

### Subpart K—FFD Program for Construction

#### § 26.401 General.

(a) At the licensee's or other entity's discretion, a licensee or other entity in § 26.3(c) may establish, implement, and maintain an FFD program that meets the requirements of this subpart to apply to the individuals specified in § 26.4(f). If a licensee or other entity in § 26.3(c) does not elect to implement an FFD program that meets the requirements of this subpart, the individuals specified in § 26.4(f) shall be subject to an FFD program that meets the requirements of subparts A through H, N, and O of this part.

(b) Entities who intend to implement an FFD program under this subpart shall submit a description of the FFD program and its implementation as part of the license, permit, or limited work authorization application.

(c) Nothing in this subpart prohibits the licensees and other entities in § 26.3(c) from subjecting the individuals in § 26.4(f) to an FFD program that meets all of the requirements of this part or FFD program elements that meet all of the applicable requirements of this part.

#### § 26.403 Written policy and procedures.

(a) Licensees and other entities who implement an FFD program under this subpart shall ensure that a clear, concise, written FFD policy statement is provided to individuals who are subject to the program. The policy statement must be written in sufficient detail to provide affected individuals with information on what is expected of them and what consequences may result from a lack of adherence to the policy.

(b) Licensees and other entities shall develop, implement, and maintain written procedures that address the following topics:

(1) The methods and techniques to be used in testing for drugs and alcohol, including procedures for protecting the privacy of an individual who provides a specimen, procedures for protecting the integrity of the specimen, and procedures used to ensure that the test results are valid and attributable to the correct individual;

(2) The immediate and followup actions that will be taken, and the procedures to be used, in those cases in which individuals who are subject to the FFD program are determined to have—

(i) Been involved in the use, sale, or possession of illegal drugs;

(ii) Consumed alcohol to excess before or while constructing or directing the construction of safety- or security-related SSCs, as determined by a test that accurately measures BAC;

(iii) Attempted to subvert the testing process by adulterating or diluting specimens (in vivo or in vitro), substituting specimens, or by any other means;

(iv) Refused to provide a specimen for analysis; or

(v) Had legal action taken relating to drug or alcohol use.

(3) The process to be followed if an individual's behavior or condition raises a concern regarding the possible use, sale, or possession of illegal drugs on or off site; the possible use or possession of alcohol while constructing or directing the construction of safety- or security-related SSCs; or impairment from any cause which in any way could adversely affect the individual's ability to safely and competently perform his or her duties.

[73 FR 17176, Mar. 31, 2008, as amended at 75 FR 73941, Nov. 30, 2010]

#### § 26.405 Drug and alcohol testing.

(a) To provide means to deter and detect substance abuse, licensees and other entities who implement an FFD program under this subpart shall perform drug and alcohol testing that complies with the requirements of this section.

(b) If the licensee or other entity elects to impose random testing for drugs and alcohol on the individuals identified in § 26.4(f), random testing must—

(1) Be administered in a manner that provides reasonable assurance that individuals are unable to predict the time periods during which specimens will be collected;

(2) Require individuals who are selected for random testing to report to the collection site as soon as reasonably practicable after notification,