

Presentation for the  
Drug Testing Advisory Board  
U.S. Department of Health and Human Services  
Substance Abuse and Mental Health Services  
Administration

**10 CFR Part 26**  
**Fitness for Duty Programs**

A Direct Contribution to Safety and Security

# Discussion Topics

- Introduction
- 10 CFR Part 26, Fitness for Duty (FFD) Programs
  - Background
  - The FFD Strategy
  - FFD Program Elements
  - A thought on being fit for duty
- Technical Issues
- Industry Performance
- Contacts

# Background – Part 26 History

- In June 1989, the Part 26 FFD rule established:
  - Drug and alcohol testing at commercial power reactors
  - Behavioral observation program
  - Sanctions for FFD policy violations
  - Protections of employee rights and assistance programs
- In March 2008, the FFD rule was amended to:
  - Strengthen the effectiveness of the rule
  - Broaden the applicability of the rule to other NRC licensees
  - Align a number of provisions with the Federal drug testing program
  - Enhance consistency between FFD and access authorization requirements
  - Establish fatigue management requirements

# The FFD Strategy

- Fit, reliable, trustworthy personnel
  - Authorization requirements
  - Drug and alcohol testing
  - Behavioral observation
  - Fatigue management

# FFD Program Elements

1. Performance objectives
2. Policy, programs, procedures, and training
3. Drug and alcohol testing
4. Behavioral observation
5. Employee assistance program
6. Protection of information (i.e., privacy protection)
7. Employee appeal/review process for violations
8. Licensee Testing Facilities and Laboratories
9. Determinations of fitness
10. FFD authorization
11. Audits and corrective actions
12. Reports, recordkeeping, and reportability

# What is being Fit for Duty?

- Being fit for duty is part of the NRC's defense-in-depth regulatory framework that helps provide assurance that persons covered by Part 26 can safely and competently perform assigned duties.
- From the requirements in Part 26, being fit for duty means, in part, that a person is:
  - not under the influence of any legal or illegal drug or substance as defined by testing cutoffs and/or a determination of fitness;
  - not impaired by acute or cumulative fatigue; and,
  - mentally and physically capable of safely and competently performing assigned duties.
- Being fit for duty also informs the licensee's determination of whether a person is trustworthy and reliable.

# Technical Issues

## Oral fluids and hair testing requirements (HHS Guidelines)

1. Updating of urine testing requirements (HHS Guidelines)
2. Synthetic drug abuse
3. Prescription drug abuse
4. Impairment caused by use of multiple prescriptions
5. Guidance on determinations of fitness
6. Other technical issues

### Current Staff Activities

1. Rulemaking
2. Evaluation of lessons learned and technical issues
3. Guidance development
4. Outreach – Federal partners
5. Inspection and oversight technical coordination
6. Licensee and public interactions

# 2011 Industry Performance

- 76 Licensees and other entities reported FFD performance data
- 61 Number of facilities electronically reporting
- 178,586 Total number of drug and alcohol tests conducted in CY 2011
- 0.60% Overall industry positive rate
  - 0.23% Overall positive rate for licensee employees
  - 0.77% Overall positive rate for contractor/vendors
- 37 Number of drug & alcohol events reported to the NRC
  - 24 of these 37 events involved supervisors
  - 2 of these 37 events involved NRC-licensed operators
- 90% Percentage of all tests that involved marijuana, cocaine, or alcohol
  - 52% involved marijuana
  - 26% involved alcohol
  - 12% involved cocaine

# 2011 Positive Test Results by Substance

- Licensee employees
- Contractors/vendors

Drug	Percentage
Alcohol	53.85
Marijuana	23.85
Cocaine	9.23
Amphetamines	6.15
Refusal to test	4.62
Opiates	1.54
Other	0.77

Drug	Percentage
Alcohol	19.30
Marijuana	50.15
Cocaine	11.56
Amphetamines	7.74
Refusal to test	9.25
Opiates	1.61
Phencyclidine	0.30
Other	0.10

# Trends in Positive Test Rates, all test types by Employment Category (1993–2011)

- Licensee employees

Year	Total Tests	Number Positive	Percent Positive
1993	109,375	274	0.25%
1994	65,850	219	0.33%
1995	58,801	197	0.34%
1996	56,387	244	0.43%
1997	55,402	187	0.34%
1998	51,926	169	0.33%
1999	49,046	159	0.32%
2000	46,385	206	0.44%
2001	46,466	147	0.32%
2002	45,905	117	0.25%
2003	44,892	146	0.33%
2004	44,900	123	0.27%
2005	44,405	122	0.27%
2006	47,219	118	0.25%
2007	47,974	115	0.24%
2008	51,852	113	0.22%
2009	54,845	153	0.28%
2010	53,287	119	0.22%
2011	54,203	127	0.23%

- Contractors/vendors

Year	Total Tests	Number Positive	Percent Positive
1993	133,591	1,238	0.93%
1994	97,391	1,153	1.18%
1995	91,320	1,279	1.40%
1996	91,071	1,268	1.39%
1997	93,765	1,261	1.34%
1998	77,772	953	1.23%
1999	78,294	1,065	1.36%
2000	77,647	1,150	1.48%
2001	70,737	857	1.21%
2002	81,095	935	1.15%
2003	81,692	911	1.12%
2004	87,369	911	1.04%
2005	90,104	810	0.90%
2006	91,705	907	0.99%
2007	92,229	792	0.86%
2008	97,914	823	0.84%
2009	109,602	840	0.77%
2010	113,354	862	0.76%
2011	124,383	953	0.77%

# Licensee Employees, Positive Results by Substance and Reason for Test (electronically-reported results)

Substance	Pre-Access	Random	For Cause	Post-Event	Follow-up
Alcohol	16%	61%	81%	33%	70%
Marijuana	52%	22%	0%	67%	0%
Cocaine	12%	10%	5%	0%	10%
Refusal to Test	8%	4%	5%	0%	0%
Amphetamines	12%	4%	10%	0%	0%
Opiates	0%	0%	0%	0%	10%
Benzodiazepines	0%	0%	0%	0%	10%
<b>Total %</b>	100%	100%	100%	100%	100%
<b>Total n</b>	(Total = 25)	(Total = 51)	(Total = 21)	(Total = 3)	(Total = 10)

# Contractors/Vendors, Positive Results by Substance and Reason for Test (electronically-reported results)

- \* Includes all test categories except the “Other” category. No tests were reported for this category in FY11

Substance	Pre-Access	Random	For Cause	Post-event	Follow-up
<b>Marijuana</b>	57%	33%	26%	20%	21%
<b>Alcohol</b>	14%	24%	55%	0%	36%
<b>Cocaine</b>	11%	19%	6%	0%	17%
<b>Amphetamines</b>	7%	14%	2%	20%	13%
<b>Opiates</b>	1%	0%	0%	60%	2%
<b>Refusal to Test</b>	9%	10%	11%	0%	11%
<b>PCP</b>	0%	0%	0%	0%	0%
<b>Total %</b>	100%	100%	100%	100%	100%
<b>Total n</b>	(Total = 635)	(Total = 118)	(Total = 47)	(Total = 5)	(Total = 47)

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