

10 CFR Part 26, Fitness for Duty Programs

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This presentation was modified from its original format for 508 compliancy.

Stronger D&A Testing Provisions

- Validity Testing of Urine Specimens – verifies the specimen is unadulterated human urine
 - Tampering of specimen using adulterants (e.g., bleach)
 - Dilution or substitution of specimen with another fluid
- Changes to drug & alcohol cutoff/testing levels
 - Decrease the cutoff level for marijuana metabolites from 100 ng/mL to 50 ng/mL
 - Sliding scale of “positive” alcohol level depending on how long individual has been at work
 - < 1 hour, 0.04 = positive
 - At least 1 hour, 0.03 = positive
 - At least 2 hours, 0.02 = positive
- All workers would be trained on FFD at the supervisor level

More Stringent Sanctions

- Permanent denial for first attempt to subvert the testing process or refusal to test
- 5 year denial if individual resigns to avoid removal for FFD violation
- 5 year denial for 2nd confirmed positive
- Permanent denial for any FFD violation following a 5 year denial
- Would strengthen requirements for re-authorizing an individual terminated unfavorably for FFD reasons

Increased Worker Protection & Rights

- Raise the Opiate cutoff level from 300 ng/mL to 2000 ng/mL
 - Would greatly reduce positives from poppy seeds and medication
- Strengthen requirements for independence of the MRO and staff function from licensee management
 - MRO staff may still work for licensee, but must take direction from MRO – licensee management cannot influence MRO or MRO staff
 - Ensures greater confidentiality of test results, medical records
- Require licensees to obtain Independent Forensic Toxicologist certification to:
 - Test for drugs not included in HHS panel
 - Test at more stringent cutoff levels

Relaxations for Licensees

- Blood testing for alcohol eliminated
- Only 1 alcohol breath test required
 - Unless positive, then 2nd test required to confirm
- Allow saliva devices instead of breath for 1st test
- Biannual FFD program performance reporting changed to yearly
 - But would add reporting requirements for fatigue data

Differences from HHS guidelines

- Generally consistent with HHS guidelines
 - HHS final guidelines issued 2004
- Some differences from HHS guidelines because:
 - HHS has a different mission – assistance to Federal agencies with health issues for Federal employees
 - Part 26 purpose related to ensuring fitness-for-duty of private sector nuclear employees for safety/security reasons

Part 26 Implementation

- Rule published in the FR 3/31/08
- Implementation: D&A Op. and fatigue -18 months
Subpart K – 30 days
- Industry developing 3 implementation guidance docs
- NRC to endorse guidance through a Regulatory Guide
- Part 26 Imp. Team revising inspection guidance
- Training for inspectors also being developed
- NRC developing FFD performance data electronic reporting capability for annual reports

Questions?