Suggest a Canadian standard be used instead of an American one. Barring that, we suggest inter-utility discussions be held to help licensees understand the requirements of this ANSI document, the scope of the medical assessments and how they compare to similar Canadian medical assessments.	Clarification	
12.	4.3.2	It is unclear what is meant by 'designated non-NRF personnel' referenced in both this section and bullet #2 in Section 4.1. Industry assumes that designation does not include positions such as Security Analysts, Clearance Specialists, etc. and their Managers, but would like confirmation.	Clarification/definition as to who is a 'designated non-NRF personnel'	Clarification	
13.	4.3.3	Including the statement, 'CSA Group nuclear standard N293, <i>Fire Protection for CANDU Nuclear Power Plants [15]</i> requires emergency response teams (ERT) / industrial fire brigade members to undergo a medical assessment annually, and after each medical leave of absence' is too specific a reference.	Remove specifics and rewrite to say, 'CSA Group nuclear standard N293, <i>Fire Protection for CANDU Nuclear Power Plants [15]</i> specifies requirements for medical assessments for emergency response teams (ERT) / industrial fire brigade members.'	MAJOR	Do not document specific requirements that are outlined in a separate standard. Simply point to the standard and state what requirements are therein. CSA documents may be revised.
14.	5.1	There is an inconsistent use of language in the final	Replace 'employment limitations' with	Clarification	

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<b>SECTION 4.4 – PSYCHOLOGICAL ASSESSMENTS</b>					
15.	4.4	<p>The requirement to psychologically assess all safety sensitive positions is sweeping and would require significant time to develop position-specific tests, as was the industry experience when pre-placement testing was implemented for security personnel. Our regular health screening already includes the opportunity for assessment from a mental health perspective. Psychological issues are often not identified at one particular point in time and can be the result of external environmental triggers.</p> <p>When Regulation 18.2 of the Nuclear Security Regulations was implemented, appropriate protocols were negotiated with our unions to address its requirements. There are no other classifications where individuals are required by law to submit to psychological testing as a condition of their employment. For certified staff, RD-204 contains extensive prescriptive requirements for the selection, testing and evaluation of candidates. Industry has wide latitude to select candidates who exemplify the behavioural and technical attributes required for the job. Candidates undergo years of extensive classroom and simulator training, testing and evaluation and are closely monitored and observed in both classroom and operational settings. A large percentage of initial candidates are screened out prior to certification. In summary, there is ample evidence that the actual certification and requalification processes required of certified staff would supplant any requirement for psychological testing. No evidence has been provided that such testing would improve selection processes or improve licensee fitness for duty programs.</p>	<p>Consider limiting psychological testing to security staff as referenced in regulation 18.2 of the <i>Nuclear Security Regulations</i>. Alternatively, include psychological assessments as part of regular Fitness for Duty assessment requirements, which already include consideration of psychological well-being.</p>	<b>MAJOR</b>	<p>As currently written, the scope of safety-sensitive positions identified for psychological assessments is too broad &amp; could be applied to all minimum shift complement roles with no corresponding safety benefit. If not skillfully and discreetly managed, this requirement poses the risk of increased stigma with regard to mental health and increases the potential for discrimination.</p> <p>Collective agreements contain detailed provisions for the selection of staff. Factors such as education, skills, qualifications and seniority must be considered and applied. Industry collective agreements do not expressly contemplate psychological testing as part of the selection process. The unilateral imposition of such testing for safety-sensitive positions will be subject to legal challenge and will negatively affect labour relations. This requirement is unlikely to provide relevant information on candidate suitability or fitness for duty for a certified position. The identification and diagnosis of psychological concerns is often completed over a period of time and may depend on a number of factors in the external environment. It is inappropriate and too broad to appropriately diagnose an individual on one assessment which would impact their ability to obtain an offer of employment. In conjunction with the imposition of mandatory alcohol and drug testing, this requirement may create a chilling effect on recruitment efforts for certified positions.</p>

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16.	4.4.1	See comment on Section 4.1 regarding certified staff on temporary assignments	See comment on Section 4.1 regarding certified staff on temporary assignments	MAJOR	If applied to all certified staff performing any role, this requirement this will lead to undue administrative burden with no corresponding safety benefit
17.	5.2	The first sentence of the second paragraph indicates 'The psychological assessment shall include an interview and one or more tests.' If a requirement is implemented, the business should have final determination of what kind and number of assessments they feel is appropriate. This is a business issue and too specific for a regulatory document	Remove requirement	MAJOR	Impedes industry ability to implement the requirements in the most optimum way.
18.	5.2	The final bullet, which says the certificate should: 'include any temporary or permanent work restrictions,' is a business issue and not appropriate for a regulatory document.	Remove the sentence	MAJOR	Managing employee accommodation is a business issue. From a requirement's perspective, the regulator should only have an interest in whether the employee is fit, unfit, or fit to perform with restrictions. It should not matter to the regulator if the employee has permanent or temporary restrictions.
<b>SECTION 4.5 – OCCUPATIONAL FITNESS ASSESSMENT</b>					
19.	4.5.3	There are concerns with referencing NFPA in the statement, 'In developing requirements for physical fitness standards for industrial fire brigades, licensees should consider the 13 essential job tasks of a local fire department defined in the National Fire Protection Association (US) Standard on Comprehensive Occupational Medical Program for Fire Departments NFPA 1582 (2013) [16] in the context of fire response for an industrial fire brigade at a nuclear facility.'	Remove the quote from the standard and reference to National Fire Protection Association NFPA 1582. Reference should instead be made to CSA N293, Fire Protection for Nuclear Power Plants.	MAJOR	CSA N293, Fire Protection for Nuclear Power Plants is in the process of being revised to address fitness standards. CNSC is encouraged to have these requirements established in that nuclear standard rather than pointing to a separate document.
<b>ALCOHOL AND DRUG TESTING</b>					
20.	4.6.1	The statement, 'Licensees shall require all applicants to a safety-sensitive position to submit to alcohol and drug testing' is overly broad and generates significant human resource issues.	Rewrite to say, 'Licensees shall require all successful candidates to a safety-sensitive position to submit to alcohol and drug testing as a condition of placement.'	MAJOR	As currently written, this requirement will lead to undue administrative burden with no corresponding safety benefit.
21.	4.6.2	Guidance regarding for-cause alcohol and drug testing using the broad definition of 'safety significance' provided is open to interpretation and potential challenge. This document would be strengthened if licensees' fitness for duty governance documents defined the circumstances that would prompt for-cause testing at their particular facilities.	Rewrite the first sentence to say, 'Licensees shall define within their fitness for duty governance documents when workers in safety-sensitive positions will be required to submit to for-cause testing under reasonable grounds and post-incident circumstances.'	MAJOR	Without clarity in governance documents on what would prompt for-cause testing, we can anticipate varied and potentially conflicting interpretations and worker challenges.



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22.	4.6.2	The last sentence in the second paragraph, 'The grounds for for-cause testing shall be independently verified by at least two people (one of whom is the supervisor)' is too narrowly focused	Rewrite to say, 'The grounds for for-cause testing shall be independently verified by at least two people (one of whom is the a supervisor).'	Clarification	
23.	4.6.4	When considering random alcohol and drug testing, we urge the CNSC to consider a 2013 decision of the Supreme Court of Canada, which ruled that random testing policies of this nature can intrude on employee privacy in workplaces with no demonstrated substance abuse problem. Additionally, arbitrators and the courts have identified the deficiencies of drug testing as an effective tool for determining fitness for duty, given the fact that drug testing through urinalysis cannot definitively confirm impairment. While drug testing may be justified in 'for cause' situations, or as a follow up where an employee with acknowledged substance abuse problems is subject to unannounced testing for a defined period, we are not aware of any example in the Canadian jurisdiction where a program of random drug testing has been upheld as reasonable.	Suggest the CNSC consider the challenges arising from the Supreme Court of Canada ruling in the finalization of this document	MAJOR	Regardless of the limitations in the current fitness for duty policy for random testing (only employees in safety-sensitive positions with unescorted access to nuclear-specific sites) the implementation of such a policy in a workplace creates much uncertainty for industry. There is no way for industry to know whether any requirement will withstand challenge/judicial scrutiny. Arguably the nuclear power plant setting may fulfill the requirement of a demonstrated enhanced safety risk however, until tested anticipated legal challenge
24.	5.4.1	Additional clarity is sought on breath alcohol testing processes maintained by licensees versus those of contracted service providers. Requirements are currently detailed in the 4 <sup>th</sup> paragraph, which says, 'Licensees shall establish, implement, and maintain procedures for the administration of evidential breath alcohol testing.' This is consistent with the second paragraph of this section, which indicates licensees may "retain or maintain " competency for this process	Replace third paragraph with, 'For licensee-maintained processes, licensees shall establish, implement, and maintain procedures for the administration of evidential breath alcohol testing. For retained services, licensees shall ensure service providers maintain procedures for the administration of evidential breath alcohol testing.'	Clarification	This is consistent with the second paragraph of this section, which indicates licensees may "retain or maintain" competency for this process.
25.	5.4.2	Although the drugs to be tested are identified in Appendix D, tables D2 and D3 and D4, there should be flexibility and references made to be able to add any drug or drugs to the testing panel as may be dictated by circumstances, by introduction of new drugs to the community, or by requirement as the need may be.	Add flexibility and references to be able to add any drug or drugs to the testing panel as may be dictated by circumstances	Clarification	

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		This will expedite such testing as opposed to having to re-write the policy			
26.	5.4.2	Canada Standards Council does not specifically accredit/certify gold standard workplace drug testing program laboratories. Such accreditation is only available through HHS/SAMHSA.	Change accreditation standard reference	Clarification	
27.	5.4.2	All test results (negative, positive, invalid, adulterated, substituted, etc.) should be reported to a qualified and certified Medical Review Officer (MRO) who is a licensed physician who has undergone training and written certification examination in compliance with the requirements contained with U.S. Department of Transportation regulation 49 CFR Part 40. Note that there are no formal MRO training and/or certification programs available in Canada. They are only available in the U.S. Interpretation should only be done by an appropriately certified MRO.	Include requirements for tests to be reported to an appropriately certified MRO and that only such MRO be allowed to interpret.	<b>MAJOR</b>	Consistency in interpretation by an appropriately trained and qualified individual is required to maintain the integrity of any mandated test program, should this be successfully implemented.  Industry recommends that if this document is to be implemented, an appropriate accreditation program be established in Canada before this portion is implemented.
28.	5.4.2	<u>Guidance – no provision for shy lung</u>	Revise bullet to “protocol for shy bladder or shy lung”	Clarification	
29.	5.4.2	<u>Guidance -</u> Only MRO specialists are trained and certified in North America for the purpose of reviewing workplace drug testing programs.	Remove duly qualified forensic toxicologists or duly qualified pharmacists from list of those who may be considered for review and interpretation	Clarification	
30.	5.4.2	<u>Guidance -</u> Where a valid and verified medical explanation exists for a positive laboratory test result, the MRO should determine the result to be negative, and will comment on safety sensitive issues where necessary.	Revise action by MRO in these cases	Clarification	
31.	5.4.3	This requires that workers who provide a verified positive alcohol or drug test be removed from their safety sensitive duties and referred to EAP, and that the individual cannot be reinstated to those duties without a recommendation from a duly qualified health care provider. This provision pre-supposes a determination that the worker suffers from a substance abuse problem that requires the assistance of the EAP	Provide flexibility for employer response to individual cases.	<b>MAJOR</b>	It is not clear what assistance EAP could offer in cases of minimal exceedances, or where the employee does not acknowledge a problem. This provision may result in Union challenges to this part of the process as unreasonable.  In standard North American workplace drug testing programs (most noticeably, U.S. DOT), workers who are in violation of an employer's drug and alcohol program are referred to a Substance Abuse Professional (SAP) who are certified in compliance with SAP provisions contained within U.S. DOT drug testing regulation

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		program. A test that only fractionally exceeds a policy limit and where the employee does not otherwise acknowledge a substance abuse problem will automatically require a referral to EAP. It is not clear what assistance EAP could offer in such circumstances, or whether the unions will challenge this part of the process as unreasonable.			49 CFR Part 40. EAP is a program for self-referral prior to a drug and alcohol program violation occurring. That said, in some circumstance, some service providers provide both SAP and EAP services. But it is still important to note the difference between self-referral circumstances, and policy violation circumstances.
32.	5.5	Licensees shall establish, implement and maintain an assessment process to evaluate workers in safety-sensitive positions for substance abuse and or dependency. This is a duplication of the drug and alcohol program addressed in the document.	Remove this redundant requirement.	Clarification	
33.	Appendix B	The requirements are unclear. Clarity is required as to what positions qualify as 'designated non-nuclear response force personnel' before industry can determine if the requirements are appropriate	Clarify the affected work groups	MAJOR	Industry cannot comply without confirmation of affected work groups & does not know if requirement is appropriate.
34.	Appendix C	Page 25, Station 2b – Stair climb station. This requirement was temporarily eliminated from the testing due to safety concerns raised by industry. CNSC regulatory correspondence issued to Bruce Power under e-doc4413805 dated, 23 April 2014 provides this direction. The safety-related concerns still exist. The CNSC is asked to explain the basis for re-introducing this unsafe practice.	Remove the direction for personnel not to use the railing during the stair climb.	Clarification	
35.	Appendix D.2	This appears to be missing Oxymorphone	Add Oxymorphone to be consistent with available laboratory testing panels.	Clarification	
36.	Appendix D.3	This appears to be missing Oxymorphone	Add Oxymorphone to be consistent with available laboratory testing panels.	Clarification	
37.	Appendix D.4	Dilution substance testing protocols have not been broadly accepted for workplace testing programs, Dilution substance testing protocols have not been broadly accepted for workplace testing programs, and may be difficult to defend if challenged.	Remove reference to dilution protocols	Clarification	