

random tests; and shall make provisions for employee assistance programs, imposition of sanctions, appeals procedures, the protection of information, and recordkeeping.

(d) The regulations in this part apply to the Corporation required to obtain a certificate of compliance or an approved compliance plan under part 76 of this chapter only if the Corporation elects to engage in activities involving formula quantities of strategic special nuclear material. When applicable, the requirements apply only to the Corporation and personnel carrying out the activities specified in §26.2(a)(1) through (5).

[58 FR 31469, June 3, 1993, as amended at 59 FR 48959, Sept. 23, 1994]

### § 26.3 Definitions.

*Aliquot* means a portion of a specimen used for testing.

*Category IA Material* means strategic special nuclear material (SSNM) directly useable in the manufacture of a nuclear explosive device, except if:

(1) The dimensions are large enough (at least 2 meters in one dimension, greater than 1 meter in each of two dimensions, or greater than 25 cm in each of three dimensions) to preclude hiding the item on an individual;

(2) The total weight of 5 formula kilograms of SSNM plus its matrix (at least 50 kilograms) cannot be carried inconspicuously by one person; or

(3) The quantity of SSNM (less than 0.05 formula kilogram) in each container requires protracted diversions in order to accumulate 5 formula kilograms.

*Commission* means the Nuclear Regulatory Commission or its duly authorized representatives.

*Confirmatory test* means a second analytical procedure to identify the presence of a specific drug or drug metabolite which is independent of the initial screening test and which uses a different technique and chemical principle from that of the initial screening test in order to ensure reliability and accuracy. For determining blood alcohol levels, a “confirmatory test” means a second test using another breath alcohol analysis device. Further confirmation upon demand will be by gas chromatography analysis of blood.

*Confirmed positive test* means the result of a confirmatory test that has established the presence of drugs, drug metabolites, or alcohol in a specimen at or above the cut-off level, and that has been deemed positive by the Medical Review Officer (MRO) after evaluation. A “confirmed positive test” for 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

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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

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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. 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 §§ 26.6, 26.20, 26.21, 26.22, 26.23, 26.24, 26.25, 26.27, 26.28, 26.29, 26.70, 26.71, 26.73, 26.80, and appendix A to this part.

[54 FR 24494, June 7, 1989, as amended at 62 FR 52185, Oct. 6, 1997; 67 FR 67099, Nov. 4, 2002]

### 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