



If there is any Doubt: The Case against Arbitral Review of Access and Fitness for Duty Determinations in the Nuclear Power Industry

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The Nuclear Regulatory Commission requires operators of the nation's nuclear power plants to provide high assurance that all workers granted unescorted access privileges to their plants are trustworthy and reliable and are fit for duty. That requirement is one of many measures the Commission utilizes to assure that nuclear power plants are safe and secure. Does this regulatory scheme permit third parties who are not responsible for safety and security and who are not accountable to the Commission or subject to its oversight to overrule determinations that a worker is not trustworthy and reliable? The author demonstrates that there is no role for external parties—in particular, labor arbitrators—to reassess or overrule trustworthiness and fitness determinations.

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