



Part 26 FFD Final Rule Subpart K

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Final Rule Review and Concurrence Schedule

- Office concurrence in process
- Staff to incorporate comments and make necessary changes to related documents
- NRR Director to concur and forward to OEDO in mid-December, 2006



Final Rule Background and Development

- Published for information only (NRC RuleForum page) draft final rule language
 - Draft final Subparts I & K (August 2006)
 - Entire draft final rule requirements (October 2006)



Industry Comments on Construction Requirements

- Results from a category 3 public meeting in March 2006
 - No risk to public health and safety until fuel arrives – industrial safety only
 - Cross-references to other sections of the rule will impose all of the rule's requirements
 - Performance objectives not applicable to construction sites
 - Undue administrative burdens for audits and determinations of fitness



NRC Staff Concerns

- Protecting the common defense and security during construction
- Preventing potential impacts on public health and safety from errors during construction
- Scoping requirements commensurate with risk



Bases for Staff Concerns

- Construction workers have highest rates of substance abuse problems among occupational groups in the U.S.
- NRC staff experience with previous construction includes examples of:
 - FFD-related incidents at the construction sites
 - Drugs, drug paraphernalia, empty alcohol bottles found on-site *after* operations began



Bases for Staff Concerns

- Some construction workers will have access to sensitive information that could be useful to an adversary, as well as physical access to SSCs
 - Current investigation at Los Alamos of lab archivist trading information for methamphetamine



Bases for Staff Concerns

- Impaired workers will commit errors that may not or cannot be detected
 - Many OE examples of SSCs that were installed incorrectly during construction and the error was not discovered until they were called on to function as designed
 - QA processes use a sampling approach and are not intended to address security concerns
 - Some SSCs are not amenable to testing or evaluation after construction and must be constructed correctly the first time



Staff Conclusions

- Measures to detect and deter substance abuse, in addition to pre-access, for-cause, and post-accident testing, are necessary
- However, the full defense-in-depth approach of the FFD program for operating plants is not warranted for all construction workers



Detecting/Deterring Substance Abuse

- Pre-access testing does not deter or detect substance abuse after testing
- Post-accident testing is infrequent and has only a small deterrent effect
- For-cause testing is only effective when individuals
 - Know what to look for
 - Know how to implement procedures for reporting an FFD concern



Detecting/Deterring Substance Abuse

- Subpart K permits a choice of additional measures to provide on-going deterrence and detection
 - Random testing of construction workers with behavioral observation, or
 - A fitness monitoring program



Random Testing Option

- Random testing rate must be adequate to support detection and deterrence
- Population subject to testing limited to individuals on-site on the day of testing
- Specimens may be collected at a hospital or clinic under DOT/HHS procedures



Fitness Monitoring Option

- Selection of monitors is at the applicant's discretion
- Monitors must be trained and subject to full FFD program to ensure their fitness, trustworthiness, and reliability
- Extent of monitoring required will vary, depending on construction stage and other considerations



Fitness Monitoring Considerations

- Commensurate with potential risks associated with the construction activity
 - Placement of monitors necessary to maintain visual contact with workers
 - Ratio of monitors to workers necessary to be effective
 - Frequency of monitoring
 - Extent to which errors/unwanted actions can be detected and corrected



Applicability of Subpart K Program

- Applicable only to those who perform the tasks involved in building any structure, system, or component (SSC) of a facility that is required by the Commission's rules and regulations to be described in the site safety analysis report or preliminary or final safety analysis report
- Applicable only when the tasks are being performed at the location where the nuclear power plant will be constructed and operated, including fabricating, erecting, integrating, and testing the SSCs and the installation of their foundations, including the placement of concrete



Full FFD Program Applicability to Construction

- Complete Part 26 program applies to individuals who have key responsibilities for protecting public health and safety and the common defense and security during construction, including
 - Security personnel
 - QA inspectors under Appendix B to Part 50
 - Those who have responsibility for verifying that ITAACs have been successfully completed
 - Escorts
 - Fitness monitors



Other Changes from Proposed Rule

- Draft final Subpart K eliminates all cross-references to other portions of the rule, except
 - Cross-references necessary to clarify who is subject to Subpart K
 - Specific cross-references to other portions of the rule that do not invoke additional sections



Rule Implementation

- One year after publication in Federal Register to fully implement rule requirements
- NRC will continue to work with industry to develop, review, and endorse NEI 06-06 for construction and consider publication as a regulatory guide