Nuclear Regulatory Commission

§ 26.71 Maintaining authorization.

(a) Individuals may maintain authorization under the following conditions:

(1) The individual complies with the licensee’s or other entity’s FFD policies and procedures, as described in §26.27, including the responsibility to report any legal actions, as defined in §26.5;

(2) The individual remains subject to a drug and alcohol testing program that meets the requirements of §26.31, including random testing;

(3) The individual remains subject to a behavioral observation program that meets the requirements of §26.33; and

(4) The individual successfully completes required FFD training on the schedule specified in §26.29(c).

(b) If an authorized individual is not subject to an FFD program that meets the requirements of this section for more than 30 continuous days, then the licensee or other entity shall terminate

(1) Ensure that the licensee’s or other entity’s designated reviewing official completes a review of the circumstances associated with the information;

(2) If the designated reviewing official concludes that a determination of fitness is required, verify that a professional with the appropriate qualifications, as specified in §26.189(a), has indicated that the individual is fit to safely and competently perform his or her duties; and

(3) If the reviewing official determines that maintaining the individual’s authorization is warranted, implement any recommendations for treatment and followup testing and alcohol testing from the determination of fitness, which may include the collection of urine specimens under direct observation, and ensure that the individual complies with and successfully completes the treatment plans.

(e) Accepting followup testing and treatment plans from another FFD program. Licensees and other entities may rely on followup testing, treatment plans, and determinations of fitness that meet the requirements of §26.189 and were conducted under the FFD program of another licensee or entity who is subject to this subpart.

(1) If an individual leaves the FFD program in which a treatment and/or followup testing plan was required under paragraphs (b), (c), or (d) of this section, the licensee or other entity who imposed the treatment and/or followup testing plan shall ensure that information documenting the treatment and/or followup testing plan is identified to any subsequent licensee or other entity who seeks to grant authorization to the individual. If the individual is granted authorization by the same or another licensee or entity, the licensee or other entity who grants authorization to the individual shall ensure that any followup testing requirements are met and that the individual complies with any treatment plan, with accountability assumed by the granting licensee or other entity. If it is impractical for the individual to comply with a treatment plan that was developed under another FFD program because of circumstances that are outside of the individual’s or licensee’s or other entity’s control (e.g., geographical distance, closure of a treatment facility), then the granting FFD program shall ensure that an SAE develops a comparable treatment plan, with accountability for monitoring the individual’s compliance with the plan assumed by the granting licensee or other entity.

(2) If the previous licensee or other entity determined that the individual successfully completed any required treatment and followup testing, and the individual’s last period of authorization was terminated favorably, the receiving licensee or entity may rely on the previous determination of fitness and no further review or followup is required.

(f) Sanctions. If an individual has confirmed positive, adulterated, or substituted test results from any drug, validity, or alcohol test required in this section, the licensee or other entity shall, at a minimum and as appropriate—

(1) Deny authorization to the individual, as required by §26.75(b), (d), (e)(2), or (g); or

(2) Terminate the individual’s authorization, if it has been granted, as required by §26.75(e)(1) or (f).

§ 26.73 Applicability.

The requirements in this subpart apply to the licensees and other entities identified in §26.3(a), (b), and, as applicable, (c) for the categories of individuals specified in §26.4(a) through (d) and (g). The requirements in this subpart also apply to the licensees and other entities specified in §26.3(c), as applicable, for the categories of individuals in §26.4(e). At the discretion of a licensee or other entity in §26.3(c), the requirements of this subpart also may be applied to the categories of individuals identified in §26.4(f). In addition, the requirements in this subpart apply to the entities in §26.3(d) to the extent that a licensee or other entity relies on the CV to meet the requirements of this subpart. The regulations in this subpart also apply to the individuals specified in §26.4(h) and (j), as appropriate.

§ 26.75 Sanctions.

(a) This section defines the minimum sanctions that licensees and other entities shall impose when an individual has violated the drug and alcohol provisions of an FFD policy. A licensee or other entity may impose more stringent sanctions, except as specified in paragraph (h) of this section.

(b) Any act or attempted act to subvert the testing process, including, but not limited to, refusing to provide a specimen and providing or attempting to provide a substituted or adulterated specimen, for any test required under §26.31(c) must result in the immediate unfavorable termination of the individual’s authorization and permanent denial of authorization thereafter.

(c) Any individual who is determined to have been involved in the sale, use, or possession of illegal drugs or the consumption of alcohol within a protected area of any nuclear power plant, within a facility that is licensed to possess or use formulas of SSNM, within a transporter’s facility or vehicle, or while performing the duties that require the individual to be subject to this subpart shall immediately have his or her authorization unfavorably terminated and denied for a minimum of 5 years from the date of the unfavorable termination of authorization.

(d) Any individual who resigns or withdraws his or her application for authorization before authorization is terminated or denied for a first violation of the FFD policy involving a confirmed positive drug or alcohol test result shall have his or her authorization denied for a minimum of 5 years from the date of termination or denial. If an individual resigns or withdraws his or her application for authorization before his or her authorization is terminated or denied for any violation of the FFD policy, the licensee or other entity shall record the resignation or withdrawal, the nature of the violation, and the minimum sanction that would have been required under this section had the individual not resigned or withdrawn his or her application for authorization.

(e) Lacking any other evidence to indicate the use, sale, or possession of illegal drugs or consumption of alcohol on site, a confirmed positive drug or alcohol test result must be presumed to be an indication of offsite drug or alcohol use in violation of the FFD policy.

(1) The first violation of the FFD policy involving a confirmed positive drug or alcohol test result must, at a minimum, result in the immediate unfavorable termination of the individual’s authorization for at least 14 days from the date of the unfavorable termination.

(2) Any subsequent confirmed positive drug or alcohol test result, including during an assessment or treatment period, must result in the denial of authorization for a minimum of 5 years from the date of denial.

(f) Paragraph (e) of this section does not apply to the misuse of prescription and over-the-counter drugs, except if the MRO determines that misuse of the prescription or over-the-counter drug represents substance abuse. Sanctions for misuse of prescription and over-the-counter drugs must be sufficient to deter misuse of those substances.