

## § 26.4

## 10 CFR Ch. I (1–1–01 Edition)

alcohol can also be obtained as a result of a confirmation of blood alcohol levels with a second breath analysis without MRO evaluation.

*Contractor* means any company or individual with which the licensee has contracted for work or service to be performed inside the protected area boundary, either by contract, purchase order, or verbal agreement.

*Cut-off level* means the value set for designating a test result as positive.

*Follow-up testing* means chemical testing at unannounced intervals, to ensure that an employee is maintaining abstinence from the abuse of drugs or alcohol.

*Illegal drugs* means those drugs included in Schedules I through V of the Controlled Substances Act (CSA), but not when used pursuant to a valid prescription or when used as otherwise authorized by law.

*Initial or screening tests* means an immunoassay screen for drugs or drug metabolites to eliminate “negative” urine specimens from further consideration or the first breathalyzer test for alcohol. Initial screening may be performed at the licensee’s testing facility; a second screen and confirmation testing for drugs or drug metabolites must be conducted by a HHS-certified laboratory.

*Medical Review Officer* means a licensed physician responsible for receiving laboratory results generated by an employer’s drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual’s positive test result together with his or her medical history and any other relevant biomedical information.

*Protected area* has the same meaning as in §73.2(g) of this chapter, an area encompassed by physical barriers and to which access is controlled.

*Random test* means a system of unannounced drug testing administered in a statistically random manner to a group so that all persons within that group have an equal probability of selection.

*Suitable inquiry* means best-effort verification of employment history for the past five years, but in no case less than three years, obtained through contacts with previous employers to

determine if a person was, in the past, tested positive for illegal drugs, subject to a plan for treating substance abuse, removed from, or made ineligible for activities within the scope of 10 CFR part 26, or denied unescorted access at any other nuclear power plant or other employment in accordance with a fitness-for-duty policy.

*Transporter* means a general licensee pursuant to 10 CFR 70.20a, who is authorized to possess formula quantities of SSNM in the regular course of carriage for another or storage incident thereto, and includes the driver or operator of any conveyance, and the accompanying guards or escorts.

*Vendor* means any company or individual, not under contract to a licensee, providing services in protected areas.

[54 FR 24494, June 7, 1989, as amended at 58 FR 31469, June 3, 1993]

### § 26.4 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

### § 26.6 Exemptions.

The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

### § 26.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB number.

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OMB has approved the information collection requirements contained in this part under control number 3150-0146.

(b) The approved information collection requirements contained in this part appear in §§ 26.20, 26.21, 26.22, 26.23, 26.24, 26.27, 26.29, 26.70, 26.71, 26.73, 26.80 and appendix A.

[54 FR 24494, June 7, 1989, as amended at 62 FR 52185, Oct. 6, 1997]

### GENERAL PERFORMANCE OBJECTIVES

#### § 26.10 General performance objectives.

Fitness-for-duty programs must:

(a) Provide reasonable assurance that nuclear power plant personnel, transporter personnel, and personnel of licensees authorized to possess or use formula quantities of SSNM, will perform their tasks in a reliable and trustworthy manner and are not under the influence of any substance, legal or illegal, or mentally or physically impaired from any cause, which in any way adversely affects their ability to safely and competently perform their duties;

(b) Provide reasonable measures for the early detection of persons who are not fit to perform activities within the scope of this part; and

(c) Have a goal of achieving a drug-free workplace and a workplace free of the effects of such substances.

[54 FR 24494, June 7, 1989, as amended at 58 FR 31469, June 3, 1993]

### PROGRAM ELEMENTS AND PROCEDURES

#### § 26.20 Written policy and procedures.

Each licensee subject to this part shall establish and implement written policies and procedures designed to meet the general performance objectives and specific requirements of this part. Each licensee shall retain a copy of the current written policy and procedures as a record until the Commission terminates each license for which the policy and procedures were developed and, if any portion of the policies and procedures are superseded, retain the superseded material for three years after each change. As a minimum, written policies and procedures must address fitness for duty through the following:

(a) An overall description of licensee policy on fitness for duty. The policy must address use of illegal drugs and abuse of legal drugs (e.g., alcohol, prescription and over-the-counter drugs). Written policy documents must be in sufficient detail to provide affected individuals with information on what is expected of them, and what consequences may result from lack of adherence to the policy. As a minimum, the written policy must prohibit the consumption of alcohol—

(1) Within an abstinence period of at least 5 hours preceding any scheduled working tour, and

(2) During the period of any working tour.

Licensee policy should also address other factors that could affect fitness for duty such as mental stress, fatigue and illness.

(b) A description of programs which are available to personnel desiring assistance in dealing with drug, alcohol, or other problems that could adversely affect the performance of activities within the scope of this part.

(c) Procedures to be utilized in testing for drugs and alcohol, including procedures for protecting the employee and the integrity of the specimen, and the quality controls used to ensure the test results are valid and attributable to the correct individual.

(d) A description of immediate and follow-on actions which will be taken, and the procedures to be utilized, in those cases where employees, vendors, or contractors assigned to duties within the scope of this part are determined to have been involved in the use, sale, or possession of illegal drugs; or to have consumed alcohol during the mandatory pre-work abstinence period, while on duty, or to excess prior to reporting to duty as demonstrated with a test that can be used to determine blood alcohol concentration.

(e) A procedure that will ensure that persons called in to perform an unscheduled working tour are fit to perform the task assigned. As a minimum, this procedure must—

(1) Require a statement to be made by a called-in person as to whether he or she has consumed alcohol within the length of time stated in the pre-duty abstinence policy;