



NRC NEWS

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NRC ISSUES INTERIM ENFORCEMENT POLICY FOR FITNESS-FOR-DUTY ISSUES

The Nuclear Regulatory Commission (NRC) is publishing an interim policy regarding enforcement discretion for certain fitness-for-duty issues that affect employees at nuclear power plants and workers performing activities related to strategic special nuclear materials.

“Fitness for duty” refers to a 1989 NRC rule that requires licensees authorized to operate nuclear power reactors and licensees authorized to possess, use or transport formula quantities of these special nuclear materials to establish programs to deter and detect employee substance abuse.

As a result of rulemaking activities, the NRC learned of licensee practices in two fitness-for-duty areas, “suitable inquiry” and “pre-access testing,” that did not meet current regulations. Current regulations require licensees to conduct a “suitable inquiry” into an individual’s employment history for the past five years to identify any substance abuse problems.

The discretion policy allows licensees to forego a suitable inquiry for individuals being reinstated or transferred after an interruption in authorization of 30 days or less. Based upon industry experience, the NRC has concluded that there is limited risk from individuals who have established a work history within the nuclear industry, have previously met the access authorization and fitness-for-duty regulations for granting and maintaining authorization, and have a short break in authorization due to a vacation or a transfer to a different site.

The fitness-for-duty regulations require self-disclosure of any drug- and alcohol-related problems that may have occurred during the period of interruption prior to reinstating authorization to provide additional assurance that any developing substance abuse problems are detected for the period in which authorization was interrupted.

The policy allows licensees to rely upon the information gathered by previous licensees, and by contractors/vendors with licensee-approved, fitness-for-duty programs, to meet the suitable inquiry requirement.

The discretion policy also allows licensees to forego a pre-access test for individuals being reinstated or transferred with an interruption in authorization of 30 days or less, provided the individual

was favorably terminated and provides a self-disclosure. In addition, no pre-access test is required for individuals being reinstated or transferred with an interruption in authorization between 31 and 60 days or less, provided they were covered by a contractor/vendor fitness-for-duty program during that period and the program includes the same elements as an NRC-approved program.

The NRC does not intend to pursue past violations of the fitness-for-duty rule by licensees who followed practices now permitted by this interim policy. The NRC believes this exercise of enforcement discretion is appropriate.

The interim enforcement policy will be effective on December 30, 60 days after publication in the *Federal Register* today, and will be used until final amendments to the fitness-for-duty requirements become effective.

A copy of the interim enforcement policy will be available on the NRC's Web site at www.nrc.gov , **What We Do; Enforcement**; then **Enforcement Policy**, or by sending an e-mail to fitnessforduty@nrc.gov .

Comments on the interim policy may be sent to Michael Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop: T6D59, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001.

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