

**§ 26.55**

**10 CFR Ch. I (1–1–10 Edition)**

types of access and perform the duties specified in § 26.4(a) through (e) and (g), and, at the licensee's or other entity's discretion, § 26.4(f), and maintain his or her authorization, if the individual continues to be subject to either the receiving FFD program or a combination of elements from the receiving FFD program and the C/V's program that collectively satisfy the applicable requirements of this part. The receiving licensee's or other entity's FFD program shall ensure that the program elements to which the individual is subject under the C/V's FFD program remain current.

(f) Licensees and other entities who are seeking to grant authorization to an individual who has been subject to an FFD program under subpart K may not rely on that program or its program elements to meet the requirements of this subpart, except if the program or program element(s) of the FFD program for construction satisfy the applicable requirements of this part.

(g) The licensees and other entities specified in § 26.3(a) and, as applicable, (c) and (d), shall identify any violation of any requirement of this part to any licensee who has relied on or intends to rely on the FFD program element that is determined to be in violation of this part.

(h) The licensees and other entities specified in § 26.3(a) and, as applicable, (c) and (d), may not initiate any actions under this subpart without the knowledge and written consent of the subject individual. The individual may withdraw his or her consent at any time. If an individual withdraws his or her consent, the licensee or other entity may not initiate any elements of the authorization process specified in this subpart that were not in progress at the time the individual withdrew his or her consent, but shall complete and document any elements that are in progress at the time consent is withdrawn. The licensee or other entity shall record the individual's application for authorization; his or her withdrawal of consent; the reason given by the individual for the withdrawal, if any; and any pertinent information gathered from the elements that were completed (e.g., the results of pre-ac-

cess drug tests, information obtained from the suitable inquiry). The licensee or other entity to whom the individual has applied for authorization shall inform the individual that—

(1) Withdrawal of his or her consent will withdraw the individual's current application for authorization under the licensee's or other entity's FFD program; and

(2) Other licensees and entities will have access to information documenting the withdrawal as a result of the information sharing that is required under this part.

(i) The licensees and other entities specified in § 26.3(a) and, as applicable, (c) and (d), shall inform, in writing, any individual who is applying for authorization that the following actions related to providing and sharing the personal information required under this subpart are sufficient cause for denial or unfavorable termination of authorization:

(1) Refusal to provide written consent for the suitable inquiry;

(2) Refusal to provide or the falsification of any personal information required under this part, including, but not limited to, the failure to report any previous denial or unfavorable termination of authorization;

(3) Refusal to provide written consent for the sharing of personal information with other licensees or other entities required under this part; and

(4) Failure to report any legal actions, as defined in § 26.5.

**§ 26.55 Initial authorization.**

(a) Before granting authorization to an individual who has never held authorization under this part or whose authorization has been interrupted for a period of 3 years or more and whose last period of authorization was terminated favorably, the licensee or other entity shall ensure that—

(1) A self-disclosure has been obtained and reviewed under the applicable requirements of § 26.61;

(2) A suitable inquiry has been completed under the applicable requirements of § 26.63;

(3) The individual has been subject to pre-access drug and alcohol testing under the applicable requirements of § 26.65; and

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(4) The individual is subject to random drug and alcohol testing under the applicable requirements of § 26.67.

(b) If potentially disqualifying FFD information is disclosed or discovered, the licensee or other entity may not grant authorization to the individual, except under § 26.69.

### § 26.57 Authorization update.

(a) Before granting authorization to an individual whose authorization has been interrupted for more than 365 days but less than 3 years and whose last period of authorization was terminated favorably, the licensee or other entity shall ensure that—

(1) A self-disclosure has been obtained and reviewed under the applicable requirements of § 26.61;

(2) A suitable inquiry has been completed under the applicable requirements of § 26.63;

(3) The individual has been subject to pre-access drug and alcohol testing under the applicable requirements of § 26.65; and

(4) The individual is subject to random drug and alcohol testing under the applicable requirements of § 26.67.

(b) If potentially disqualifying FFD information is disclosed or discovered, the licensee or other entity may not grant authorization to the individual, except under § 26.69.

### § 26.59 Authorization reinstatement.

(a) In order to grant authorization to an individual whose authorization has been interrupted for a period of more than 30 days but no more than 365 days and whose last period of authorization was terminated favorably, the licensee or other entity shall ensure that—

(1) A self-disclosure has been obtained and reviewed under the applicable requirements of § 26.61;

(2) A suitable inquiry has been completed under the requirements of § 26.63 within 5 business days of reinstating authorization. If the suitable inquiry is not completed within 5 business days due to circumstances that are outside of the licensee's or other entity's control and the licensee or other entity is not aware of any potentially disqualifying information regarding the individual within the past 5 years, the licensee or other entity may maintain

the individual's authorization for an additional 5 business days. If the suitable inquiry is not completed within 10 business days of reinstating authorization, the licensee or other entity shall administratively withdraw the individual's authorization until the suitable inquiry is completed;

(3) The individual has been subject to pre-access drug and alcohol testing under the applicable requirements of § 26.65; and

(4) The individual is subject to random drug and alcohol testing under the applicable requirements of § 26.67.

(b) If a licensee or other entity administratively withdraws an individual's authorization under paragraph (a)(2) of this section, and until the suitable inquiry is completed, the licensee or other entity may not record the administrative action to withdraw authorization as an unfavorable termination and may not disclose it in response to a suitable inquiry conducted under the provisions of § 26.63, a background investigation conducted under the provisions of this chapter, or any other inquiry or investigation. The individual may not be required to disclose the administrative action in response to requests for self-disclosure of potentially disqualifying FFD information, except if the individual's authorization was subsequently denied or terminated unfavorably by the licensee or other entity.

(c) Before granting authorization to an individual whose authorization has been interrupted for a period of no more than 30 days and whose last period of authorization was terminated favorably, the licensee or other entity shall ensure that—

(1) A self-disclosure has been obtained and reviewed under the applicable requirements of § 26.61;

(2) The individual has been subject to pre-access drug and alcohol testing under the applicable requirements of § 26.65, if the individual's authorization was interrupted for more than 5 days; and

(3) The individual is subject to random drug and alcohol testing under the applicable requirements of § 26.67.

(d) If potentially disqualifying FFD information is disclosed or discovered, the licensee or other entity may not