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Sent: May 29, 2020 4:28 PM
To: Consultation (CNSC/CCSN)
Cc: TRAVERS Scott -Society
Subject: Comments on REGDOC-2.2.4: Fitness for Duty, Volume II: Managing Alcohol and Drug Use, version 3
Attachments: The Society REGDOC-2.2.4 Submission.pdf; Appendix II - CV_OHD_May2020.pdf; Appendix I - Drummer Report May21 2020.pdf

Please find attached The Society of United Professional's comments on the proposed REGDOC-2.2.4: Fitness for Duty, Volume II: Managing Alcohol and Drug Use, version 3.

Sincerely,

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**SOCIETY of
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May 29, 2020

The Society of United Professionals
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VIA EMAIL

Canadian Nuclear Safety Commission Headquarters
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Re: REGDOC-2.2.4: Fitness for Duty, Volume II: Managing Alcohol and Drug Use, version 3

The Society of United Professionals represents over 8,600 engineers, scientists, supervisors, and other professionals in Canada's energy and legal sectors. As an organization, we have represented professionals for over 70 years.

The Society represents employees working for a dozen different employers in the electricity sector, including Ontario Power Generation, Bruce Power, Nuclear Waste Management Organization, Hydro One, the Independent Electricity System Operator, the Ontario Energy Board, New Horizon System Solutions, Toronto Hydro, Inergi, Kinectrics, and the Electrical Safety Authority.

Our members work in every aspect of the electricity industry. They are involved in generation, transmission and distribution of electricity, management of the electricity system, regulation and enforcement of standards, and management of the electricity market. They are employed as first-line managers and supervisors, professional engineers, scientists, information systems professionals, economists, auditors and accountants, as well as many other professional, administrative, and associated occupations.

The Society's members are knowledge workers who take great pride in exercising their civic, social, and professional responsibilities. As a union, we stand behind our members' professionalism, integrity, and commitment to excellence in all areas, particularly workplace safety, public health, and environmental sustainability.

At OPG and Bruce Power, Society members provide technical expertise in areas of conventional health and safety, radiation safety, emergency preparedness, and environmental issues. Society represented safety-related occupations include ergonomists, safety specialists, industrial hygienists, safety officers, health physicists, emergency managers, environmental scientists and environmental engineers.



Advocating for safe and healthy operation of our nuclear workplaces is one of the Society's highest priorities as a union. Our members work inside of, and in close proximity to, nuclear facilities, and they are among the first in harm's way if the highest standards of safe operation, and occupational health and safety are not adhered to. They and their families are residents of Clarington and Durham and Kincardine/Port Elgin and they are very conscious of the importance of ensuring a safe and healthy environment in the areas where they live.

The Society takes an active leadership role in workplace health and safety and accident reduction at our workplaces. We advocate for our members' health and safety interests in collective agreement negotiations and through grievance processes. Society leaders participate on multiple joint health and safety committees at each of the companies where our members work, including joint working groups, joint health and safety policy committees, Joint Committees on Radiation Protection at OPG and Bruce Power, Corporate Safety Rule Advisory Groups, and Corporate Code Advisory Groups. Society leaders also participate in broader health and safety initiatives, including the Infrastructure Health and Safety Association Board, the Provincial Labour Management Safety Committee, and the Ontario Federation of Labour Health and Safety Committee.

The Society believes that any workplace safety programs implemented within workplaces where our members are employed must be effective and focused on improving safety and are not just about improving public relations. And while we are passionate advocates for workplace safety, we are concerned that individual privacy and dignity, also deeply valued and carefully safeguarded in this country, are not needlessly and inappropriately compromised in the name of public safety.

The Society has serious concerns about the proposed changes to REGDOC-2.2.4, and the intrusive impact it will have on the privacy, dignity, and physical integrity of the Society's membership working at nuclear facilities.

In addition to the existing fitness for duty regulation, the Society is very familiar with existing fitness for duty programs at both Ontario Power Generation and Bruce Power. These programs are comprehensive and effective. In their submission on the original draft of REGDOC-2.2.4, OPG highlighted their "mature and successful program to ensure Fitness for Duty", stating that "[t]here is no evidence that our existing measures have been inadequate in this area nor indication that they will fail to be adequate in the future."¹

Similarly, Bruce Power highlighted in their submission their "existing, highly-effective fitness for duty protocols."² Adding that they are proud of their "mature, multi-faceted programs that keep our employees fit for duty and our plants and surrounding communities safe."³

The Society agrees that these programs are comprehensive and effective. They address all issues which may impact fitness for duty, not just impairment from drugs or alcohol. They involve training and

¹ <https://www.nuclearsafety.gc.ca/eng/pdfs/REGDOC-comments-received/REGDOC-2-2-4-OPG-comments.pdf>

² <https://www.nuclearsafety.gc.ca/eng/pdfs/REGDOC-comments-received/REGDOC-2-2-4-Bruce-Power-comments.pdf>

³ *ibid*



awareness in the recognition of signs of impairment or other factors impacting fitness for duty, as well as access to support for individuals who may not be fit for duty for a range of reasons. There are also tools for ensuring that prohibited substances are not brought into workplaces. Importantly, these programs are effective because they are accepted and understood by the employees to whom they apply.

Furthermore, in their submission on the original draft of REGDOC-2.2.4, OPG stated that “drug testing does not necessarily indicate impairment, or fitness for duty, although it can identify past drug use, second hand exposure, or potentially risky behaviours. The intent of the REGDOC is to ensure workers are fit for duty. Therefore, it is anticipated that the implementation of drug testing will fail to meet the fundamental intent of the REGDOC.”⁴

This concern is shared by the Society and is highlighted in a report prepared by Professor Olaf Drummer, Forensic Toxicology Consultant Specialist with the Victorian Institute of Forensic Medicine, and Professor of Forensic Medical Science at Monash University (Appendix I). In this report, Prof. Drummer states that “neither the presence of a drug in oral fluid nor in urine can be used to determine whether impairment is present or not. Impairment, however defined, can only be assessed through some form of standardized field assessment protocol relevant to a worker’s occupation by suitably trained personnel.”⁵

Of concern with the proposed changes to REGDOC-2.2.4 is the introduction of oral fluid collection for drug testing, and the associated cut-off values used in immunoassay screening. The Drummer report states clearly that “there is no effective relationship between an oral fluid concentration and impairment.”⁶

However, Prof. Drummer does make it clear that oral fluid testing, with appropriately high cut-off values, would make it “less likely for a worker to test positive when they had used a drug well before a shift (e.g. a day or three before) and when they are no longer unable to work safely (i.e. not impaired).” This, the report states, “contrasts with urine testing that is largely conducted to detect use in the past 1-3 days” and, potentially “even a few weeks”⁷.

The Drummer report reviews the proposed changes to REGDOC-2.2.4 and notes that the proposed cut-off levels for oral fluid screening and confirmation represent “low cut-offs, presumably in an attempt to prolong the detection time in oral fluid and hopefully have similar detection windows to urine.”⁸

Prof. Drummer compares the proposed cut-offs in REGDOC-2.2.4 to oral fluid cut-offs in Australia and New Zealand, where “higher cut-offs in oral fluid were deliberately chosen to limit detectability of drugs to hours rather than days that usually applies to urine testing.” In comparing the cut-offs of 5 ng/ml for screening and 2 ng/ml for confirmation, as proposed in REGDOC-2.2.4, to the cut-off thresholds of 15 ng/ml for screening and 5 ng/ml for confirmation, as seen in Australia and New Zealand, Drummer

⁴ <https://www.nuclearsafety.gc.ca/eng/pdfs/REGDOC-comments-received/REGDOC-2-2-4-OPG-comments.pdf>

⁵ Drummer, Expert Report Relating to Drug Testing in Oral Fluids, 2020, pg. 3

⁶ Drummer, Expert Report Relating to Drug Testing in Oral Fluids, 2020, pg. 13

⁷ Drummer, Expert Report Relating to Drug Testing in Oral Fluids, 2020, pg. 8

⁸ Drummer, Expert Report Relating to Drug Testing in Oral Fluids, 2020, pg. 10



states that the higher cut-offs found in Australia and New Zealand “will reduce the detection window for cannabis use and will reduce the risk of a user having a positive test when use of cannabis occurred several hours earlier”⁹, outside the impairment window.

For this reason, Prof. Drummer recommends that “[s]ince cannabis has a legal use in Canada and can be prescribed for defined medical uses consideration should be given to increase the screening and confirmation cut-off limits in oral fluid to avoid detecting THC for past use when acute impairment will no longer be evident.”¹⁰

The Society is concerned that the proposed changes would do nothing to detect impairment, as the Drummer report makes it clear that neither oral fluid testing, nor urine testing, can determine whether impairment is present. These tests will, however, simply identify whether, in the case of cannabis, an individual has used a legal substance in the past several days. The Society considers this an unnecessary violation of its members’ privacy, with no added benefit to public safety. As such, the Society strongly opposes the proposed changes to REGDOC-2.2.4.

⁹ Drummer, Expert Report Relating to Drug Testing in Oral Fluids, 2020, pg. 10

¹⁰ *ibid*