

**NRC Comments on NEI 03-01 Rev. 2 [June 2008]
with Respect to Fitness-for-Duty Requirements**

August 14, 2008

**Section I: Comparison of FFD Final Rule Subparts A, B, C, D, and N
and NEI 03-01 Rev 2 (April 2008 and June 2008)**

FFD Rule Section	Corresponding NEI 03-01 Text	NRC
General Comments		
<p>As stated in NEI 03-01, the guidance document is intended to address nuclear power plant licensee and licensee-approved C/V UAA and FFD programs comments in this document describe revisions needed for NEI to gain endorsement under Subparts A, B, C, D and N of Part 26 for the entities in 10 CFF applicable.</p> <p>The June revision of NEI 03-01 omitted some sections of the guidance. When necessary, the April revision of NEI 03-01 was used for comparison to rule June or April versions have been inserted.</p>		
Subpart A		
<p>NOTE: some of the sections in subpart A are not applicable for inclusion in NEI 03-01 and some of the sections cannot be adequately implemented by NEI 03-01 must be revised per the subpart A comments herein so NEI 03-01 is not inconsistent with Part 26.</p>		
<p>§ 26.1 Purpose. This part prescribes requirements and standards for the establishment, implementation, and maintenance of fitness-for-duty (FFD) programs.</p>	<p>1 INTRODUCTION (June version) This document, Nuclear Power Plant Access Authorization Program, hereinafter referred to as NEI 03-01, has been designed to establish consistency in access authorization programs throughout the nuclear power industry...NEI 03-01 provides a process and delineates criteria for authorizing and maintaining a worker's UAA, including FFD authorization, leading to the eligibility for being granted unescorted access (UA).</p>	<p>Revise Section 1 to 10 CFR Part 26.</p> <p>Industry Responses re-formatted. A new added that states:</p> <p>"In addition, this do establishment, imp maintenance of a fi program as require"</p>

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<p>§ 26.3 Scope. (a) Licensees who are authorized to operate a nuclear power reactor under 10 CFR 50.57, and holders of a combined license under 10 CFR part 52 after the Commission has made the finding under 10 CFR 52.103(g) shall comply with the requirements of this part, except for subpart K of this part. The FFD program must be implemented before the receipt of special nuclear material in the form of fuel assemblies. (c) The following licensees and other entities shall comply with the requirements of this part, except for subpart I of this part: (1) Combined license applicants (under part 52 of this chapter) who have been issued a limited work authorization under § 50.10(e), if the limited work authorization authorizes the applicant to install the foundations, including the placement of concrete, for safety- and security-related structures, systems, and components (SSCs) under the limited work authorization; (2) Combined license holders (under part 52 of this chapter) before the Commission has made the finding under § 52.103(g); (3) Construction permit applicants (under part 50 of this chapter) who have been issued a limited work authorization under § 50.10(e), if the limited work authorization authorizes the applicant to install the foundations, including the placement of concrete, for safety- and security-related SSCs under the limited work authorization; (4) Construction permit holders (under part 50 of this chapter); and (5) Early site permit holders who have been issued a limited work authorization under § 50.10(e), if the limited work authorization authorizes the early site permit holder to install the foundations, including the placement of concrete, for safety- and security-related SSCs under the limited work authorization. (d) Contractor/vendors (C/Vs) who implement FFD programs or program elements, to the extent that the licensees and other entities specified in paragraphs (a) through (c) of this section rely on those C/V FFD programs or program elements to meet the requirements of this part, shall comply with the requirements of this part.</p>	<p>2. Purpose and Scope (June version) This document is applicable to commercial nuclear power plant licensees and licensee-approved C/V UAA and FFD programs.</p>	<p>Revise Section 2 to 10 CFR Part 26.</p> <p><i>Industry Responses deliberately limited to commercial nuclear power plants and certain other NRC-licensed activities, such as fuel processing facilities, construction programs, as an exception to the established, implement under a separate Fitness-for-Duty Program for Nuclear Power Plants.</i></p>

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<p>§ 26.4 FFD program applicability to categories of individuals.</p> <p>(a) All persons who are granted unescorted access to nuclear power reactor protected areas by the licensees in § 26.3(a) and perform the following duties shall be subject to an FFD program that meets all of the requirements of this part, except subpart K of this part.</p> <p>(1) Operating or on-site directing of the operation of systems and components that a risk-informed evaluation process has shown to be significant to public health and safety;</p> <p>(2) Performing health physics or chemistry duties required as a member of the on-site emergency response organization minimum shift complement;</p> <p>(3) Performing the duties of a fire brigade member who is responsible for understanding the effects of fire and fire suppressants on safe shutdown capability;</p> <p>(4) Performing maintenance or on-site directing of the maintenance of SSCs that a risk-informed evaluation process has shown to be significant to public health and safety; and</p> <p>(5) Performing security duties as an armed security force officer, alarm station operator, response team leader, or watchperson, hereinafter referred to as security personnel.</p> <p>(b) All persons who are granted unescorted access to nuclear power reactor protected areas by the licensees in § 26.3(a) and who do not perform the duties described in paragraph (a) of this section shall be subject to an FFD program that meets all of the requirements of this part, except §§ 26.205 through 26.209 and subpart K of this part.</p> <p>(c) All persons who are required by a licensee in § 26.3(a) to physically report to the licensee's Technical Support Center or Emergency Operations Facility by licensee emergency plans and procedures shall be subject to an FFD program that meets all of the requirement of this part, except §§ 26.205 through 26.209 and subpart K of this part.</p>	<p>5. INDIVIDUALS SUBJECT TO THE ACCESS AUTHORIZATION PROGRAM (June version)</p> <p>The following individuals are subject to the access authorization program and must be screened in accordance with this document.</p> <ul style="list-style-type: none"> o Any individual to whom a licensee grants unescorted access to nuclear power plant protected or vital areas or any individual for whom a licensee authorizes unescorted access authorization; o Background investigation screener personnel responsible to control, collect and process information that will be used by the reviewing official to make access determinations. o Personnel who evaluate information for the purpose of processing individuals for UAA/UA who has unfettered access to the file and records of person applying for or holding UAA/UA or who is responsible for data management upon which UAA/UA decisions may be based, and o FFD program personnel. 	<p>Add reference in g1 "All persons who ar in § 26.3(a) to phys licensee's Technic Emergency Operat emergency plans a subject to an FFD ; the requirement of §§ 26.205 through this part."</p> <p>Industry Respons re-formatted. Howe 5.a.2 has been adc</p> <p>"All persons who ar to physically report Technical Support Operations Facility licensee emergenc</p>
<p>§ 26.4 (d)</p>		<p>Not applicable.</p>

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<p>§ 26.4(e) When construction activities begin, any individual whose duties for the licensees and other entities in § 26.3(c) require him or her to have the following types of access or perform the following activities at the location where the nuclear power plant will be constructed and operated shall be subject to an FFD program that meets all of the requirements of this part, except subparts I and K of this part:</p> <p>(1) Serves as a security officer under NRC requirements;</p> <p>(2) Performs quality assurance activities, as specified in Appendix B to part 50;</p> <p>(3) Based on a designation under § 26.406 by a licensee or other entity, monitors the fitness of the individuals specified in paragraph (f) of this section;</p> <p>(4) Determines that inspections, tests, and analyses, or parts thereof, required under part 52 of this chapter have been successfully completed;</p> <p>(5) Supervises or manages the construction of safety- or security-related SSCs; or</p> <p>(6) Directs, as defined in § 26.5, or implements the access authorization program, including—</p> <p>...</p>		<p>Add requirements : 10 CFR Part 26. T in section 26.4(e) n 01 if fuel is brought under section 52.11</p> <p>Industry Respons deliberately limited to commercial nucl certain other NRC- fuel processing fac 03-01. Constructio programs, as an ex established, imple under a separate p Fitness-for-Duty Pr Nuclear Power Pla.</p>
<p>§ 26.4 (f)</p>		<p>Not applicable.</p>

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<p>(h) Individuals who have applied for authorization to have the types of access or perform the activities described in paragraphs (a) through (d) of this section shall be subject to §§ 26.31(c)(1), 26.35(b), 26.37, 26.39, and the applicable requirements of subparts C, and E through H of this part.</p>	<p>Various sections, including: Section 4 DEFINITIONS & ACRONYMS (definition of FFD Authorization) Section 14 RECORDS AND PROTECTION OF INFORMATION Section 12.6 UAA/UA-DENIAL REVIEW PROCESS</p>	<p>See comments for 26.39, and subpart</p> <p>Industry Respons 10 CFR 26.31, 26.01 includes certain were appropriate to authorization progr Subpart C are cont 03-01</p>
<p>(j) Individuals who are subject to this part and who are also subject to a program regulated by another Federal agency or State need be covered by only those elements of an FFD program that are not included in the Federal agency or State program, as long as all of the following conditions are met: (1) The individuals are subject to pre-access (or pre-employment), random, for-cause, and post-event testing for the drugs and drug metabolites specified in § 26.31(d)(1) at or below the cutoff levels specified in § 26.163(a)(1) for initial drug testing and in § 26.163(b)(1) for confirmatory drug testing; (2) The individuals are subject to pre-access (or pre-employment), random, for-cause, and post-event testing for alcohol at or below the cutoff levels specified in § 26.103(a) and breath specimens are subject to confirmatory testing, if required, with an EBT that meets the requirements specified in § 26.91; (3) Urine specimens are tested for validity and the presence of drugs and drug metabolites at a laboratory certified by the Department of Health and Human Services (HHS); (4) Training is provided to address the knowledge and abilities (KAs) listed in § 26.29(a)(1) through (a)(10); and (5) Provisions are made to ensure that the testing agency or organization notifies the licensee or other entity granting authorization of any FFD policy violation.</p>		<p>NEI 03-01 does not which offers flexibil</p> <p>Industry Respons desire to adopt the CFR 26.4 (j) in this required prior to ad well as the system not provide a suffic to be of benefit to p</p>

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<p>§ 26.5 Definitions. <i>Best effort</i> means documented actions that a licensee or other entity who is subject to subpart C of this part takes to obtain suitable inquiry and employment information in order to determine whether an individual may be granted authorization, when the primary source of information refuses or indicates an inability or unwillingness to provide the information within 3 business days of the request and the licensee or other entity relies on a secondary source to meet the requirement.</p> <p><i>Contractor/vendor (C/V)</i> means any company, or any individual not employed by a licensee or other entity specified in § 26.3(a) through (c), who is providing work or services to a licensee or other entity covered in § 26.3(a) through (c), either by contract, purchase order, oral agreement, or other arrangement.</p> <p><i>Employment action</i> means a change in job responsibilities or removal from a job, or the employer-mandated implementation of a plan for substance abuse treatment in order to avoid a change in or removal from a job, because of the individual's use of drugs or alcohol.</p> <p><i>Reviewing official</i> means an employee of a licensee or other entity specified in § 26.3(a) through (c), who is designated by the licensee or other entity to be responsible for reviewing and evaluating any potentially disqualifying FFD information about an individual, including, but not limited to, the results of a determination of fitness, as defined in § 26.189, in order to determine whether the individual may be granted or maintain authorization.</p> <p>Industry Response: The note in Section 4 has been revised as follows: "Note: Any term appearing in this document that is not defined in this document but defined in regulation i.e., 10 CFR Part 26, 10 CFR 73.56, etc., has the meaning specified in the regulation. In addition, some definitions have deliberately been reduced from the scope permitted in regulation."</p>	<p>4 DEFINITIONS & ACRONYMS (June version)</p> <p>Note: These definitions and acronyms expand upon but do not replace those found in regulatory documents.</p> <p>Best Effort—Documented actions taken to verify the required employment, suitable inquiry and education information pertaining to an individual's UAA determination. This is used when the primary source fails to respond, refuses to assist or indicates an inability or unwillingness to provide the requested information within 3 business days and a secondary source is used to complete the requirement.</p> <p>Contractor/vendor (C/V)—Any company or any individual not employed by a licensee who is providing work or services to a licensee either by contract, purchase order, oral agreement, or other arrangement that supports UAA/UA or FFD-related requirements.</p> <p>Employment Action—A formal change in job responsibilities or removal from a job, or the employer-mandated implementation of a plan for substance abuse treatment in order to avoid a formal change in or removal from a job, or any military non-judicial punishment because of the individual's use of drugs or alcohol or violation of an FFD policy.</p> <p>Reviewing official—The licensee or, if applicable, C/V persons assigned by their company to make access suitability determinations relative to an individual's trustworthiness, reliability and fitness-for-duty based upon all collected information.</p> <p>In addition, the definitions specified above have been added to Section 4, NEI 03-01. The definition of "Best Effort" has been revised. The industry desires to deliberately limit the meaning of C/V within NEI 03-01. The definition of "employment action" has been modified. The definition of "Reviewing official" has been modified but left sufficiently broad so as to include other access authorization matters.</p>	<p>Add definitions for 1 in NEI 03-01 but not any term appearing defined in NEI 03-01 10 CFR Part 26 has 10 CFR Part 26: Adulterated Collection site Collector Confirmatory alcohol Confirmed test result Donor Illegal drug Invalid test result Nominal Positive result Substituted specimen Subversion and sul</p> <p>Revise the definition to comply with regulation</p> <p>Revise the definition C/V is limited to an individual that supports related requirements in this fashion.</p> <p>Revise the definition to remove the word violation of an FFD</p> <p>Revise the definition to comply with regulation</p>

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§ 26.7 Interpretations.		Not applicable.
§ 26.8 Information collection requirements: OMB approval.		Not applicable.
§ 26.9 Specific exemptions.		Not applicable.
§ 26.11 Communications.		Not applicable.
Subpart B		
<p>§ 26.21 Fitness-for-duty program. The licensees and other entities specified in § 26.3(a) through (c) shall establish, implement, and maintain FFD programs that, at a minimum, comprise the program elements contained in this subpart. The individuals specified in § 26.4(a) through (e) and (g), and, at the licensee's or other entity's discretion, § 26.4(f), and, if necessary, § 26.4(j) shall be subject to these FFD programs. Licensees and other entities may rely on the FFD program or program elements of a C/V, as defined in § 26.5, if the C/V's FFD program or program elements meet the applicable requirements of this part.</p>	<p>2. Purpose and Scope (June version) This document is applicable to commercial nuclear power plant licensees and licensee-approved C/V UAA and FFD programs.</p> <p>3 RESPONSIBILITY Each licensee is responsible for determining whether to authorize UAA and to grant UA at its facilities. In making this determination, a licensee may rely on program elements completed by another licensee or licensee-approved C/V program. Once an UAA element is complete, a licensee or licensee-approved C/V can maintain an employee's UAA element as authorized herein. In addition, once all elements are completed and UAA is authorized a licensee or licensee-approved C/V can maintain an employee's UAA as authorized herein.</p>	Ok.

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<p>§ 26.23 Performance objectives. Fitness-for-duty programs must—</p> <p>(a) Provide reasonable assurance that individuals are trustworthy and reliable as demonstrated by the avoidance of substance abuse;</p> <p>(b) Provide reasonable assurance that individuals are not under the influence of any substance, legal or illegal, or mentally or physically impaired from any cause, which in any way adversely affects their ability to safely and competently perform their duties;</p> <p>(c) Provide reasonable measures for the early detection of individuals who are not fit to perform the duties that require them to be subject to the FFD program;</p> <p>(d) Provide reasonable assurance that the workplaces subject to this part are free from the presence and effects of illegal drugs and alcohol; and</p> <p>(e) Provide reasonable assurance that the effects of fatigue and degraded alertness on individuals' abilities to safely and competently perform their duties are managed commensurate with maintaining public health and safety.</p>	<p>2 PURPOSE AND SCOPE (June version)</p> <p>This document is applicable to commercial nuclear power plant licensees and licensee-approved C/V UAA and FFD programs. It has been designed to provide a standard industry approach in the collection of information used to evaluate the trustworthiness and reliability of personnel for whom UA to the protected area has been requested and other individuals supporting the UAA/UA and FFD programs.</p>	<p>Not applicable.</p>
<p>§ 26.27 Written policy and procedures.</p>		<p>No change needed endorsement of NE Section 26.27 is nc</p>

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<p>§ 26.29 Training. (a) Training content. Licensees and other entities shall ensure that the individuals who are subject to this subpart have the following KAs: ... (b) Comprehensive examination. Individuals who are subject to this subpart shall demonstrate the successful completion of training by passing a comprehensive examination that addresses the KAs in paragraph (a) of this section. The examination must include a comprehensive random sampling of all KAs with questions that test each KA, including at least one question for each KA. The minimum passing score required must be 80 percent. Remedial training and testing are required for individuals who fail to answer correctly at least 80 percent of the test questions. The examination may be administered using a variety of media, including, but not limited to, hard-copy test booklets with separate answer sheets or computer-based questions. (c) Training administration. Licensees and other entities shall ensure that individuals who are subject to this subpart are trained, as follows: ...</p>	<p>8 FITNESS-FOR-DUTY PROGRAM (June version) The FFD program shall be conducted in accordance with the requirements of 10 CFR Part 26. FFD training of all individuals is defined in NEI 03-04, <i>Guidelines for Plant Access Training, Appendix A, Reference B4</i>, and may be accepted by other licensee's and C/V's.</p>	<p>Add the requireme training content, co examination, and tr</p> <p>Industry Respons for Plant Access Tr requirements. A co be made available</p>
<p>(d) Acceptance of training. Licensees and other entities may accept training of individuals who have been subject to another training program that meets the requirements of this section and who have, within the past 12 months, either had initial or refresher training, or have successfully passed a comprehensive examination that meets the requirements in paragraph (b) of this section.</p>	<p>8 FITNESS-FOR-DUTY PROGRAM The FFD program shall be conducted in accordance with the requirements of 10 CFR Part 26. FFD training of all individuals is defined in NEI 03-04, <i>Guidelines for Plant Access Training, Appendix A, Reference B4</i>, and may be accepted by other licensee's and C/V's.</p>	<p>Add the requireme to another training received initial or re successfully passe examination within</p> <p>Industry Respons for Plant Access Tr requirements.</p>

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<p>§ 26.31 Drug and alcohol testing.</p>		<p>Add requirements for testing as stated in</p> <p>Industry Responses for drug and alcohol testing addressed in license Section 8, NEI 03-01 licensee will correct Part 26. Drug and alcohol testing appropriately in UAA/UA elements within Section 6 document requirements results of the drug testing process address the technology obtaining the requirements may for NRC staff review</p>

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<p>§ 26.33 Behavioral observation. Licensees and other entities shall ensure that the individuals who are subject to this subpart are subject to behavioral observation. Behavioral observation must be performed by individuals who are trained under § 26.29 to detect behaviors that may indicate possible use, sale, or possession of illegal drugs; use or possession of alcohol on site or while on duty; or impairment from fatigue or any cause that, if left unattended, may constitute a risk to public health and safety or the common defense and security. Individuals who are subject to this subpart shall report any FFD concerns about other individuals to the personnel designated in the FFD policy.</p>	<p>10 BEHAVIORAL OBSERVATION (June version) The licensee's or C/V's licensee-approved BOP is the primary means for determining continued trustworthiness and reliability of covered individuals. ... The following individuals are subject to BOP: 1. Any individual to whom a licensee grants UA to nuclear power plant protected or vital areas or any individual for whom a licensee certifies UAA 2. Any individual whose duties and responsibilities permit the individual to take actions by electronic means, either on site or remotely, that could adversely impact the licensee's operational safety, security, or emergency response capabilities. Each person subject to the behavior observation requirements shall be responsible for communicating to the licensee or C/V, observed behaviors of individuals that may adversely affect the safety or security of the licensee's facility, or that may constitute an unreasonable risk to the public health and safety or the common defense and security. ... Personnel subject to a BOP are responsible for: 1. observing personnel for behavior traits and patterns that may reflect adversely on their trustworthiness or reliability; 2. awareness of behaviors that might be adverse to safe operation, 3. reporting observed behaviors of individuals that may adversely affect the safety or security of a licensee's facility, or that may constitute an unreasonable risk to the public health and safety or the common defense and security; and 4. reporting those observations to appropriate licensee or C/V management in accordance with the licensee's or C/V's procedures. ... Integral to the program is training and a comprehensive examination of all employees, management oversight of employee behavior, an Annual Supervisory Review by the assigned supervisor and the individual's reporting of arrests.</p>	<p>Ok.</p>

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<p>§ 26.35 Employee assistance programs.</p>	<p>6.1.3 Determination of Fitness (June version) When appropriate, the subject individual may also be referred to the EAP.</p>	<p>No change needed endorsement of NE Section 26.35 is no</p>
<p>§ 26.37 Protection of information. (a) Each licensee or other entity who is subject to this subpart who collects personal information about an individual for the purpose of complying with this part, shall establish, use, and maintain a system of files and procedures that protects the individual's privacy. (b) Licensees and other entities shall obtain a signed consent that authorizes the disclosure of the personal information collected and maintained under this part before disclosing the personal information, except for disclosures to the following individuals: (1) The subject individual or his or her representative, when the individual has designated the representative in writing for specified FFD matters; (2) Assigned MROs and MRO staff; (3) NRC representatives; (4) Appropriate law enforcement officials under court order; (5) A licensee's or other entity's representatives who have a need to have access to the information to perform their assigned duties under the FFD program, including determinations of fitness, FFD program audits, or some human resources functions; (6) The presiding officer in a judicial or administrative proceeding that is initiated by the subject individual; (7) Persons deciding matters under review in § 26.39; and (8) Other persons pursuant to court order.</p>	<p>7.1 CONSENT AND ADVISEMENTS (April version) When any licensee or C/V (including the licensee and C/V's authorized agents) access program is legitimately seeking the information required for a UAA/UA decision, and has obtained a signed release from the subject individual authorizing the disclosure of such information, a licensee or C/V shall make available the personal or access authorization information requested.</p> <p>14 RECORDS AND PROTECTION OF INFORMATION (April version) Licensees and C/Vs shall establish, use, and maintain a system of files and procedures for the protection of the personal information including personal information stored in electronic format. This information must not be disclosed to unauthorized persons. The following are considered authorized: 1. other licensees or C/Vs seeking the information as required for UAA/UA determinations; 2. NRC representatives performing assigned duties; 3. appropriate law enforcement officials under court order 4. the individual applying for UAA/UA or his or her representative who has been designated in writing 5. licensee or C/V representatives who have a need to have access to the information in performing assigned duties, including audits of licensee, contractor or vendor programs, except where specifically excluded by regulation 6. persons deciding matters on review or appeal 7. persons who have the authority to change personal data in electronic records, or 8. other persons pursuant to court order</p>	<p>Add MROs, MRO s officer in a judicial proceeding that is i individual to the list of personal inform</p> <p>Industry Respons and the presiding o administrative proc to Section 14.c.</p> <p>Remove persons w change personal di from the list of auth personal informati</p> <p>Industry Respons that "Persons who change personal di can not be remove authorized persons of 2003 required th as an authorized pr is contained within document and part Plan</p>

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<p>(c) Personal information that is collected under this subpart must be disclosed to other licensees and entities, including C/Vs, or their authorized representatives, who are legitimately seeking the information for authorization decisions as required by this part and who have obtained a signed release from the subject individual.</p> <p>(d) Upon receipt of a written request by the subject individual or his or her designated representative, the FFD program, including but not limited to, the collection site, HHS-certified laboratory, substance abuse expert (SAE), or MRO, possessing such records shall promptly provide copies of all FFD records pertaining to the individual, including, but not limited to, records pertaining to a determination that the individual has violated the FFD policy, drug and alcohol test results, MRO reviews, determinations of fitness, and management actions pertaining to the subject individual. The licensee or other entity shall obtain records related to the results of any relevant laboratory certification, review, or revocation-of-certification proceedings from the HHS-certified laboratory and provide them to the subject individual on request.</p> <p>(e) A licensee's or other entity's contracts with HHS-certified laboratories and C/Vs providing specimen collection services, and licensee testing facility procedures, must require test records to be maintained in confidence, except as provided in paragraphs (b), (c), and (d) of this section.</p> <p>(f) This section does not authorize the licensee or other entity to withhold evidence of criminal conduct from law enforcement officials.</p>	<p>7.1 CONSENT AND ADVISEMENTS (April version) When any licensee or C/V (including the licensee and C/V's authorized agents) access program is legitimately seeking the information required for a UAA/UA decision, and has obtained a signed release from the subject individual authorizing the disclosure of such information, a licensee or C/V shall make available the personal or access authorization information requested.</p> <p>14 RECORDS AND PROTECTION OF INFORMATION (April version) Licensees and C/Vs shall establish, use, and maintain a system of files and procedures for the protection of the personal information including personal information stored in electronic format. This information must not be disclosed to unauthorized persons.</p>	<p>Add the following in section does not authorize other entity to withhold evidence of criminal conduct from law enforcement officials</p> <p>Industry Responses have been added as paragraphs (c) through (f)</p> <p>*A licensee or C/V shall withhold from law enforcement officials evidence of criminal conduct during collection or testing of specimens if the elements specified in the following table are met.</p>

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FFD Rule Section	Corresponding NEI 03-01 Text	NRC	
<p>§ 26.39 Review process for fitness-for-duty policy violations.</p> <p>(a) Each licensee and other entity who is subject to this subpart shall establish procedures for the review of a determination that an individual who they employ or who has applied for authorization has violated the FFD policy. The procedure must provide for an objective and impartial review of the facts related to the determination that the individual has violated the FFD policy.</p> <p>(b) The procedure must provide notice to the individual of the grounds for the determination that the individual has violated the FFD policy, and must provide an opportunity for the individual to respond and submit additional relevant information.</p> <p>(c) The procedure must ensure that the individual who conducts the review is not associated with the administration of the FFD program [see the description of FFD program personnel in § 26.4(g)]. Individuals who conduct the review may be management personnel.</p> <p>(d) If the review finds in favor of the individual, the licensee or other entity shall update the relevant records to reflect the outcome of the review and delete or correct all information the review found to be inaccurate.</p> <p>(e) When a C/V is administering an FFD program on which licensees and other entities rely, and the C/V determines that its employee, subcontractor, or applicant has violated its FFD policy, the C/V shall ensure that the review procedure required in this section is provided to the individual. Licensees and other entities who rely on a C/V's FFD program need not provide the review procedure required in this section to a C/V's employee, subcontractor, or applicant when the C/V is administering its own FFD program and the FFD policy violation was determined under the C/V's program.</p>	<p>12.6 UAA/UA-DENIAL REVIEW PROCESS (April version)</p> <p>The licensee shall include a description of the UAA/UA denial process to be used in the procedure that implements the UAA/UA denial review process requirement and the procedure must reflect that the determination from this access-denial review is final. Licensee programs are not intended to modify, subjugate, or abrogate any review rights that currently exist for C/V employees with their respective employers.</p> <p>The licensee shall have a review process that provides an individual whose UAA/UA is denied the capability to:</p> <ol style="list-style-type: none"> 1. be provided the basis for denial or revocation of UAA/UA, 2. have the opportunity to provide any additional information, and 3. be provided the opportunity to have the decision, together with any additional information, reviewed by another designated management level employee of the licensee who is equivalent or senior to and independent of the individual who made the initial decision to deny or terminate unfavorably UAA/UA. The determination from this review is final. 4. An alternative review process that is independent and impartial is acceptable. 	<p>▲ Add the following in Part 26: "The procedure must ensure that the determination from this access-denial review is final. Licensee programs are not intended to modify, subjugate, or abrogate any review rights that currently exist for C/V employees with their respective employers."</p> <p>Industry Response: Section 12 has been added to 12.6.b.3 has been added to:</p> <p>"be provided the opportunity to have the decision, together with any additional information, reviewed by another designated management level employee of the licensee who is equivalent or senior to and independent of the individual who made the initial decision to deny or terminate unfavorably UAA/UA. The determination from this review is final."</p> <p>▲ Add the following in Part 26: "If the review finds in favor of the individual, the licensee or other entity shall update the relevant records to reflect the outcome of the review and delete or correct all information the review found to be inaccurate."</p> <p>Industry Response: Section 12 has been added to 12.6.b.3 has been added to:</p> <p>If the review finds in favor of the individual, the licensee or other entity shall update the relevant records to reflect the outcome of the review and delete or correct all information the review found to be inaccurate."</p>	<p>Formatted: English (U.S.)</p> <p>Formatted: Font: Bold, English (U.S.)</p> <p>Formatted: English (U.S.)</p> <p>Formatted: English (U.S.)</p> <p>Deleted: ¶</p> <p>Formatted: Font: Bold</p> <p>Formatted: Font: Not Bold</p> <p>Formatted: Font: (Default) Arial Narrow, 10 pt</p> <p>Deleted: "be provided the opportunity to have the decision, together with any additional information, reviewed by another designated management level employee of the licensee who is equivalent or senior to and independent of the individual who made the initial decision to deny or terminate unfavorably UAA/UA. The determination from this review is final."</p> <p>Formatted: Font: (Default) Arial Narrow, 10 pt</p> <p>Formatted: ... [4]</p> <p>Formatted: Font: Bold</p> <p>Formatted: ... [5]</p> <p>Formatted: ... [6]</p> <p>Formatted: Font: Bold</p>

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<p>§ 26.41 Audits and corrective action. (a) General. Each licensee and other entity who is subject to this subpart is responsible for the continuing effectiveness of the FFD program, including FFD program elements that are provided by C/Vs, the FFD programs of any C/Vs that are accepted by the licensee or other entity, any FFD program services that are provided to the C/V by a subcontractor, and the programs of the HHS-certified laboratories on whom the licensee or other entity and its C/Vs rely. Each licensee and other entity shall ensure that these programs are audited and that corrective actions are taken to resolve any problems identified. (b) FFD program. Each licensee and other entity who is subject to this subpart shall ensure that the entire FFD program is audited as needed, but no less frequently than nominally every 24 months. Licensees and other entities are responsible for determining the appropriate frequency, scope, and depth of additional auditing activities within the nominal 24-month period based on the review of FFD program performance, including, but not limited to, the frequency, nature, and severity of discovered problems, testing errors, personnel or procedural changes, and previous audit findings.</p>	<p>13 AUDITS (April version) Audits are required to be conducted of licensee's and C/V's UAA/UA and FFD programs and specified subcontractors.</p> <p>13.1 LICENSEE PROGRAM AUDITS An audit of the licensee's FFD program shall be conducted on a nominal 24 month frequency and must focus on the effectiveness of the FFD program or program element(s), as appropriate.</p>	<p>Ok.</p>

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FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>(c) C/Vs and HHS-certified laboratories. (1) FFD services that are provided to a licensee or other entity by C/V personnel who are off site or are not under the direct daily supervision or observation of the licensee's or other entity's personnel and HHS-certified laboratories must be audited on a nominal 12-month frequency.</p> <p>(2) Audits of HHS-certified laboratories that are conducted for licensees and other entities who are subject to this subpart need not duplicate areas inspected in the most recent HHS certification inspection. However, the licensee and other entity shall review the HHS certification inspection records and reports to identify any areas in which the licensee or other entity uses services that the HHS certification inspection did not address. The licensee or other entity shall ensure that any such areas are audited on a nominal 12-month frequency. Licensees and other entities need not audit organizations and professionals who may provide an FFD program service to the licensee or other entity, but who are not routinely involved in providing services to a licensee's or other entity's FFD program, as specified in § 26.4(i)(1).</p>	<p>13.2 LICENSEE-APPROVED C/V SCREENING, BACKGROUND SCREENING COMPANY AND FFD PROGRAMS (April version)</p> <p>The licensee or its designated representative shall conduct audits on a nominal annual interval (with an allowable annual extension of up to 25% but not to exceed 3 months over a 3-year period) of its approved C/V's UAA or FFD programs, and background screening companies to ensure compliance with these criteria.</p> <p>13.3 C/V INTERNAL AUDIT AND C/V AUDIT OF SUBCONTRACTORS</p> <p>Each licensee-approved C/V will conduct a nominal annual audit of its own UAA and FFD programs on a nominal annual interval (with an allowable annual extension of up to 25% but not to exceed 3 months over a 3-year period) including its subcontractor(s) that conduct BIs, drug and alcohol testing or psychological assessments.</p>	<p>Add references to I laboratories.</p> <p>Industry Respons laboratories are coi companies and thu address in NEI 03-1 licensee procedure documents. The co audit is contained v procedures and im Access Authorizati Audit Program. The being developed ar available for use by copy of the draft ch NRC staff review.</p>

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<p>(d) Contracts. (1) The contracts of licensees and other entities contracts with C/Vs and HHS-certified laboratories must reserve the right to audit the C/V, the C/V's subcontractors providing FFD program services, and the HHS-certified laboratories at any time, including at unannounced times, as well as to review all information and documentation that is reasonably relevant to the audits.</p> <p>(2) Licensees' and other entities' contracts with C/Vs and HHS-certified laboratories must also permit the licensee or other entity to obtain copies of and take away any documents, including reviews and inspections pertaining to a laboratory's certification by HHS, and any other data that may be needed to assure that the C/V, its subcontractors, or the HHS-certified laboratory are performing their functions properly and that staff and procedures meet applicable requirements. In a contract with a licensee or other entity who is subject to this subpart, an HHS-certified laboratory may reasonably limit the use and dissemination of any documents copied or taken away by the licensee's or other entity's auditors in order to ensure the protection of proprietary information and donors' privacy.</p> <p>(3) In addition, before awarding a contract, the licensee or other entity shall ensure completion of pre-award inspections and/or audits of the procedural aspects of the HHS-certified laboratory's drug-testing operations, except as provided in paragraph (g)(5) of this section.</p>		<p>Add requirements f</p> <p>Industry Respons will be addressed in and specified in the commitments and verified under the NREI 03-02.</p>
<p>(e) Conduct of audits. Audits must focus on the effectiveness of the FFD program or program element(s), as appropriate, and must be conducted by individuals who are qualified in the subject(s) being audited. The individuals performing the audit of the FFD program or program element(s) shall be independent from both the subject FFD program's management and from personnel who are directly responsible for implementing the FFD program.</p>	<p>13.1 LICENSEE PROGRAM AUDITS (April version) The audit must be conducted by an individual who is qualified as an audit team leader in accordance with the licensee's quality assurance plan and is familiar with the subject(s) being audited. The individuals performing the audit of the FFD program or program element(s) shall be independent from both the subject FFD program's management and from personnel who are directly responsible for implementing the FFD program.</p>	<p>Ok.</p>

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<p>(f) Audit results. The result of the audits, along with any recommendations, must be documented and reported to senior corporate and site management. Each audit report must identify conditions that are adverse to the proper performance of the FFD program, the cause of the condition(s), and recommended corrective actions. The licensee or other entity shall review the audit findings and take corrective actions, including re-auditing of the deficient areas where indicated, to preclude, within reason, repetition of the condition. The resolution of the audit findings and corrective actions must be documented.</p>	<p>13 AUDITS (April version) The results of the audits, along with any recommendations, must be documented and reported to senior management having responsibility in the area audited and to management responsible for the access authorization program. Each audit report must identify conditions that are adverse to the proper performance of the access authorization program, the cause of the condition(s), and, when appropriate, recommended corrective actions, and corrective actions taken. The licensee or C/V shall review the audit findings and take any additional corrective actions, to include re-auditing of the deficient areas where indicated, to preclude, within reason, repetition of the condition. The resolution of the audit findings and corrective actions must be documented.</p>	<p>Add language to cc not just access autl revise to specify th audits, along with a must be documenti corporate and site i more specific than</p> <p>Industry Respons program more appli licensee audit prog procedures and wit</p>

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<p>(g) Sharing of audits. Licensees and other entities may jointly conduct audits, or may accept audits of C/Vs and HHS-certified laboratories that were conducted by other licensees and entities who are subject to this subpart, if the audit addresses the services obtained from the C/V or HHS-certified laboratory by each of the sharing licensees and other entities.</p> <p>(1) Licensees and other entities shall review audit records and reports to identify any areas that were not covered by the shared or accepted audit.</p> <p>(2) Licensees and other entities shall ensure that FFD program elements and services on which the licensee or entity relies are audited, if the program elements and services were not addressed in the shared audit.</p> <p>(3) Sharing licensees and other entities need not re-audit the same C/V or HHS-certified laboratory for the same period of time.</p> <p>(4) Each sharing licensee and other entity shall maintain a copy of the shared audit and HHS certification inspection records and reports, including findings, recommendations, and corrective actions.</p> <p>(5) If an HHS-certified laboratory loses its certification, in whole or in part, a licensee or other entity is permitted to immediately use another HHS-certified laboratory that has been audited within the previous 12 months by another NRC licensee or entity who is subject to this subpart. Within 3 months after the change, the licensee or other entity shall ensure that an audit is completed of any areas that have not been audited by another licensee or entity who is subject to this subpart within the past 12 months.</p>	<p>13 AUDITS (April version)</p> <p>Audits performed by other licensees may be relied upon for acceptance of results and associated evaluation, provided the scope of the audit meets regulatory requirements. Licensees relying on audit results must obtain and review a copy of the audit report, to include findings and corrective actions, and shall retain said records of evaluation for a minimum of 3 years. In addition, a licensee-approved C/V may rely on licensee conducted audits of a background screener or subcontractor provided the licensee, in advance, agrees to cover the scope of the C/V program.</p> <p>Licensees may accept audits of the C/Vs that were conducted by other licensees, if the audit addresses the scope of services obtained from the C/V. In addition, the C/V may jointly conduct audits, or may accept audits of its subcontractors that were conducted by licensees or other C/Vs who are subject to this section, if the audit addresses the scope of services obtained from the subcontractor.</p> <p>Licensees and C/Vs shall review audit records and reports to identify any areas that were not covered by the shared or accepted audit. If the program elements and services upon which the licensee or C/V relies were not addressed in the shared audit, additional measures shall be taken to ensure the elements or services are audited.</p> <p>If a shared audit addresses the required scope, sharing licensees and/or C/Vs need not re-audit the same contractor, vendor, or subcontractor for the same period of time.</p> <p>Each sharing licensee and C/V shall maintain a copy of the shared audit, including findings, recommendations, and corrective actions.</p>	<p>Add requirements i</p> <p>Industry Respons requirement needs procedures so that available at the rig tasked to recognize respond. In addition be contained withir personnel to appro required audit. A di for NRC staff review</p>

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Subpart C		
General		<p>Sections 6.2-6.7 of requirements for U. They are also the r authorization. If U/ authorization, then sections should be accurate.</p> <p>Industry Respons FFD Authorization. formatted and revis FFD authorization of the sections 6.2- for clarity.</p>
<p>§ 26.51 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 in § 26.4(a) through (d), and, at the licensee's or other entity's discretion, in § 26.4(g) and, if necessary, § 26.4(j). 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 C/V to meet the requirements of this subpart. Certain requirements in this subpart also apply to the individuals specified in § 26.4(h).</p>	This document applies to all nuclear power plant licensees and licensee-approved C/V UAA and FFD programs. (June pg 2)	Ok.
<p>§ 26.53 General provisions. (a) In order to grant authorization to an individual, a licensee or other entity shall ensure that the requirements in this subpart have been met for either initial authorization, authorization update, authorization reinstatement, or authorization with potentially disqualifying FFD information, as applicable.</p>		Ok.

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<p>(b) For individuals who have previously held authorization under this part but whose authorization has since been favorably terminated, the licensee or other entity shall implement the requirements for either initial authorization, authorization update, or authorization reinstatement, based on the total number of days that the individual's authorization is interrupted, to include the day after the individual's last period of authorization was terminated and the intervening days until the day on which the licensee or other entity grants authorization to the individual.</p>	<p>The determining factor that differentiates the use of any of these categories is whether the individual has previously held UAA, the lapsed time since the individual last held UAA, and whether or not the UAA/UA has been terminated favorably. (June pg 8)</p>	<p>Add reference to FI</p> <p>Industry Respons and its elements ar of UAA within NEI I of the elements of I incomplete or miss authorized. On that not specify the con Authorization explic 03-01 document. In Sections 6.2-6.6, th Authorization elem separately [*] withir</p> <p>Specify "since the i to be consistent wil specifies the interr number of days the authorization is inte day after the indivic authorization was t intervening days ur licensee or other ei to the individual."</p> <p>Industry Respons re-formatted. Secti text specified abov</p>
<p>(c) The licensee or other entity shall ensure that an individual has met the applicable FFD training requirements in §§ 26.29 and 26.203(c) before granting authorization to the individual.</p>	<p>Initial and Updated UAA, Reinstatement UAA (31 TO 365 Days and 30 days or less); Verify that the individual successfully completed BOP training.</p>	<p>Ok.</p>

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<p>(d) Licensees and other entities who are seeking to grant authorization to an individual who is maintaining authorization under another FFD program that is implemented by a licensee or entity who is subject to this subpart may rely on the transferring FFD program to satisfy the requirements of this subpart. The individual may maintain his or her authorization if he or she continues to be subject to either the receiving FFD program or the transferring FFD program, or a combination of elements from both programs that collectively satisfy the applicable requirements of this part. The receiving FFD program shall ensure that the program elements to which the individual is subject under the transferring FFD program remain current.</p>	<ul style="list-style-type: none"> • Each licensee is responsible for determining whether to authorize UAA and to grant UA at its facilities. In making this determination, a licensee may rely on program elements completed by another licensee or licensee-approved C/V program. (June pg 2) • Licensees who are seeking to grant UA or authorize UAA to an individual who is subject to another Commission-approved access authorization program or another access authorization program that complies with the requirements contained within this document may rely on those access authorization programs or access authorization program elements to comply with the requirements. However, the licensee who is seeking to grant UA or the licensee who is seeking to authorize UAA is required to ensure that the program elements to be accepted have been maintained consistent with the requirements of this section by the other access authorization program. (June pg 9) 	<p>Add reference to f</p> <p>Industry Respon and its elements a component of UA that should any of Authorization be in that UAA can not in basis, the industry concept of FFD. In addition, within Se specific FFD Auth identified separate document.</p>

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<p>(e) Licensees and other entities in § 26.3(a) through (c) may also rely on a C/V's FFD program or program elements when granting or maintaining the authorization of an individual who is or has been subject to the C/V's FFD program, if the C/V's program or program elements meet the applicable requirements of this part.</p>	<ul style="list-style-type: none"> • Each licensee is responsible for determining whether to authorize UAA and to grant UA at its facilities. In making this determination, a licensee may rely on program elements completed by another licensee or licensee-approved C/V program. (June pg 2) • Licensees who are seeking to grant UA or authorize UAA to an individual who is subject to another Commission-approved access authorization program or another access authorization program that complies with the requirements contained within this document may rely on those access authorization programs or access authorization program elements to comply with the requirements. However, the licensee who is seeking to grant UA or the licensee who is seeking to authorize UAA is required to ensure that the program elements to be accepted have been maintained consistent with the requirements of this section by the other access authorization program. (June pg 9) • The licensee may accept, in whole or in part, the results of the UAA program conducted by a C/V, provided that the program elements meet the requirements of the criteria as described in Section 6.2-6.6 of this document and that appropriate records are made available upon request for auditing by the licensee or its designated representatives and representatives of the NRC. (June pg 22) 	<p>Add reference to FI</p> <p>Industry Respons and its elements ar of UAA within NEI 1 of the elements of I incomplete or miss authorized. On that not specify the con Authorization expli 03-01 document. Ir Sections 6.2-6.6, th Authorization elem separately [*] withir</p>
<p>(1) A C/V's FFD program may grant and maintain an individual's authorization, as defined in § 26.5, under the C/V's FFD program. However, only a licensee or other entity in § 26.3(a) through (c) may grant or maintain an individual's authorization to have the types of access or perform the duties specified in § 26.4(a) through (e) and (g), and, at the licensee's or other entity's discretion, § 26.4(f).</p>	<ul style="list-style-type: none"> • Each licensee is responsible for determining whether to authorize UAA and to grant UA at its facilities. In making this determination, a licensee may rely on program elements completed by another licensee or licensee-approved C/V program. (June pg 2) • The C/V program features do not abrogate the licensee's ultimate responsibility for assuring that individuals granted UA to the protected area meet regulatory requirements. (June pg 22) 	<p>Add reference to FI</p> <p>Industry Respons and its elements ar of UAA within NEI 1 of the elements of I incomplete or miss authorized. On that not specify the con Authorization expli 03-01 document. Ir Sections 6.2-6.6, th Authorization elem separately [*] withir</p>

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<p>(2) If a C/V's FFD program denies or unfavorably terminates an individual's authorization, and the individual is performing any duties for a licensee or other entity that are specified in § 26.4(a) through (e) and (g), or, at the licensee's or other entity's discretion, § 26.4(f), then the C/V shall inform the affected licensee or other entity of the denial or unfavorable termination. The licensee or other entity shall deny or unfavorably terminate the individual's authorization to perform those duties on the day that the licensee or other entity receives the information from the C/V, or implement the applicable process in § 26.69 to maintain the individual's authorization.</p>	<p>If a C/V's FFD program unfavorably terminates an FFD Authorization of an individual who has been granted UAA/UA, the C/V must notify, on the day of discovery, all licensee(s) where UAA/UA, is active. If the licensee determines that the individual's UAA/UA is based upon the C/V's FFD authorization, the licensee must evaluate the provided information on the day of notification and determine whether to deny the individual's UAA/UA. (June pg 22)</p>	<p>Add "denies or" to l unfavorably termin:</p> <p>Industry Respons re-formatted. Secti amended in that "d to the text.</p> <p>Are the people whc the same people li</p> <p>Industry Respons authorized UAA or individuals specief including persone 26.3 (c); 10 CFR 21 personnel specief CFR 26.4 (c) exclu in 10 CFR 26.3 (c); personnel specief and personnel spei</p> <p>The rule says the li unfavorably termin: the day the license information or impl to maintain authori: says the licensee c information on that Industry Respons re-formatted. Secti</p> <p>The licensee shall i terminate the indivi day that the licens: information from th applicable process to maintain the indi Section 6.1 contain 10 CFR 26.69.</p>

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<p>(3) If an individual is maintaining authorization under a C/V's FFD program, a licensee or other entity in § 26.3(a) through (c) may grant authorization to the individual to have the types of access and perform the duties specified in § 26.4(a) through (e) and (g), and, at the licensee's or other entity's discretion, § 26.4(f), and maintain his or her authorization, if the individual continues to be subject to either the receiving FFD program or a combination of elements from the receiving FFD program and the C/V's program that collectively satisfy the applicable requirements of this part. The receiving licensee's or other entity's FFD program shall ensure that the program elements to which the individual is subject under the C/V's FFD program remain current.</p>	<p>Each licensee is responsible for determining whether to authorize UAA and to grant UA at its facilities. In making this determination, a licensee may rely on program elements completed by another licensee or licensee-approved C/V program. (June pg 2)</p> <p>Licenses who are seeking to grant UA or authorize UAA to an individual who is subject to another Commission-approved access authorization program or another access authorization program that complies with the requirements contained within this document may rely on those access authorization programs or access authorization program elements to comply with the requirements. However, the licensee who is seeking to grant UA or the licensee who is seeking to authorize UAA is required to ensure that the program elements to be accepted have been maintained consistent with the requirements of this section by the other access authorization program. (June pg 9)</p>	<p>Add reference to F example, revise lar "...authorize UAA, and to grant UA..."</p> <p>Add reference to F example, revise lar UA, grant FFD aut/ UAA..." and</p> <p>"...the licensee wt or FFD authorizati seeking to authori</p> <p>Industry Respon and its elements a component of UA, that should any of Authorization be ir that UAA can not l basis, the industry concept of FFD At throughout the NE addition, within Se specific FFD Auth identified separate document.</p>

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<p>(f) Licensees and other entities who are seeking to grant authorization to an individual who has been subject to an FFD program under subpart K may not rely on that program or its program elements to meet the requirements of this subpart, except if the program or program element(s) of the FFD program for construction satisfy the applicable requirements of this part.</p>		<p>Revise guidance to requirement.</p> <p>Industry Respons has been re-format 6.j., has been adde</p> <p>"Licensees and oth seeking to grant au individual who has program under 10 may not rely on the subpart K program to meet the require except if the 10 CF program or prograr program for constru applicable requirem 6.2-6.6 of this docu</p>	<p>Formatted: Font: Bold</p> <p>Formatted: Font: (Default) Arial Narrow, 10 pt</p>
<p>(g) The licensees and C/Is specified in § 26.3(a) and, as applicable, (d), shall identify any violation of any requirement of this part to any licensee who has relied on or intends to rely on the FFD program element that is determined to be in violation of this part.</p>	<p>Licensees shall ensure that any violation of a 10 CFR 26 program element at one licensee is identifiable to all licensees, to the extent that, at the time of the discovery, persons holding UA who were the subject of, or included in, any program element violation at any licensee, are identified by that licensee. This information must also be provided to any licensee where that person holds UA. (April pg 55)</p>	<p>Revise language to "Licensees."</p> <p>Industry Respons re-formatted. Secti amended to include</p>	<p>Formatted: Font: (Default) Arial Narrow, 10 pt</p> <p>Formatted: Font: (Default) Arial Narrow, 10 pt</p> <p>Formatted: Font: (Default) Arial Narrow, 10 pt</p>

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FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>(h) The licensees and other entities specified in § 26.3(a) and, as applicable, (d), may not initiate any actions under this subpart without the knowledge and written consent of the subject individual.</p> <p>The individual may withdraw his or her consent at any time.</p> <p>If an individual withdraws his or her consent, the licensee or other entity may not initiate any elements of the authorization process specified in this subpart that were not in progress at the time the individual withdrew his or her consent, but shall complete and document any elements that are in progress at the time consent is withdrawn.</p> <p>The licensee or other entity shall record the individual's application for authorization; his or her withdrawal of consent; the reason given by the individual for the withdrawal, if any; and any pertinent information gathered from the elements that were completed (e.g., the results of pre-access drug tests, information obtained from the suitable inquiry).</p>	<p>No element of the UAA/UA program, including FFD and alcohol testing, may be initiated without the knowledge and written consent of the individual applying for UAA/UA. (April pg 26)</p> <p>In addition, the individual shall be informed that he/she may withdraw consent at anytime (April pg 27)</p> <p>When withdrawal of consent is made, no new processing may be initiated; however, steps in progress must be completed and documented. (April pg 27 and 52)</p> <p>The licensee or other entity shall record the individual's application for UAA; his or her withdrawal of consent; the reason given by the individual for the withdrawal, if any; and any pertinent information gathered from the elements that were completed (e.g., the results of pre-access drug tests, information obtained from the suitable inquiry).</p>	<p>Change "FFD and : authorization" beca testing is part of FF requirements.</p> <p>Industry Respons re-formatted. Withi "including FFD and been removed as r</p> <p>Ok.</p> <p>Ok.</p> <p>Add reference to FI</p> <p>Industry Respons and its elements ar of UAA within NEI 1 of the elements of I incomplete or miss authorized. On that not specify the con Authorization explic 03-01 document. Ir Sections 6.2-6.6, th Authorization elem separately [*] withir</p>

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**Section I: Comparison of FFD Final Rule Subparts A, B, C, D, and N
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FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>The licensee or other entity to whom the individual has applied for authorization shall inform the individual that— (1) Withdrawal of his or her consent will withdraw the individual's current application for authorization under the licensee's or other entity's FFD program; and</p> <p>2) Other licensees and entities will have access to information documenting the withdrawal as a result of the information sharing that is required under this part.</p>	<p>The licensee or other entity to whom the individual has applied for UAA/UA shall inform the individual that:</p> <p>1. Withdrawal of his or her consent will withdraw the individual's current application for UAA/UA under the licensee's or other entity's FFD program; and</p> <p>2. Other licensees and entities will have access to information documenting the withdrawal as a result of the information sharing that is required under 10 CFR 26. (April pg 27 and 52)</p>	<p>Add reference to F</p> <p>Industry Respons and its elements ar of UAA within NEI 1 of the elements of I incomplete or miss authorized. On that not specify the con Authorization expli 03-01 document. Ir Sections 6.2-6.6, th Authorization elem separately [*] withir</p> <p>Ok.</p>
<p>(i) The licensees and other entities specified in § 26.3(a) and, as applicable, (d), shall inform, in writing, any individual who is applying for authorization that the following actions related to providing and sharing the personal information required under this subpart are sufficient cause for denial or unfavorable termination of authorization:</p> <p>(1) Refusal to provide written consent for the suitable inquiry;</p> <p>(2) Refusal to provide or the falsification of any personal information required under this part, including, but not limited to, the failure to report any previous denial or unfavorable termination of authorization;</p> <p>(3) Refusal to provide written consent for the sharing of personal information with other licensees or C/Vs required under this part; and</p> <p>(4) Failure to report any legal actions, as defined in § 26.5.</p>	<p>Licensees shall, in writing, inform the individual that the following actions related to the providing and sharing the personal information are sufficient cause for denial or unfavorable termination of UAA/UA:</p> <p>1. Refusal to provide a written consent for the suitable inquiry</p> <p>2. Refusal to provide or the falsification of any personal information required by NRC rules, including the failure to provide a previous denial or unfavorable termination of UAA/UA;</p> <p>3. Refusal to provide written consent for the sharing of personal information with other licensees or C/V's as required by NRC rules; and</p> <p>4. The failure to report any legal actions. (April pg 27 and 52)</p>	<p>Add reference to f</p> <p>Industry Respon and its elements a component of UA) that should any of Authorization be ii that UAA can not l basis, the industry concept of FFD At throughout the NE addition, within Se specific FFD Auth identified separate document.</p>

**Section I: Comparison of FFD Final Rule Subparts A, B, C, D, and N
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FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>§ 26.55 Initial authorization. Before granting authorization to an individual who has never held authorization under this part or whose authorization has been interrupted for a period of 3 years or more and whose last period of authorization was terminated favorably, the licensee or other entity shall ensure that—</p> <p>(1) A self-disclosure has been obtained and reviewed under the applicable requirements of § 26.61;</p> <p>(2) A suitable inquiry has been completed under the applicable requirements of § 26.63;</p> <p>(3) The individual has been subject to pre-access drug and alcohol testing under the applicable requirements of § 26.65; and</p> <p>(4) The individual is subject to random drug and alcohol testing under the applicable requirements of § 26.67.</p>	<p>Section 6.2 (April pg18) An initial UAA process is completed prior to authorizing UAA or granting UA and is required to be completed for an individual who has been denied UAA/UA in order to re-establish trustworthiness and reliability after a denial or unfavorable termination of UAA/UA.</p> <p>For an individual</p> <ul style="list-style-type: none"> • “For an individual: whose last UAA/UA was terminated unfavorably” • “For an individual: whose last UAA/UA or request for UAA/UA was denied.” <p>1.A Consent, Personal History Questionnaire (PHQ) and self-disclosure are completed by the individual and provided to the licensee, an approved C/V or their authorized agent. (see 26.61)</p> <p>3.Verify the previous 3-year employment/unemployment history (including education or military service in lieu of employment) as follows (see 26.63)</p> <p>8.Verify that drug and alcohol test results are negative and that the individual is made subject to random drug and alcohol testing. No drug and alcohol testing is required if the individual was subject both to a licensee-approved BOP and licensee-approved random drug and alcohol testing program since the collection or had a negative test result from a licensee-approved drug and alcohol test performed within the last 30 days. (see 26.65 and 26.67 for comments)</p>	<p>Add reference to f</p> <p>Industry Respon and its elements a component of UA/ that should any of Authorization be i that UAA can not i basis, the industry concept of FFD Ai throughout the NE addition, within Se specific FFD Auth identified separate document.</p> <p>▼ Revise language t #8 only applies to never held authori authorization withi whose last period terminated favora</p> <p>Industry Respon re-formatted. Sect text discussed abc</p>
<p>(b) If potentially disqualifying FFD information is disclosed or discovered, the licensee or other entity may not grant authorization to the individual, except under § 26.69.</p>	<p>See 26.69</p>	

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FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>§ 26.57 Authorization update. (a) Before granting authorization to an individual whose authorization has been interrupted for more than 365 days but less than 3 years and whose last period of authorization was terminated favorably, the licensee or other entity shall ensure that— (1) A self-disclosure has been obtained and reviewed under the applicable requirements of § 26.61; (2) A suitable inquiry has been completed under the applicable requirements of § 26.63; (3) The individual has been subject to pre-access drug and alcohol testing under the applicable requirements of § 26.65; and (4) The individual is subject to random drug and alcohol testing under the applicable requirements of § 26.67.</p>	<p>An updated UAA investigation is required prior to authorizing UAA/UA for an individual who last held UAA/UA that was terminated under favorable conditions more than 365 days, but less than 3 years, from the date of application for UAA/UA. (April pg 20-21) 1.A Consent, PHQ and self-disclosure are completed by the individual since last UAA/UA, and provided to the licensee, an approved C/V or the their authorized agent; (see 26.61) 3. Verify the employment/unemployment history (including education or military service in lieu of employment) since last UAA/UA as follows: (see 26.63) 8.Verify that drug and alcohol test results are negative and that the individual is made subject to random drug and alcohol testing. No drug and alcohol test is required if the individual was subject to a licensee-approved BOP and licensee-approved random drug and alcohol testing program since the collection, or had negative test results from a licensee-approved drug and alcohol test performed within the last 30 days. (see 26.65 and 26.67 for comments)</p>	<p>Add reference to FI Industry Respon and its elements a component of UA that should any of Authorization be i that UAA can not l basis, the industry concept of FFD Ai throughout the NE addition, within Se specific FFD Auth identified separate document.</p>
<p>(b) If potentially disqualifying FFD information is disclosed or discovered, the licensee or other entity may not grant authorization to the individual, except under § 26.69.</p>	<p>See 26.69</p>	

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<p>§ 26.59 Authorization reinstatement. (a) In order to grant authorization to an individual whose authorization has been interrupted for a period of more than 30 days but no more than 365 days and whose last period of authorization was terminated favorably, the licensee or other entity shall ensure that— (1) A self-disclosure has been obtained and reviewed under the applicable requirements of § 26.61; (2) A suitable inquiry has been completed under the requirements of § 26.63 within 5 business days of reinstating authorization. If the suitable inquiry is not completed within 5 business days due to circumstances that are outside of the licensee's or other entity's control and the licensee or other entity is not aware of any potentially disqualifying information regarding the individual within the past 5 years, the licensee or other entity may maintain the individual's authorization for an additional 5 business days. If the suitable inquiry is not completed within 10 business days of reinstating authorization, the licensee or other entity shall administratively withdraw the individual's authorization until the suitable inquiry is completed; (3) The individual has been subject to pre-access drug and alcohol testing under the applicable requirements of § 26.65; and (4) The individual is subject to random drug and alcohol testing under the applicable requirements of § 26.67.</p>	<p>Section 6.4: A reinstatement UAA is required for individuals who last held UAA/UA which was terminated under favorable conditions within the past 31 to 365 days. Items 4 and 5 may be accomplished following reinstatement, within the time limits established. (April pg 21-22) 1. A Consent, PHQ and self-disclosure filled-out by the individual covering the period of time since last UAA/UA, and provided to the licensee, an approved C/V or their authorized agent. (see 26.61) 3.The self-disclosed activities shall be evaluated prior to reinstatement and determined not to have the potential to negatively affect the individual's trustworthiness or reliability. (see 26.63) 4.Verify the employment/unemployment history and suitable inquiry information (including education or military service in lieu of employment) since last UAA/UA. Within 5 business days of granting UA, complete a suitable inquiry and verify the longest claimed period of employment in each calendar month on a best effort basis, if the individual claims employment during the given calendar month. Verify unemployment periods of 30 days or more. No suitable inquiry is required during checks of unemployment periods. The objective is to have completed the suitable inquiries and employment verifications within 5 business days of granting UA. However, the individual's UA may be maintained an additional 5 business days under the following conditions: •non-completion is beyond the control of the licensee, and •if the licensee is not aware of any FFD PDI regarding the individual during the previous 5 years, The licensee shall administratively withdraw UAA/UA if the suitable inquiry and employment verifications have not been fulfilled at the conclusion of the extension period. 6.Collect a specimen for drug testing and verify that the results of the alcohol test are negative within the 30-day period before authorizing UAA or granting UA, and ensure that the individual is made subject to random drug and alcohol testing with the following qualifications: (see 26.65 and 26.67 for comments)</p>	<p>Add reference to FI Industry Respon and its elements a component of UA that should any of Authorization be i that UAA can not l basis, the industry concept of FFD Ai throughout the NE addition, within Se specific FFD Auth identified separate document.</p>

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<p>(b) If a licensee or other entity administratively withdraws an individual's authorization under paragraph (a)(2) of this section, and until the suitable inquiry is completed, the licensee or other entity may not record the administrative action to withdraw authorization as an unfavorable termination and may not disclose it in response to a suitable inquiry conducted under the provisions of § 26.63, a background investigation conducted under the provisions of this chapter, or any other inquiry or investigation. The individual may not be required to disclose the administrative action in response to requests for self-disclosure of potentially disqualifying FFD information, except if the individual's authorization was subsequently denied or terminated unfavorably by the licensee or other entity.</p>	<p>CAUTION: If a licensee or C/V administratively withdraws an individual's UAA/UA because properly conducted drug test results are not known or the results of a properly conducted suitable inquiry cannot be obtained within the prescribed time limits, the licensee or C/V may not record the administrative action to withdraw UAA/UA as an unfavorable termination. The individual shall not be required to disclose the administrative action in response to requests for self-disclosure of PDI, except if the individual's UAA/UA was subsequently denied or terminated unfavorably by a licensee. (June pg 9)</p>	<p>Add reference to FI</p> <p>Industry Respon and its elements a component of UA that should any of Authorization be in that UAA can not l basis, the industry concept of FFD. Ai throughout the NE addition, within Se specific FFD Auth identified separate document.</p> <p>Add language that disclose the admini response to a suita background investi the provisions of th inquiry or investiga</p> <p>Industry Respons re-formatted. The C within Section 6.f h include the text spe</p>

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<p>(c) Before granting authorization to an individual whose authorization has been interrupted for a period of no more than 30 days and whose last period of authorization was terminated favorably, the licensee or other entity shall ensure that—</p> <p>(1) A self-disclosure has been obtained and reviewed under the applicable requirements of § 26.61;</p> <p>(2) The individual has been subject to pre-access drug and alcohol testing under the applicable requirements of § 26.65, if the individual's authorization was interrupted for more than 5 days; and</p> <p>(3) The individual is subject to random drug and alcohol testing under the applicable requirements of § 26.67.</p>	<p>Section 6.5: A reinstatement authorization is completed, for individuals who last held UAA/UA that was terminated under favorable conditions within the past 30 days.</p> <p>1. A Consent and a self-disclosure completed by the individual are completed covering the period since last UAA/UA and provided to the licensee or an approved C/V or their agent. No self-disclosure is required if the individual was subject to a licensee-approved BOP (including training, arrest reporting and annual supervisory review), throughout the period of interruption. (see 26.61)</p> <p>4. In every case, the reviewing official shall conduct an evaluation based on an accumulation of information which supports a determination that the individual is trustworthy and reliable, prior to authorizing UAA or granting UA.</p> <p>5. If the individual has not been covered by a licensee-approved BOP and random drug and alcohol testing program from 6 to 30 days following the individual's last period of UAA, the licensee shall subject the individual to random selection for pre-access drug and alcohol testing at a one-time probability that is equal to or greater than the normal testing rate specified in 10 CFR § 26.31 (d)(2) calculated for a 30-day period. Ensure that the individual is made subject to random drug and alcohol testing</p> <p>6. If the individual is selected for testing, collect a specimen for drug testing and verify that the results of the alcohol test are negative before authorizing UAA or granting UA, and ensure that the individual is made subject to random drug and alcohol testing with the following qualifications:</p> <p>a. Verify that drug test results are negative within 5 business days of collection.</p> <p>b. In the event the drug test results have not been returned within 5 business days, the licensee shall administratively withdraw UA until the drug test results are confirmed. (see 26.65 and 26.67 for comments)</p>	<p>Add reference to F</p> <p>Industry Respon and its elements a component of UA/ that should any of Authorization be in that UAA can not l basis, the industry concept of FFD Ai throughout the NE addition, within Se specific FFD Auth identified separate document.</p>
<p>(d) If potentially disqualifying FFD information is disclosed or discovered, the licensee or other entity may not grant authorization to the individual, except under § 26.69.</p>	<p>See 26.69</p>	<p>Deleted: ¶</p>

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<p>§ 26.61 Self-disclosure and employment history. (a) Before granting authorization, the licensee or other entity shall ensure that a written self-disclosure and employment history has been obtained from the individual who is applying for authorization, except as follows: (1) If an individual previously held authorization under this part, and the licensee or other entity has verified that the individual's last period of authorization was terminated favorably, and the individual has been subject to a behavioral observation program that includes arrest reporting, which meets the requirements of this part, throughout the period since the individual's last authorization was terminated, the granting licensee or other entity need not obtain the self-disclosure or employment history in order to grant authorization; and (2) If the individual's last period of authorization was terminated favorably within the past 30 days, the licensee or other entity need not obtain the employment history.</p>	<p>Covered as #1 in Sections 6.2, 6.3, 6.4, and 6.5</p> <p>No self-disclosure is required if the individual was subject to a licensee-approved BOP (including training, arrest reporting and annual supervisory review), throughout the period of interruption. (April pg 23)</p>	<p>Ok.</p> <p>Ok.</p>
<p>(b) The written self-disclosure must— (1) State whether the individual has— (i) Violated a licensee's or other entity's FFD policy; (ii) Had authorization denied or terminated unfavorably under §§ 26.35(c)(2), 26.53(i), 26.63(d), 26.65(g), 26.67(c), 26.69(f), or 26.75(b) through (e); (iii) Used, sold, or possessed illegal drugs; (iv) Abused legal drugs or alcohol; (v) Subverted or attempted to subvert a drug or alcohol testing program; (vi) Refused to take a drug or alcohol test; (vii) Been subject to a plan for substance abuse treatment (except for self-referral); or (viii) Had legal action or employment action, as defined in § 26.5, taken for alcohol or drug use;</p>	<p>All of these elements are addressed under Section 8.2 (June pg 25)</p>	<p>Ok.</p>
<p>(2) Address the specific type, duration, and resolution of any matter disclosed, including, but not limited to, the reason(s) for any unfavorable termination or denial of authorization; and</p>		<p>Revise language to</p> <p>Industry Respons re-formatted. A new been added that in text.</p>

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<p>(3) Address the shortest of the following periods: (i) The past 5 years; (ii) Since the individual's eighteenth birthday; or (iii) Since the individual's last period of authorization was terminated, if authorization was terminated favorably within the past 3 years.</p>	<p>Section 8.2: The individual shall answer the following nine questions by inserting the appropriate timeframe in the underlined area in each question.</p> <ul style="list-style-type: none"> • For an initial UAA/UA the timeframe "Since your 18th birthday" or "within the previous five (5) years," which ever period is shorter, or • For updated or reinstated UAA/UA the timeframe "Since your last UAA/UA termination, if favorable:" (June pg 25) 	<p>Add reference to FI</p> <p>Industry Respon and its elements a component of UA that should any of Authorization be i that UAA can not l basis, the industry concept of FFD Ai throughout the NE addition, within Se specific FFD Auth identified separate document.</p> <p>Revise the second self-disclosure may since the individual authorization was t authorization was t "within the past 3 y</p> <p>Industry Respons re-formatted. Secti been amended to r above.</p>

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<p>(c) The individual shall provide a list of all employers, including the employer by whom the individual claims to have been employed on the day before he or she completes the employment history, if any, with dates of employment, for the shortest of the following periods:</p> <p>(1) The past 3 years;</p> <p>(2) Since the individual's eighteenth birthday; or</p> <p>(3) Since authorization was last terminated, if authorization was terminated favorably within the past 3 years.</p>	<p>7.4.2: Employment/Unemployment Verification</p> <p>Verify employment/unemployment history for the past 3-year period, since age 18, or since the date UAA/UA was last favorably terminated, whichever is shorter. (April pg 31)</p>	<p>Add reference to FI</p> <p>Industry Respon and its elements a component of UA that should any of Authorization be i that UAA can not l basis, the industry concept of FFD Ai throughout the NE addition, within Se specific FFD Auth identified separate document.</p>
<p>§ 26.63 Suitable inquiry.</p> <p>(a) In order to grant authorization, licensees and other entities shall ensure that a suitable inquiry has been conducted, on a best effort basis, to verify the individual's self-disclosed information and determine whether any potentially disqualifying FFD information is available, except if...</p>	<p>Sections 6.2 #3, 6.3 #3, 6.4 #4, 7.4.2 #1 and #4 (Section 7.4.2 reference Sections 6.2, 6.3 and 6.4): "conduct a suitable inquiry" on a "best-effort basis"</p> <p>Section 6.5 #4: In every case, the reviewing official shall conduct an evaluation based on an accumulation of information which supports a determination that the individual is trustworthy and reliable, prior to authorizing UAA or granting UA.</p>	<p>Ok.</p> <p>Section 6.5 (Reinst does not contain th regarding suitable i sections.</p> <p>Industry Respons Reinstatement 30 l disclosure is obtain PDI is detected, th individual is grante detected then the p Section 6.1.4, and appropriate, are to</p>

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<p>except if... all of the following conditions are met: (1) The individual previously held authorization under this part; (2) The licensee or other entity has verified that the individual's last period of authorization was terminated favorably; and (3) The individual has been subject to a behavioral observation program that includes arrest reporting, which meets the requirements of this part, throughout the period of interruption.</p>		Ok.
<p>(b) To meet the suitable inquiry requirement, licensees and other entities who are subject to this subpart have gathered for previous periods of authorization. Licensees and other entities may also rely on those licensees' and entities' determinations of fitness that were conducted under § 26.189, as well as their reviews and resolutions of potentially disqualifying FFD information, for previous periods of authorization.</p>	<ul style="list-style-type: none"> • Each licensee is responsible for determining whether to authorize UAA and to grant UA at its facilities. In making this determination, a licensee may rely on program elements completed by another licensee or licensee-approved C/V program. (June pg 2) • Licensees who are seeking to grant UA or authorize UAA to an individual who is subject to another Commission-approved access authorization program or another access authorization program that complies with the requirements contained within this document may rely on those access authorization programs or access authorization program elements to comply with the requirements. (June pg 9) • The licensee or C/V may rely upon information-sharing system data that documents a prior review of FFDPI. (June pg 10, 12, 13, 18, 19; April pg 19, 20,) • If the previous licensee or approved C/V determined that the individual successfully completed any required treatment and follow-up testing, and the individual's last period of UAA/UA was terminated favorably, the receiving licensee or entity may rely on the previous determination of fitness and no further review or follow-up is required. (June pg 14) 	<p>Add reference to FI</p> <p>Industry Respon and its elements a component of UA that should any of Authorization be ii that UAA can not l basis, the industry concept of FFD Ai throughout the NE addition, within Se specific FFD Auth identified separate document.</p>

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<p>(c) The licensee or other entity shall ensure that the suitable inquiry has been conducted, on a best effort basis, by questioning former employers, and the employer by whom the individual claims to have been employed on the day before he or she completes the employment history, if an employment history is required under § 26.61.</p>	<ul style="list-style-type: none"> • Complete a suitable inquiry with every employer by whom the individual claims to have been employed during the period addressed in the employment history (PDI that has not been reviewed; June pg 10, 12, 13) • Section 7.4.2: Verify the length and nature of employment through contacts with previous employers on a best effort basis. (April pg 32) 	<p>Revise the guidance 6.1.1.2.b., and 7.4. rule text. For example add "and the employer by whom the individual claims to have been employed on the day before he or she completes the employment history."</p> <p>Industry Response re-formatted. Sections have been amended as specified above. Sections re-formatted and new sections of the text added to the SI.</p>
<p>(1) For the claimed employment period, the suitable inquiry must ascertain the reason for termination, eligibility for rehire, and other information that could reflect on the individual's fitness to be granted authorization.</p>	<p>Section 7.4.2: Verify the length and nature of employment through contacts with previous employers on a best effort basis to achieve an accumulation of information which supports a determination that the individual is trustworthy and reliable by having the following aspects of the employment relationship investigated:</p> <ul style="list-style-type: none"> a. inclusive dates of employment period(s); b.f or employments other than self-employment (i) under what conditions the individual left the employment, (ii) reason for termination, and (iii) eligibility for rehire. (Note: this criterion is not applicable if the worker is still employed by the employer listed on the application for UAA when that application was completed); and c. any disciplinary history or other information that could impact the trustworthiness/reliability decision for UAA. 	<p>Add reference to FFD Final Rule Subpart A.</p> <p>Industry Response and its elements are a component of UAA that should be included in that UAA can not be based on the industry concept of FFD Final Rule Subpart A throughout the NEI. In addition, within the specific FFD Final Rule Subpart A identified separate document.</p>

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<p>(2) If the claimed employment was military service, the licensee or other entity who is conducting the suitable inquiry shall request a characterization of service, reason for separation, and any disciplinary actions related to potentially disqualifying FFD information.</p> <p>If the individual's last duty station cannot provide this information, the licensee or other entity may accept a hand-carried copy of the DD 214 presented by the individual which on face value appears to be legitimate.</p> <p>The licensee or other entity may also accept a copy of a DD 214 provided by the custodian of military records.</p>	<p>Ask the military records holder the following questions: (April pg 34)</p> <p>2.If the veteran's last duty station cannot provide the information as stated above, the licensee or C/V may accept a hand carried copy of the DD 214 (or equivalent for foreign military service) presented by the veteran, which on its face appears legitimate.</p> <p>If the reviewing official determines the hand carried copy of the DD 214 (or equivalent) appears to have been altered in any way, the licensee or C/V shall withhold UAA until a certified copy of the veteran's DD 214 (or equivalent), can be obtained from a custodian of military records.</p> <p>3. Where (1) and (2) above cannot be satisfied, a copy of the veteran's DD 214 (or equivalent), must be obtained from a custodian of military records, to satisfy the requirement for verification of military service.</p>	<p>Ok.</p> <p>Ok.</p> <p>Ok.</p> <p>Ok.</p>
<p>(3) If a company, previous employer, or educational institution to whom the licensee or other entity has directed a request for information refuses to provide information or indicates an inability or unwillingness to provide information within 3 business days of the request, the licensee or other entity shall document this refusal, inability, or unwillingness in the licensee's or other entity's record of the investigation, and obtain a confirmation of employment or educational enrollment and attendance from at least one alternate source, with suitable inquiry questions answered to the best of the alternate source's ability. This alternate source may not have been previously used by the licensee or other entity to obtain information about the individual's character. If the licensee or other entity uses an alternate source because employer information is not forthcoming within 3 business days of the request, the licensee or other entity need not delay granting authorization to wait for any employer response, but shall evaluate and document the response if it is received.</p>	<p>All info covered in Section 7.4.1 (April pg 29-31)</p>	<p>Ok.</p>

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FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>(d) When any licensee or other entity in § 26.3(a) through (d) is legitimately seeking the information required for an authorization decision under this subpart and has obtained a signed release from the subject individual authorizing the disclosure of information, any licensee or other entity who is subject to this part shall disclose whether the subject individual's authorization was denied or terminated unfavorably as a result of a violation of an FFD policy and shall make available the information on which the denial or unfavorable termination of authorization was based, including, but not limited to, drug or alcohol test results, treatment and followup testing requirements or other results from a determination of fitness, and any other information that is relevant to an authorization decision.</p>	<p>When any licensee or C/V (including the licensee and C/V's authorized agents) access program is legitimately seeking the information required for a UAA/UA decision, and has obtained a signed release from the subject individual authorizing the disclosure of such information, a licensee or C/V shall make available the personal or access authorization information requested. (April pg 28)</p>	<p>Add reference to FI Industry Respons and its elements a component of UAA that should any of Authorization be in that UAA can not I basis, the industry concept of FFD A throughout the NE addition, within Se specific FFD Auth identified separate document.</p> <p>Unless "personal o information" would the subject individu denied or terminate of a violation of an information on whic unfavorable termin: was based," revise that the licensee or whether the subjec authorization was c unfavorably as a re FFD policy and she information on whic unfavorable termin: was based, includir drug or alcohol test followup testing rec results from a detei any other informati authorization decis</p> <p>Industry Respons re-formatted. Secti amended to reflect which FFD Authori part.</p>

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**Section I: Comparison of FFD Final Rule Subparts A, B, C, D, and N
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FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>(e) In conducting a suitable inquiry, a licensee or other entity may obtain information and documents by electronic means, including, but not limited to, telephone, facsimile, or email. The licensee or other entity shall make a record of the contents of the telephone call and shall retain that record, and any documents or electronic files obtained electronically, under §§ 26.711 and 26.713(a), (b), and (c), as applicable.</p>	<p>The licensee or C/V may obtain information and documents by electronic means, including, but not limited to, telephone, facsimile, or e-mail. The licensee or C/V shall make a record of the contents of telephone calls and shall retain that record, and any documents or electronic files obtained electronically, in accordance with Section 15. (April pg 31)</p>	<p>Ok.</p>
<p>(f) For individuals about whom no potentially disqualifying FFD information is known (or about whom potentially disqualifying FFD information is known, but it has been resolved by a licensee or other entity who is subject to this subpart) at the time at which the suitable inquiry is initiated, the licensee or other entity shall ensure that a suitable inquiry has been conducted as follows: (1) Initial authorization. The period of the suitable inquiry must be the past 3 years or since the individual's eighteenth birthday, whichever is shorter. For the 1-year period immediately preceding the date on which the individual applies for authorization, the licensee or other entity shall ensure that the suitable inquiry has been conducted with every employer, regardless of the length of employment. For the remaining 2-year period, the licensee or other entity shall ensure that the suitable inquiry has been conducted with the employer by whom the individual claims to have been employed the longest within each calendar month, if the individual claims employment during the given calendar month.</p>	<p>Section 6.2: (April pg 18) Each individual applying for initial UAA will undergo a BI for the past 3 years (or since the eighteenth birthday if in the individual is younger than twenty-one. 3. Verify the previous 3-year employment/unemployment history (including education or military service in lieu of employment) as follows: a. For the most recent year preceding the application, verify every claimed employment (regardless of the length) and conduct a suitable inquiry on a best effort basis. Verify each unemployment period of 30 days or more. No suitable inquiry is required during the checks of unemployment periods. b. For the remaining 2 years of the required 3-year period, verify the longest claimed period of employment (including self-employment) in any calendar month and conduct a suitable inquiry on a best effort basis. Verify each period of unemployment of 30 days or more. No suitable inquiry is required during the checks of unemployment periods. If an individual claims two employments of the same length in the same month, only one needs to be selected for verification. If equal periods of employment and unemployment are claimed, verify the employment.</p>	<p>The third paragraph years or since 18t Revise language t inquiry also is limit 18th birthday if les</p> <p>Industry Respon been re-formatted UAA/UA. The Suit UAA/UA by definit</p>

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**Section I: Comparison of FFD Final Rule Subparts A, B, C, D, and N
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FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>(2) Authorization update. The period of the suitable inquiry must be the period since authorization was terminated. For the 1-year period immediately preceding the date on which the individual applies for authorization, the licensee or other entity shall ensure that the suitable inquiry has been conducted with every employer, regardless of the length of employment. For the remaining period since authorization was terminated, the licensee or other entity shall ensure that the suitable inquiry has been conducted with the employer by whom the individual claims to have been employed the longest within each calendar month, if the individual claims employment during the given calendar month.</p>	<p>Section 6.3: Verify the employment/unemployment history (including education or military service in lieu of employment) since last UAA/UA as follows: (April pg 20) a. For the most recent year preceding the application, verify every claimed employment (regardless of the length) and conduct a suitable inquiry on a best effort basis. Verify each unemployment period of 30 days or more. No suitable inquiry is required during checks of unemployment periods. b. For the remaining period of time, verify the longest claimed employment (including self-employment) in any calendar month and conduct a suitable inquiry on a best effort basis. Verify each period of unemployment of 30 days or more. No suitable inquiry is required during checks of unemployment periods. If an individual claims two employments of the same length in the same month, only one needs to be selected for verification. If equal periods of employment and unemployment are claimed, verify the employment.</p>	<p>Ok.</p>
<p>(3) Authorization reinstatement after an interruption of more than 30 days. The period of the suitable inquiry must be the period since authorization was terminated. The licensee or other entity shall ensure that the suitable inquiry has been conducted with the employer by whom the individual claims to have been employed the longest within the calendar month, if the individual claims employment during the given calendar month.</p>	<p>Section 6.4: Verify the employment/unemployment history and suitable inquiry information (including education or military service in lieu of employment) since last UAA/UA. Within 5 business days of granting UA, complete a suitable inquiry and verify the longest claimed period of employment in each calendar month on a best effort basis, if the individual claims employment during the given calendar month. Verify unemployment periods of 30 days or more. No suitable inquiry is required during checks of unemployment periods. (April pg 21)</p>	<p>Ok.</p>
<p>§ 26.65 Pre-access drug and alcohol testing. (a) Purpose. This section contains pre-access testing requirements for granting authorization to an individual who either has never held authorization or whose last period of authorization was terminated favorably and about whom no potentially disqualifying FFD information has been discovered or disclosed that was not previously reviewed and resolved by a licensee or other entity under the requirements of this subpart.</p>		<p>Ok.</p>

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<p>(b) Accepting tests conducted within the past 30 days. If an individual has negative results from drug and alcohol tests that were conducted under the requirements of this part before the individual applied for authorization from the licensee or other entity, and the specimens for such testing were collected within the 30-day period preceding the day on which the licensee or other entity grants authorization to the individual, the licensee or other entity may rely on the results of those drug and alcohol tests to meet the requirements for pre-access testing in this section.</p>		Ok.
<p>(c) Initial authorization and authorization update. Before granting authorization to an individual who has never held authorization or whose authorization has been interrupted for a period of more than 365 days, the licensee or other entity shall verify that the results of pre-access drug and alcohol tests, which must be performed within the 30-day period preceding the day the licensee or other entity grants authorization to the individual, are negative.</p>	<p>Section 6.2 and 6.3: Verify that drug and alcohol test results are negative and that the individual is made subject to random drug and alcohol testing. (April pg 19, 21)</p>	<p>Revise language to and alcohol tests in the 30-day period if licensee grants authorization</p> <p>Industry Responses have been re-formatted and 6.3.b.11 have been incorporated into the text</p>

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**Section I: Comparison of FFD Final Rule Subparts A, B, C, D, and N
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FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>The licensee or other entity need not conduct pre-access testing if—</p> <p>(1) The individual previously held authorization under this part and has been subject to a drug and alcohol testing program that includes random testing and a behavioral observation program that includes arrest reporting, which both meet the requirements of this part, from the date the individual's last authorization was terminated through the date the individual is granted authorization; or</p> <p>(2) The licensee or other entity relies on negative results from drug and alcohol tests that were conducted under the requirements of this part at any time before the individual applied for authorization, and the individual has remained subject to a drug and alcohol testing program that includes random testing and a behavioral observation program that includes arrest reporting, which both meet the requirements of this part, beginning on the date the drug and alcohol testing was conducted through the date the individual is granted authorization and thereafter.</p>	<p>Section 6.2 and 6.3: No drug and alcohol testing is required if the individual was subject both to a licensee-approved BOP and licensee-approved random drug and alcohol testing program since the collection or had a negative test result from a licensee-approved drug and alcohol test performed within the last 30 days.(April pg 19, 21)</p>	<p>Revise language to exceptions more clearly</p> <p>For option 1) Revise that a pre-access test individual has <i>prev</i> has been subject to testing program, <i>in</i> and a BOP <i>that inc</i> from the date the <i>ir</i> authorization was <i>t</i> date the individual authorization.</p> <p>For option 2) Revise that if the licensee and alcohol test res the individual appli individual also mus and alcohol testing random testing and reporting, beginnin and alcohol testing the date the individ authorization and tl</p> <p>Industry Respons found under Sectio Section 6.4 and 6.5 text from Option 1 ;</p>

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**Section I: Comparison of FFD Final Rule Subparts A, B, C, D, and N
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FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>(d) Authorization reinstatement after an interruption of more than 30 days. (1) To reinstate authorization for an individual whose authorization has been interrupted for a period of more than 30 days but no more than 365 days, except as permitted in paragraph (d)(2) of this section, the licensee or other entity shall—</p> <p>(i) Verify that the individual has negative results from alcohol testing and collect a specimen for drug testing within the 30-day period preceding the day the licensee reinstates the individual's authorization; and</p> <p>(ii) Verify that the drug test results are negative within 5 business days of specimen collection or administratively withdraw authorization until the drug test results are received.</p>	<p>Section 6.4: 6. Collect a specimen for drug testing and verify that the results of the alcohol test are negative within the 30-day period before authorizing UAA or granting UA, and ensure that the individual is made subject to random drug and alcohol testing with the following qualifications:</p> <p>a. Verify that drug test results are negative within 5 business days of collection.</p> <p>b. In the event the drug test results have not been returned within 5 business days, the licensee shall administratively withdraw UA until the drug test results are confirmed. (June pg 18)</p>	<p>Add reference to FI</p> <p>Industry Respon and its elements a component of UA that should any of Authorization be i that UAA can not l basis, the industry concept of FFD Ai throughout the NE addition, within Se specific FFD Auth identified separate document.</p> <p>Deleted: ¶</p> <p>Revise language to the pre-access dru drug and alcohol te within 5 business d collection</p> <p>Industry Respons formatted. Section text specified above</p> <p>Formatted: Font: Bold</p>

**Section I: Comparison of FFD Final Rule Subparts A, B, C, D, and N
and NEI 03-01 Rev 2 (April 2008 and June 2008)**

FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>(2) The licensee or other entity need not conduct pre-access testing of these individuals if—</p> <p>(i) The individual previously held authorization under this part and has been subject to a drug and alcohol testing program that includes random testing and a behavioral observation program that includes arrest reporting, which both meet the requirements of this part, beginning on the date the individual's last authorization was terminated through the date the individual is granted authorization; or</p> <p>(ii) The licensee or other entity relies on negative results from drug and alcohol tests that were conducted under the requirements of this part at any time before the individual applied for authorization, and the individual remains subject to a drug and alcohol testing program that includes random testing and a behavioral observation program that includes arrest reporting, which both meet the requirements of this part, beginning on the date the drug and alcohol testing was conducted through the date the individual is granted authorization.</p>	<p>Section 6.4</p> <p>NOTE: No drug or alcohol test is required if the individual was either subject to a drug and alcohol testing program that includes random testing and a BOP that includes arrest reporting beginning on the date the drug and alcohol testing was conducted through the date the individual is granted authorization. (Jun pg 19)</p>	<p>See comment 16 in document.</p> <p>Industry Respons re-formatted. Section the word "either" ar to include the full re</p>

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FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>(e) Authorization reinstatement after an interruption of 30 or fewer days. (1) The licensee or other entity need not conduct pre-access testing before granting authorization to an individual whose authorization has been interrupted for 5 or fewer days. In addition, the licensee or other entity need not conduct pre-access testing if the individual has been subject to a drug and alcohol testing program that includes random testing and a behavioral observation program that includes arrest reporting, which both meet the requirements of this part, from the date the individual's last authorization was terminated through the date the individual is granted authorization.</p>	<p>Section 6.5 5. If the individual has not been covered by a licensee-approved BOP and random drug and alcohol testing program from 6 to 30 days following the individual's last period of UAA, the licensee shall subject the individual to random selection for pre-access drug and alcohol testing... (June pg 19)</p>	<p>Add reference to FI</p> <p>Industry Respons and its elements ar of UAA within NEI I of the elements of I incomplete or miss authorized. On that not specify the con Authorization expli 03-01 document. Ir Sections 6.2-6.6, th Authorization elem separately [*] withir</p> <p>Revise language b before "drug and al includes random te alcohol testing prog</p> <p>Industry Respons re-formatted. Secti amended to includ</p> <p>Revise language tc for conducting pre- the rule (2nd senten</p> <p>Industry Respons re-formatted. Secti amended to includ above.</p>

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FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>(2) In order to reinstate authorization for an individual whose authorization has been interrupted for a period of more than 5 days but not more than 30 days, except as permitted in paragraph (e)(1) of this section, the licensee or other entity shall take the following actions:</p> <p>(i) The licensee or other entity shall subject the individual to random selection for pre-access drug and alcohol testing at a one-time probability that is equal to or greater than the normal testing rate specified in § 26.31(d)(2)(vii) calculated for a 30-day period;</p>	<p>Section 6.5</p> <p>5. If the individual has not been covered by a licensee-approved BOP and random drug and alcohol testing program from 6 to 30 days following the individual's last period of UAA, the licensee shall subject the individual to random selection for pre-access drug and alcohol testing at a one-time probability that is equal to or greater than the normal testing rate specified in 10 CFR § 26.31 (d)(2) calculated for a 30-day period. Ensure that the individual is made subject to random drug and alcohol testing. (June pg 19)</p>	<p>Add reference to F</p> <p>Industry Respons and its elements ar of UAA within NEI I of the elements of I incomplete or miss authorized. On that not specify the con Authorization expli 03-01 document. Ir Sections 6.2-6.6, th Authorization elem separately [*] withir</p> <p>Revise language b before "drug and al includes random te alcohol testing prog</p> <p>Industry Respons re-formatted. Secti amended to incorp above.</p>
<p>(ii) If the individual is not selected for pre-access testing under paragraph (e)(2)(i) of this section, the licensee or other entity need not perform pre-access drug and alcohol tests; or</p>		<p>Revise language tc</p> <p>Industry Respons re-formatted. Secti amended to includ above.</p>

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<p>(iii) If the individual is selected for pre-access testing under this paragraph, the licensee or other entity shall— (A) Verify that the individual has negative results from alcohol testing and collect a specimen for drug testing before reinstating authorization; and (B) Verify that the drug test results are negative within 5 business days of specimen collection or administratively withdraw authorization until negative drug test results are received.</p>	<p>6. If the individual is selected for testing, collect a specimen for drug testing and verify that the results of the alcohol test are negative before authorizing UAA or granting UA, and ensure that the individual is made subject to random drug and alcohol testing with the following qualifications: a. Verify that drug test results are negative within 5 business days of collection. b. In the event the drug test results have not been returned within 5 business days, the licensee shall administratively withdraw UA until the drug test results are confirmed.</p>	<p>Add reference to FI</p> <p>Industry Respons and its elements ar of UAA within NEI 1 of the elements of I incomplete or miss authorized. On that not specify the con Authorization explic 03-01 document. In Sections 6.2-6.6, th Authorization elem separately [*] with</p> <p>▼ Revise language to the pre-access dru drug and alcohol te within 5 business d collection.</p> <p>Industry Respons re-formatted. Secti the text specified a</p>

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<p>(f) Administrative withdrawal of authorization. If a licensee or other entity administratively withdraws an individual's authorization under paragraphs (d)(1)(ii) or (e)(2)(iii)(B) of this section, and until the drug test results are known, the licensee or other entity may not record the administrative action to withdraw authorization as an unfavorable termination. The individual may not be required to disclose the administrative action in response to requests for self-disclosure of potentially disqualifying FFD information, except if the individual's authorization was subsequently denied or terminated unfavorably by a licensee or entity. Immediately on receipt of negative test results, the licensee or other entity shall ensure that any matter that could link the individual to the temporary administrative action is eliminated from the donor's personnel record and other records.</p>	<p>CAUTION: If a licensee or C/V administratively withdraws an individual's UAA/UA because properly conducted drug test results are not known or the results of a properly conducted suitable inquiry cannot be obtained within the prescribed time limits, the licensee or C/V may not record the administrative action to withdraw UAA/UA as an unfavorable termination. The individual shall not be required to disclose the administrative action in response to requests for self-disclosure of PDI, except if the individual's UAA/UA was subsequently denied or terminated unfavorably by a licensee. Immediately on receipt of negative test results or obtaining the suitable inquiry, the licensee or C/V shall ensure that any matter that could link the individual to the temporary administrative action is eliminated from the donor's personnel record and other records. (June pg 9)</p>	<p>Add reference to FI</p> <p>Industry Respons and its elements ar of UAA within NEI I of the elements of I incomplete or miss authorized. On that not specify the con Authorization expli 03-01 document. Ir Sections 6.2-6.6, th Authorization elem separately [*] withir</p> <p>Revise the languag phrases because tl cases: they apply c after an interruptior</p> <p>Industry Respons Section 6 has beer 6.4.b.6.</p>
<p>(g) Sanctions. If an individual has confirmed positive, adulterated, or substituted test results from any drug, validity, or alcohol tests that may be required in this section, the licensee or other entity shall, at a minimum and as appropriate,—</p> <p>(1) Deny authorization to the individual, as required by § 26.75(b), (d), (e)(2), or (g);</p> <p>(2) Terminate the individual's authorization, if it has been reinstated, under § 26.75(e)(1) or (f); or</p> <p>(3) Grant authorization to the individual under § 26.69.</p>	<p>Section 6.1.4: Minimum Sanctions repeats the rule text from 26.75.</p>	<p>Add reference to f</p> <p>Industry Respon and its elements a component of UA/ that should any of Authorization be ir that UAA can not I basis, the industry concept of FFD Ai throughout the NE addition, within Se specific FFD Auth identified separate document</p>

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FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>§ 26.67 Random drug and alcohol testing of individuals who have applied for authorization. (a) When the licensee or other entity collects specimens from an individual for any pre-access testing that may be required under §§ 26.65 or 26.69, and thereafter, the licensee or other entity shall subject the individual to random testing under §26.31(d)(2), except if—</p>	<p>Section 6.2 and 6.3(April pg 19, 21): Verify that drug and alcohol test results are negative and that the individual is made subject to random drug and alcohol testing.</p> <p>Section 6.4: ...and ensure that the individual is made subject to random drug and alcohol testing with the following qualifications: (June pg 18)</p> <p>Section 6.5: Ensure that the individual is made subject to random drug and alcohol testing. (June pg 19)</p> <p>Section 8.3: When a pre-access drug and alcohol sample is collected for initial, updated, or reinstated authorization, the individual shall be placed in an approved random testing program. (June pg 26)</p> <p>Section 8.3 repeats 26.31(d)(2)</p>	<p>Ok.</p> <p>▲-----</p> <p>See note on secti qualifications sho testing.</p> <p>Industry Respons re-formatted. Secti amended to include above.</p> <p>Ok. (but see noted</p> <p>Industry Respons re-formatted. Secti amended to include above.</p> <p>Ok.</p> <p>Ok.</p>

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<p>except if— (1) The licensee or other entity does not grant authorization to the individual; or (2) The licensee or other entity relies on drug and alcohol tests that were conducted before the individual applied for authorization to meet the applicable requirements for pre-access testing. If the licensee or other entity relies on drug and alcohol tests that were conducted before the individual applied for authorization, the licensee or other entity shall subject the individual to random testing when the individual arrives at a licensee's or other entity's facility for in-processing and thereafter.</p>	<p>Individuals who require pre-access testing, but were covered by a BOP and had negative test results within the last 30 days that meet the testing requirements, shall be placed in the random testing program when the licensee takes the first formal action to grant the individual UAA/UA at the licensee's in-processing facility. (June pg 27)</p>	<p>Add reference to FI</p> <p>Industry Respons and its elements ar of UAA within NEI 1 of the elements of I incomplete or miss authorized. On that not specify the con Authorization expli 03-01 document. Ir Sections 6.2-6.6, th Authorization elem separately [*] withir</p> <p>Add "of this section requirements."</p> <p>Industry Respons re-formatted. Secti amended to reflect</p>
<p>(b) If an individual is selected for one or more random tests after any applicable requirement for pre-access testing in §§ 26.65 or 26.69 has been met, the licensee or other entity may grant authorization before random testing is completed, if the individual has met all other applicable requirements for authorization.</p>		<p>Ok.</p>

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<p>(c) 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—</p> <p>(1) Deny authorization to the individual, as required by § 26.75(b), (d), (e)(2), or (g);</p> <p>(2) Terminate the individual's authorization, if it has been granted, as required by § 26.75(e)(1) or (f); or</p> <p>(3) Grant authorization to the individual under § 26.69.</p>	<p>Section 6.1.4: Minimum Sanctions repeats the rule text from 26.75, but uses the term "UA/UAA"</p>	<p>Add reference to F</p> <p>Industry Respons and its elements ar of UAA within NEI I of the elements of I incomplete or miss authorized. On that not specify the con Authorization expli 03-01 document. Ir Sections 6.2-6.6, th Authorization elem separately [*] withir</p>
<p>§ 26.69 Authorization with potentially disqualifying fitness-for-duty information.</p> <p>(a) Purpose. This section defines the management actions that licensees and other entities who are subject to this subpart shall take to grant or maintain, at the licensee's or other entity's discretion, the authorization of an individual who is in the following circumstances:</p> <p>(1) Potentially disqualifying FFD information within the past 5 years has been disclosed or discovered about the individual by any means, including, but not limited to, the individual's self-disclosure, the suitable inquiry, drug and alcohol testing, the administration of any FFD program under this part, a self-report of a legal action, behavioral observation, or other sources of information, including, but not limited to, any background investigation or credit and criminal history check conducted under the requirements of this chapter; and</p> <p>(2) The potentially disqualifying FFD information has not been reviewed and favorably resolved by a previous licensee or other entity under this section.</p>	<p>6.1.1 PDI That Has Not Been Reviewed If PDI is disclosed or discovered and has not been reviewed and favorably resolved by a previous licensee, the reviewing official shall ensure that appropriate actions are taken. (April pg 11)</p> <p>6.1.1.3 Other FFD PDI within the past 5 years [following paragraphs detail management actions] (April pg 13)</p>	<p>Ok.</p>

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<p>(b) <i>Authorization after a first confirmed positive drug or alcohol test result or a 5-year denial of authorization.</i> The requirements in this paragraph apply to individuals whose authorization was denied or terminated unfavorably for a first violation of an FFD policy involving a confirmed positive drug or alcohol test result and individuals whose authorization was denied for 5 years under § 26.75(c), (d), (e)(2), or (f). To grant, and subsequently maintain, the individual's authorization, the licensee or other entity shall—</p> <p>(1) Obtain and review a self-disclosure and employment history from the individual that addresses the shorter period of either the past 5 years or since the individual's last period of authorization was terminated, and verify that the self-disclosure does not contain any previously undisclosed potentially disqualifying FFD information before granting authorization;</p> <p>(2) Complete a suitable inquiry with every employer by whom the individual claims to have been employed during the period addressed in the employment history obtained under paragraph (b)(1) of this section, and obtain and review any records that other licensees or entities who are subject to this part may have developed related to the unfavorable termination or denial of authorization;</p> <p>(3) If the individual was subject to a 5-year denial of authorization under this part, verify that he or she has abstained from substance abuse for at least the past 5 years;</p>	<p>(June)</p> <p>6.1.1.1 Request for access after a first confirmed positive drug or alcohol test result For a request for access after a first confirmed positive drug or alcohol test result conduct the following:</p> <p>a. Obtain and review a self-disclosure and employment history from the individual that addresses the shortest of the following periods:</p> <ol style="list-style-type: none"> 1. since the individual's eighteenth birthday, or 2. since the individual's last period of UAA was terminated. <p>Verify that the self-disclosure does not contain any previously undisclosed FFD PDI before granting UAA/UA;</p> <p>b. Complete a suitable inquiry with every employer by whom the individual claims to have been employed during the period addressed in the employment history and obtain and review any records that other licensees or entities may have developed related to the unfavorable termination or denial of authorization. The licensee or C/V may rely upon information-sharing system data that documents a prior review of FFD PDI. For those documented incidents the two-year expansion of the employment check inquiry scope is not required;</p> <p>6.1.1.2 Request for access after a 5-year denial of authorization For a request for access after a 5-year denial of authorization conduct an initial authorization investigation and include the following:</p> <p>a. Obtain and review a self-disclosure and employment history from the individual that addresses the 5-year period prior to authorizing UAA or granting UA ensuring that the self disclosure does not contain any previously undisclosed FFD PDI before granting UAA/UA;</p> <p>(continued, next page)</p>	<p>Self-disclosure and must address the s the past 5 years or last period of auth</p> <p>Industry Respons re-formatted. Secti amended to include</p> <p>Revise language tc statement.</p> <p>Industry Respons revised. Section 6. clarification reques</p> <p>Add reference to FI</p> <p>Industry Respons and its elements ar of UAA within NEI I of the elements of I incomplete or miss authorized. On that not specify the con Authorization expli 03-01 document. Ir Sections 6.2-6.6, th Authorization elem separately [*] withir</p>

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	<p>(continued from previous page)</p> <p>b. Complete a suitable inquiry with every employer by whom the individual claims to have been employed during the period addressed in the employment history and obtain and review any records that other licensees or entities may have developed related to the unfavorable termination or denial of authorization. The licensee or C/V may rely upon information-sharing system data that documents a prior review of FFD PDI. For those documented incidents the two-year expansion of the employment check inquiry scope is not required;</p> <p>c. Verify that he or she has abstained from substance abuse for at least the past 5 years;</p>	

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<p>(4) Ensure that an SAE has conducted a determination of fitness and concluded that the individual is fit to safely and competently perform his or her duties.</p> <p>(i) If the individual's authorization was denied or terminated unfavorably for a first confirmed positive drug or alcohol test result, ensure that clinically appropriate treatment and followup testing plans have been developed by an SAE before granting authorization;</p> <p>(ii) If the individual was subject to a 5-year denial of authorization, ensure that any recommendations for treatment and followup testing from an SAE's determination of fitness are initiated before granting authorization; and</p> <p>(iii) Verify that the individual is in compliance with, and successfully completes, any followup testing and treatment plans.</p> <p>(5) Within 10 business days before granting authorization, perform a pre-access alcohol test, collect a specimen for drug testing under direct observation, and ensure that the individual is subject to random testing thereafter. Verify that the pre-access drug and alcohol test results are negative before granting authorization.</p>	<p>(June)</p> <p>6.1.1.1 Request for access after a first confirmed positive drug or alcohol test result</p> <p>c. Ensure that the MRO or other appropriate professional conducts a determination of fitness and indicates that the individual is fit to safely and competently perform his or her duties.</p> <p>1. If the individual's UAA/UA was denied or terminated unfavorably for a first confirmed positive drug or alcohol test result, ensure that clinically appropriate treatment plans are developed by the MRO or appropriate professional before granting authorization.</p> <p>2. Subsequent to authorizing UAA or granting UA, verify that the individual is in compliance with, and successfully completes, any follow-up testing and treatment plans.</p> <p>d. Within 10 business days before authorizing UAA or granting UA, perform a preaccess alcohol test, collect a specimen for drug testing under direct observation, and ensure that the individual is subject to random testing thereafter. Verify that the preaccess drug and alcohol test results are negative before granting authorization.</p> <p>6.1.1.2 Request for access after a 5-year denial of authorization</p> <p>d. Ensure that the MRO or other appropriate professional conducts a determination of fitness and indicates that the individual is fit to safely and competently perform his or her duties.</p> <p>1. Ensure that any recommendations for treatment and follow-up testing from the MRO or other appropriate professional's determination of fitness are initiated before granting authorization.</p> <p>2. Subsequent to authorizing UAA or granting UA, verify that the individual is in compliance with, and successfully completes, any follow-up testing and treatment plans.</p> <p>e. Within 10 business days before authorizing UAA or granting UA, perform a preaccess alcohol test, collect a specimen for drug testing under direct observation, and ensure that the individual is subject to random testing thereafter. Verify that the preaccess drug and alcohol test results are negative before granting authorization.</p>	<p>Revise the guidance rule. The rule text licenses to ensure followup testing plan developed; in 6.1.1 guidance only calls that a treatment plan</p> <p>Deleted: ¶</p> <p>Formatted: Font: Bold</p> <p>Formatted: Indent: Left: 0"</p> <p>Change "MRO or other professional" through or other professional qualifications, as specified</p> <p>Formatted: Font: Bold</p> <p>Formatted: Indent: Left: 0"</p> <p>Industry Respons "MRO or other appropriate professional with the qualifications, as specified 26 has been added Sections: 6.1.3.b, 6 and 8.4.a.1.(a)."</p> <p>Add reference to FI</p> <p>Industry Respons and its elements are of UAA within NEI 1 of the elements of I incomplete or miss authorized. On that not specify the content Authorization explicit 03-01 document. In Sections 6.2-6.6, the Authorization elements separately [*] within</p>

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<p>(6) If the individual's authorization was denied or terminated unfavorably for a first confirmed positive drug or alcohol test result and a licensee or other entity grants authorization to the individual, ensure that the individual is subject to unannounced testing at least quarterly for 3 calendar years after the date the individual is granted authorization. Both random and followup tests, as defined in § 26.31(c), satisfy this requirement. Verify that the individual has negative test results from a minimum of 15 tests distributed over the 3-year period, except as follows:</p> <p>(i) If the individual does not continuously hold authorization during the 3-year period, the licensee or other entity shall ensure that at least one unannounced test is conducted in any quarter during which the individual holds authorization;</p> <p>(ii) If the 15 tests are not completed within the 3-year period specified in this paragraph due to periods during which the individual does not hold authorization, the followup testing program may be extended up to 5 calendar years to complete the 15 tests;</p> <p>(iii) If the individual does not hold authorization during the 5-year period a sufficient number of times or for sufficient periods of time to complete the 15 tests required in this paragraph, the licensee or other entity shall ensure that an SAE conducts a determination of fitness to assess whether further followup testing is required and implement the SAE's recommendations; and</p> <p>(7) Verify that any drug and alcohol tests required in this paragraph, and any other drug and alcohol tests that are conducted under this part since authorization was terminated or denied, yield results indicating no further drug abuse, as determined by the MRO after review, or alcohol abuse, as determined by the result of confirmatory alcohol testing.</p>	<p>6.1.1.1 and 6.1.1.2 (June)</p>	<p>Add reference to F 6.1.1.1(e) and (f) at</p> <p>Industry Respons and its elements ar of UAA within NEI (I of the elements of I incomplete or miss authorized. On that not specify the con Authorization explic 03-01 document. In Sections 6.2-6.6, th Authorization elem separately [*] with</p>

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<p>(c) Granting authorization with other potentially disqualifying FFD information. The requirements in this paragraph apply to an individual who has applied for authorization, and about whom potentially disqualifying FFD information has been discovered or disclosed that is not a first confirmed positive drug or alcohol test result or a 5-year denial of authorization. If potentially disqualifying FFD information is obtained about an individual by any means, including, but not limited to, the individual's self-disclosure, the suitable inquiry, the administration of any FFD program under this part, a self-report of a legal action, behavioral observation, or other sources of information, including, but not limited to, any background investigation or credit and criminal history check conducted under the requirements of this chapter, before granting authorization to the individual, the licensee or other entity shall—</p> <p>(1) Obtain and review a self-disclosure and employment history that addresses the shortest of the following periods:</p> <p>(i) The past 5 years;</p> <p>(ii) Since the individual's eighteenth birthday; or</p> <p>(iii) Since the individual's last period of authorization was terminated;</p> <p>(2) Complete a suitable inquiry with every employer by whom the individual claims to have been employed during the period addressed in the employment history required under paragraph (c)(1) of this section. If the individual held authorization within the past 5 years, obtain and review any records that other licensees or entities who are subject to this part may have developed with regard to potentially disqualifying FFD information about the individual from the past 5 years;</p> <p>(3) If the designated reviewing official determines that a determination of fitness is required, verify that a professional with the appropriate qualifications, as specified in § 26.187(a), has indicated that the individual is fit to safely and competently perform his or her duties;</p>	<p>(June)</p> <p>6.1.1.3 Other FFD PDI within the past 5 years</p> <p>For other FFD PDI within the past 5 years and prior to authorizing UAA or granting UA:</p> <p>a. Obtain and review a self-disclosure and employment history that addresses the shortest of the following periods:</p> <ol style="list-style-type: none"> 1. the past 5 years; 2. since the individual's eighteenth birthday; or 3. since the individual's last period of UAA/UA was terminated. <p>Verify that the self-disclosure does not contain any previously undisclosed FFD PDI before granting UAA/UA.</p> <p>b. Complete a suitable inquiry with every employer by whom the individual claims to have been employed during the period addressed in the employment history. If the individual held UAA/UA within the past 5 years, obtain and review any records that other licensees or entities that are subject to Part 26 may have developed with regard to FFD PDI about the individual from the past 5 years. The licensee or C/V may rely upon information-sharing system data that documents a prior review of FFD PDI. For those documented incidents the two-year expansion of the employment check inquiry scope is not required.</p> <p>c. If the reviewing official determines that a determination of fitness is required, verify that an MRO or other professional has indicated that the individual is fit to safely and competently perform his or her duties.</p>	<p>Revise language to statement.</p> <p>Industry Respons re-formatted. Secti clarification reques</p> <p>Add reference to FI</p> <p>Industry Respons and its elements ar of UAA within NEI I of the elements of I incomplete or miss authorized. On that not specify the con Authorization explic 03-01 document. In Sections 6.2-6.6, th Authorization elem separately [*] withir</p>

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<p>(4) Ensure that the individual is in compliance with, or has completed, any plans for treatment and drug and alcohol testing from the determination of fitness, which may include the collection of a urine specimen under direct observation; and</p> <p>(5) Verify that the results of pre-access drug and alcohol tests are negative before granting authorization, and that the individual is subject to random testing after the specimens have been collected for pre-access testing and thereafter.</p>	<p>(June)</p> <p>6.1.1.3 Other FFD PDI within the past 5 years</p> <p>d. Ensure that the individual is in compliance with, or has completed, any plans for treatment and drug and alcohol testing from the determination of fitness, which may include the collection of a urine specimen under direct observation.</p> <p>e. Verify that the results of pre-access drug and alcohol tests are negative before authorizing UAA or granting UA, and that the individual is subject to random testing after the specimens have been collected for pre-access testing and thereafter.</p>	<p>Add reference to F</p> <p>Industry Respons and its elements ar of UAA within NEI I of the elements of I incomplete or miss authorized. On that not specify the con Authorization expli 03-01 document. Ir Sections 6.2-6.6, th Authorization elem separately [*] withir</p>
<p>(d) Maintaining authorization with other potentially disqualifying FFD information. If an individual is authorized when other potentially disqualifying FFD information is disclosed or discovered, in order to maintain the individual's authorization, the licensee or other entity shall—</p> <p>(1) Ensure that the licensee's or other entity's designated reviewing official completes a review of the circumstances associated with the information;</p> <p>(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 § 26.187(a), has indicated that the individual is fit to safely and competently perform his or her duties; and</p> <p>(3) If the reviewing official determines that maintaining the individual's authorization is warranted, implement any recommendations for treatment and followup drug 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.</p>	<p>(June)</p> <p>6.1.1.4 Maintaining Individuals Authorized UAA or Granted UA with FFD PDI</p> <p>For individuals authorized UAA or granted UA with FFD PDI:</p> <p>a. Ensure that the licensee's reviewing official completes a review of the circumstances associated with the information.</p> <p>b. If the reviewing official concludes that a determination of fitness is required, verify that a MRO or other professional has indicated that the individual is fit to safely and competently perform his or her duties.</p> <p>c. If the reviewing official determines that maintaining the individual's UAA/UA is warranted, implement any recommendations for treatment and follow-up drug 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.</p>	<p>Add reference to F</p> <p>Industry Respons and its elements ar of UAA within NEI I of the elements of I incomplete or miss authorized. On that not specify the con Authorization expli 03-01 document. Ir Sections 6.2-6.6, th Authorization elem separately [*] withir</p>

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<p>(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.</p> <p>(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.</p> <p>(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.</p>	<p>6.1.2 Follow-up testing, treatment plans and determinations of fitness from another FFD program</p> <p>Follow-up testing, treatment plans and determinations of fitness from another FFD program may be accepted provided they were conducted under the FFD program of another licensee or approved C/V which satisfies 10 CFR Part 26.</p> <p>a. If an individual leaves the FFD program in which a treatment and follow-up testing plan was required and is granted UAA/UA by the same or another licensee or entity, the licensee who grants UAA/UA to the individual shall ensure that any treatment and follow-up testing requirements are met, with accountability assumed by the granting licensee.</p> <p>b. If the previous licensee or approved C/V determined that the individual successfully completed any required treatment and follow-up testing, and the individual's last period of UAA/UA was terminated favorably, the receiving licensee or entity may rely on the previous determination of fitness and no further review or follow-up is required.</p>	<p>Part 26 requires the licensee who imposed the treatment and follow-up testing plan to ensure that information documenting the treatment and follow-up 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.</p> <p>(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.</p> <p>Industry Responses contained within Section 26.189</p> <p>See comment 12 in the NRC rulemaking process.</p> <p>Industry Responses re-formatted. Section 26.189 added to amend the rule.</p>

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<p>(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,—</p> <p>(1) Deny authorization to the individual, as required by § 26.75(b), (d), (e)(2), or (g); or</p> <p>(2) Terminate the individual's authorization, if it has been granted, as required by § 26.75(e)(1) or (f).</p>	<p>6.1.4 Minimum Sanctions repeats 26.75, but uses the term "UA/UAA"</p>	<p>Add reference to F</p> <p>Industry Respons and its elements ar of UAA within NEI I of the elements of I incomplete or miss authorized. On that not specify the con Authorization explic 03-01 document. In Sections 6.2-6.6, th Authorization elem separately [*] withir</p>

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<p>§ 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).</p>	<p>Section 6 and 6.6: FFD Authorization is maintained as long as the individual is covered by a licensee-approved BOP and the 10 CFR Part 26 drug and alcohol testing program. (June pg 8, 20)</p> <p>Section 6.6.3. Determine whether or not the FFD authorization is current. If it is current the individual may be maintained. If the FFD Authorization is not current in that the individual has not been under a licensee-approved random drug and alcohol testing program, conduct the drug and alcohol test described in Section 6.4 or if less than 30days, as described in Section 6.5, and place the individual in the licensee or C/V random drug and alcohol testing program UAA; (June pg 21)</p> <p>6.6.4 To Maintain UA Current an Individual Shall: ☐ be under a BOP (must include reporting of arrests, training, and annual supervisory review), ☐ complete periodic training requirements, ☐ have periodic reinvestigations and psychological assessments conducted as defined and within established time frames, and ☐ be subject to the drug and alcohol testing program including follow-up, forcause, post-event and random testing. (June pg 21)</p> <p>Section 10: To maintain UAA/UA, individuals are covered by a BOP that includes behavioral observation training, an arrest reporting program, and annual supervisory reviews. (June pg 30)</p>	<p>Sections 6.2-6.7 of requirements for U. They are also the r authorization. If U/ authorization, then these sections to b</p> <p>Industry Respons Sections 6.2-6.7 he reflect the type of L</p> <p>The guidance shou that, although the ii under a random drn program, the remai Authorization rema the language in this with the 3rd bullet ir</p> <p>Industry Respons version) has been i</p> <p>FFD is an element sections 6.6.4 and compliance with FF procedures.</p> <p>Industry Respons re-formatted. Sectii text specified abov See comment 9 in</p> <p>Industry Respons re-formatted. Sectii text specified abov See comment 17 ir</p> <p>Industry Respons re-formatted. Sectii text specified abov</p>

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<p>(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 the individual's authorization and the individual shall meet the requirements in this subpart, as applicable, to regain authorization.</p>		<p>Revise language to</p> <p>Industry Responses re-formatted. Section revised to reflect th</p>
<p>Subpart D</p>		
<p>§ 26.73 Applicability. The requirements in this subpart apply to the licensees and other entities identified in § 26.3(a) and (b) 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) 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 C/V 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.</p>	<p>6.1.4 Minimum Sanctions (April version) The following minimal sanctions shall be imposed when an individual has violated the drug and alcohol provisions of an FFD policy: ...</p>	<p>Ok.</p>
<p>§ 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.</p>	<p>6.1.4 Minimum Sanctions (April version) The following minimal sanctions shall be imposed when an individual has violated the drug and alcohol provisions of an FFD policy: a. 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 must result in the immediate unfavorable termination of the individual's UAA/UA and permanent denial of UAA/UA thereafter.</p>	<p>Ok.</p>

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<p>(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 formula quantities 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.</p> <p>(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 immediately 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.</p>	<p>6.1.4 Minimum Sanctions (April version)</p> <p>b. 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, or while performing the duties that require the individual to be subject to Part 26 shall immediately have his or her UAA/UA unfavorably terminated and denied for a minimum of 5 years from the date of the unfavorable termination of UAA/UA.</p> <p>c. Any individual who resigns or withdraws his or her application for authorization before UAA/UA is terminated or denied for a first violation of the FFD policy involving a confirmed positive drug or alcohol test result shall immediately have his or her UAA/UA 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 UAA/UA before his or her UAA/UA 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 UAA/UA.</p>	<p>Ok.</p>

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FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>(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 off-site drug or alcohol use in violation of the FFD policy.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p>	<p>6.1.4 Minimum Sanctions (April version)</p> <p>d. Lacking any other evidence to indicate the use, sale, or possession of illegal drugs or consumption of alcohol within the protected area, a confirmed positive drug or alcohol test result must be presumed to be an indication of off-site drug or alcohol use in violation of the FFD policy.</p> <p>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 UAA/UA for at least 14 days.</p> <p>2. Any subsequent confirmed positive drug or alcohol test result, including during an assessment or treatment period, must result in the denial of UAA/UA for a minimum of 5 years from the date of denial.</p> <p>e. Paragraph "d" 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.</p>	<p>Revise the language 10 CFR Part 26. § 26.75(e) references 6.1.4(d) references area."</p> <p>Industry Respons reformatted. Sectio text clarification rec</p>
<p>(g) For individuals whose authorization was denied for 5 years under paragraphs (c), (d), (e)(2), or (f) of this section, any subsequent violation of the drug and alcohol provisions of an FFD policy must immediately result in permanent denial of authorization.</p>	<p>6.1.4 Minimum Sanctions (April version)</p> <p>f. For individuals whose authorization was denied for 5 years, any subsequent violation of the drug and alcohol provisions of an FFD policy must immediately result in permanent denial of UAA/UA.</p>	<p>Ok.</p>

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**Section I: Comparison of FFD Final Rule Subparts A, B, C, D, and N
and NEI 03-01 Rev 2 (April 2008 and June 2008)**

FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>(h) A licensee or other entity may not terminate an individual's authorization and may not subject the individual to other administrative action based solely on a positive test result from any initial drug test, other than positive initial test results for marijuana or cocaine metabolites from a specimen that is reported to be valid on the basis of either validity screening or initial validity testing performed at a licensee testing facility, unless other evidence, including information obtained under the process set forth in § 26.189, indicates that the individual is impaired or might otherwise pose a safety hazard. The licensee or other entity may not terminate an individual's authorization or subject an individual to any other administrative action under this section based on the results of validity screening or initial validity testing performed at a licensee testing facility indicating that a specimen is of questionable validity.</p>		<p>See comment 14 ir</p> <p>Industry Respons reformatted. Sectio amended to specifi 26.75 (h) and (i) wi procedures.</p>
<p>(i) With respect to positive initial drug test results from a licensee testing facility for marijuana and cocaine metabolites from a valid specimen, licensee testing facility personnel may inform licensee or other entity management of the positive initial drug test result and the specific drugs or metabolites identified, and licensees or other entities may administratively withdraw the donor's authorization or take lesser administrative actions against the donor, provided that the licensee or other entity complies with the following conditions:</p> <p>...</p>		<p>See comment 14 ir</p> <p>Industry Respons reformatted. Sectio amended to specifi 26.75 (h) and (i) wi procedures</p>
<p>§ 26.77 Management actions regarding possible impairment.</p>		<p>Add requirements : actions regarding p</p> <p>Industry Respons regarding possible within licensee FFE</p>

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**Section I: Comparison of FFD Final Rule Subparts A, B, C, D, and N
and NEI 03-01 Rev 2 (April 2008 and June 2008)**

FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>Subpart N § 26.709 Applicability. The requirements of this subpart apply to the FFD programs of licensees and other entities specified in § 26.3, except for FFD programs that are implemented under subpart K of this part.</p>	<p>14 RECORDS AND PROTECTION OF INFORMATION (April version) Licensees and/or their C/Vs who implement UAA programs in accordance with these criteria shall retain the records on which the UAA/UA is based for the duration of the UAA/UA and for at least 5 years following access termination from the authorizing licensee's program or until completion of all related legal proceedings, whichever is later.</p>	<p>Add references to I Sections 14 and 15</p> <p>Industry Respons and its elements ar of UAA within NEI I of the elements of I incomplete or miss authorized. On that not specify the con Authorization expli 03-01 document. Ir Sections 6.2-6.6, th Authorization elem separately [*] withir</p>

**Section I: Comparison of FFD Final Rule Subparts A, B, C, D, and N
and NEI 03-01 Rev 2 (April 2008 and June 2008)**

FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>§ 26.711 General provisions.</p> <p>(a) Each licensee and other entity shall maintain records and submit certain reports to the NRC. Records that are required by the regulations in this part must be retained for the period specified by the appropriate regulation. If a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility's license, certificate, or other regulatory approval.</p> <p>(b) All records may be stored and archived electronically, provided that the method used to create the electronic records meets the following criteria:</p> <p>(1) Provides an accurate representation of the original records;</p> <p>(2) Prevents the alteration of any archived information and/or data once it has been committed to storage; and</p> <p>(3) Permits easy retrieval and re-creation of the original records.</p> <p>(c) The licensees and other entities specified in § 26.4(a) and (d), as applicable, shall inform each individual of his or her right to review information about the individual that is collected and maintained under this part to assure its accuracy.</p> <p>Licensees and other entities shall provide the individual with an opportunity to correct any inaccurate or incomplete information that is documented by licensees and other entities about the individual.</p>	<p>14 RECORDS AND PROTECTION OF INFORMATION (April version)</p> <p>Licensees and/or their C/Vs who implement UAA programs in accordance with these criteria shall retain the records on which the UAA/UA is based for the duration of the UAA/UA and for at least 5 years following access termination from the authorizing licensee's program or until completion of all related legal proceedings, whichever is later.</p> <p>Licensees and C/Vs shall establish, use, and maintain a system of files and procedures for the protection of the personal information including personal information stored in electronic format.</p> <p>For information stored or transmitted in electronic format, access to personal information will be controlled by:</p> <ol style="list-style-type: none"> 1. password protection to control access to personal data, 2. data entry limited to each authorized individual's area of competency, and 3. procedural controls. <p>7.1 CONSENT AND ADVISEMENTS (April version)</p> <p>The individual applying for UAA/UA shall be informed of:</p> <ol style="list-style-type: none"> 4. of his or her right to review the results of the developed information, and to assure its accuracy and completeness; <p>Appendix B (April version)</p> <p>The consent form must contain the following components:</p> <ol style="list-style-type: none"> 8. That the individual may obtain a copy of the information being maintained and provide information to correct any incorrect information; 	<p>Guidance must be 14 requires the retention of records which UAA/UA is based on. The language is specific and must be retained at the methods.</p> <p>Industry Responses re-formatted. The § contains requirements for storage.</p>

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**Section I: Comparison of FFD Final Rule Subparts A, B, C, D, and N
and NEI 03-01 Rev 2 (April 2008 and June 2008)**

FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>(d) Licensees and other entities shall ensure that only correct and complete information about individuals is retained and shared with other licensees and entities. If, for any reason, the shared information used for determining an individual's eligibility for authorization under this part changes or new information is developed about the individual, licensees and other entities shall correct or augment the shared information contained in the records. If the changed or developed information has implications for adversely affecting an individual's eligibility for authorization, a licensee and other entity specified in § 26.4(a) and (d), as applicable, who has discovered the incorrect information, or develops new information, shall inform the reviewing official of any FFD program under which the individual is maintaining authorization of the updated information on the day of discovery. The reviewing official shall evaluate the information and take appropriate actions, which may include denial or unfavorable termination of the individual's authorization.</p>	<p>12.8 PROGRAM RELIABILITY (April version) Licensees shall ensure that any violation of a 10 CFR 26 program element at one licensee is identifiable to all licensees, to the extent that, at the time of the discovery, persons holding UA who were the subject of, or included in, any program element violation at any licensee, are identified by that licensee. This information must also be provided to any licensee where that person holds UA. If, for any reason, the shared information used for UAA/UA determinations changes, a licensee shall update the information available to other licensees. If the changes are significant enough to affect UAA/UA determinations, each licensee site where the affected individual has current UAA/UA must be informed. This requirement applies to both the access authorization and fitness-for-duty elements of the program. If issues arise that affect the BI of an individual, or group of individuals, the licensee would take appropriate action to correct the deficiency. This may require withdrawing UAA/UA or correcting some investigation element. The intent of this section is to ensure that when this is necessary, other licensees relying on the shared information are also informed so they can take appropriate action. Correcting the shared information ensures that future UAA/UA decisions are based on valid information.</p>	<p>Add references to I Revise section 12.8 language. For exa information ... char "If ... new informati the individual" becc definition, is not inf shared by licensee site where the affe current UAA/UA an must be informed c information on the i</p> <p>Industry Respons been re-formatted. the text specified a</p>

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**Section I: Comparison of FFD Final Rule Subparts A, B, C, D, and N
and NEI 03-01 Rev 2 (April 2008 and June 2008)**

FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>§ 26.713 Recordkeeping requirements for licensees and other entities. (a) Each licensee and other entity who is subject to this subpart shall retain the following records for at least 5 years after the licensee or other entity terminates or denies an individual's authorization or until the completion of all related legal proceedings, whichever is later: (1) Records of self-disclosures, employment histories, and suitable inquiries that are required under §§ 26.55, 26.57, 26.59, and 26.69 that result in the granting of authorization; (2) Records pertaining to the determination of a violation of the FFD policy and related management actions; (3) Documentation of the granting and termination of authorization; and (4) Records of any determinations of fitness conducted under § 26.189, including any recommendations for treatment and followup testing plans.</p>	<p>14 RECORDS AND PROTECTION OF INFORMATION (April version) Licensees and/or their C/Vs who implement UAA programs in accordance with these criteria shall retain the records on which the UAA/UA is based for the duration of the UAA/UA and for at least 5 years following access termination from the authorizing licensee's program or until completion of all related legal proceedings, whichever is later. Licensee and/or their C/Vs shall retain records upon which access denials are based for the life of the license.</p> <p>15 RECORDS RETENTION (April version) Records must be retained for a designated period of time, as follows:</p> <ul style="list-style-type: none"> • Access authorization records (except denials)—5 years after UA termination at the licensee taking action or 3 years after UAA or unfettered access is no longer required • Access withdrawal records—5 years after withdrawal if consent withdrawn; 1 year if request for access withdrawn • Access Authorization and FFD Audit records—3 years, whether the originating entity or shared • Procedures—maintained current • Procedure revisions—maintained for 3 years after date superseded • Access Authorization Denials—Permanently • FFD sanctions—Permanently • FFD withdrawal/resignations—5 years • FFD testing paperwork—Negative tests—5 years, Positive tests—Permanently • FFD Training and record of examination—3 years • 5-Year Denials or Permanent Denials—40 years or the NRC determines that the records are no longer needed. • Written agreements for the provider of services—Life of agreement or until all legal proceedings involving the service provider are concluded whichever ever is later 	<p>Add the records re "records of any det conducted under § recommendations 1 followup testing pla</p> <p>Industry Respons re-formatted. Secti the text specified a</p>

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**Section I: Comparison of FFD Final Rule Subparts A, B, C, D, and N
and NEI 03-01 Rev 2 (April 2008 and June 2008)**

FFD Rule Section	Corresponding NEI 03-01 Text	NRC
<p>(b) Each licensee and other entity who is subject to this subpart shall retain the following records for at least 3 years or until the completion of all related legal proceedings, whichever is later:</p> <p>(1) Records of FFD training and examinations conducted under § 26.29; and</p> <p>(2) Records of audits, audit findings, and corrective actions taken under § 26.41.</p> <p>(c) Licensees and other entities shall ensure the retention and availability of records pertaining to any 5-year denial of authorization under § 26.75(c), (d), or (e)(2) and any permanent denial of authorization under § 26.75(b) and (g) for at least 40 years or until, on application, the NRC determines that the records are no longer needed.</p> <p>(d) Licensees and other entities shall retain any superseded versions of the written FFD policy and procedures required under §§ 26.27, 26.39, and 26.203(b) for at least 5 years or until completion of all legal proceedings related to an FFD violation that may have occurred under the policy and procedures, whichever is later.</p> <p>(e) Licensees and other entities shall retain written agreements for the provision of services under this part for the life of the agreement or until completion of all legal proceedings related to an FFD policy violation that involved those services, whichever is later.</p> <p>(f) Licensees and other entities shall retain records of the background investigations, credit and criminal history checks, and psychological assessments of FFD program personnel, conducted under § 26.31(b)(1)(i), for the length of the individual's employment by or contractual relationship with the licensee or other entity, or until the completion of all related legal proceedings, whichever is later.</p>	<p>15 RECORDS RETENTION (April version)</p> <p>Records must be retained for a designated period of time, as follows:</p> <ul style="list-style-type: none"> • Access authorization records (except denials)—5 years after UA termination at the licensee taking action or 3 years after UAA or unfettered access is no longer required • Access Authorization and FFD Audit records—3 years, whether the originating entity or shared • Procedures—maintained current • Procedure revisions—maintained for 3 years after date superseded • Access Authorization Denials-Permanently • FFD Training and record of examination—3 years • 5-Year Denials or Permanent Denials—40 years or the NRC determines that the records are no longer needed. • Written agreements for the provider of services—Life of agreement or until all legal proceedings involving the service provider are concluded whichever ever is later 	<p>Add the caveat "or related legal proceeding later" to the periods pertaining to FFD training and examinations, audit authorization records</p> <p>Industry Response re-formatted. Section text specified above</p> <p>Revise guidance to language. NEI 03-revisions to be made the date they were 10 CFR 26.713(d); other entities must versions of the written procedures for at least completion of all legal proceedings related to an FFD violation under the policy and is later.</p> <p>Industry Response procedure issue no 03-01.</p>

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**Section I: Comparison of FFD Final Rule Subparts A, B, C, D, and N
and NEI 03-01 Rev 2 (April 2008 and June 2008)**

FFD Rule Section	Corresponding NEI 03-01 Text	NRC
(g) If a licensee's or other entity's FFD program includes tests for drugs in addition to those specified in this part, as permitted under § 26.31(d)(1), or uses more stringent cutoff levels than those specified in this part, as permitted under § 26.31(d)(3), the licensee or other entity shall retain documentation certifying the scientific and technical suitability of the assays and cutoff levels used, as required under § 26.31(d)(1)(i) and (d)(3)(iii)(C), respectively, for the time the FFD program follows these practices or until the completion of all related legal proceedings, whichever is later.		Add requirements : documentation cert technical suitability levels used by licer Industry Respons procedure issue no 03-01.
§ 26.715 Recordkeeping requirements for collection sites, licensee testing facilities, and laboratories certified by the Department of Health and Human Services.		Add requirements : recordkeeping reqt sites, licensee testi laboratories certifie Health and Human Industry Respons procedure issue no 03-01.
§ 26.717 Fitness-for-duty program performance data.		Add requirements : duty program perfo Industry Respons procedure issue no 03-01.
§ 26.719 Reporting requirements.		Add requirements : requirements. Industry Respons procedure issue no 03-01.

Notes:

Sections 6.2 through 6.7 all touch on UAA/UA when PDI is detected. Some of these sections simply refer back to Section 6.1 to elaborate on what the licensee must do. To avoid contradictions between the sections, NEI should just refer back to Section 6.1 sections when they begin to discuss what to do with PDI. This will also make any future revisions to the guidance document will only need to make PDI-related revisions to Section 6.1, rather than revising Sections 6.2 through 6.7 as well.

Issues Identify By Industry Not Reviewed By NRC

There are several text changes that have been added to NEI 03-01, Revision 2 dated September 2008 as follows:

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1. The document has been reformatted to ensure that requirements within the text have a reference paragraph number has changed the text from the previous paragraph version document did not.
2. The NEI 03-01 Revision 2 document is still marked as "Draft." Once all issues have been resolved NEI will create marking changes from the current Revision 1 document and re-submit to the NRC for concurrence.
3. Changes marked in this version of NEI 03-01 are the changes that were developed as a result of the NRC comment changes to improve readability of the document. The changes are marked in the margin of the document.
4. Section 7.4.1 and 7.4.2 from the previously reviewed version of NEI 03-01 Revision 2, have been interchanged to chronological application of the performance requirements.
5. A new paragraph 7.4.1.f has been added to the text and states: "When an employment check is conducted with an employer contacted and states the employer reports that the company's policy is to release only a limited amount of information pertaining to the individual's employment, the limited information provided by the employer is considered the completion of the employment check. The employer's response must be documented in the BI report. Further inquiries concerning the individual's employment at that employer are required. However, in the event an employer refuses to provide any information then the requirements of best effort, Section 7.4.2 must be satisfied."

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This paragraph is needed to correct an unintended consequence of the text of the Revision 1, NEI 03-01. Revising the conditions for the conduct of the best effort (7.4.1, Revision 1, NEI 03-01). Revision 1 clearly specified the performance requirements for the employment/unemployment checks. However, Revision 1 did not address the circumstances encountered during the conduct of employment check; that is the employer provided some but not all the information to satisfy 7.4.2, Revision 1, NEI 03-01. This is clearly not a refusal to provide but a policy limitation on the release of information also not provided all the requested information from 7.4.2, Revision 1, NEI 03-01. The paragraph developed recognizing the need to obtain information in today's business climate.

6. A new paragraph has been added to 6.1.8.a. The text states: "Except where explicitly excluded by Commission violations recorded in accordance with 10 CFR Part 26, dated June 7, 1989 requirements and licensee performance requirements, must be considered when determining subsequent versions of 10 CFR Part 26."

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This paragraph recognizes previous FFD program violations and instructs the reviewing officials to consider the violations accumulated under the previous version of 10 CFR Part 26 when evaluating future violations under the new FFR

**Section II: Other comments on NEI 03-01 Revision 2 [June 2008]
With Respect to Fitness-for-Duty Requirements**

1. Section 2: "Revision 2 must be implemented by Month, Day, Year."

NRC Comment: How will NEI address the March 31, 2009, implementation deadline for Part 26 (excluding Subparts I and K) and the expected 2010 (or later) implementation deadline for the new 73.56?

NEI 6/20/08 Response: The Revision 2 document will contain only the Part 26 performance requirements that overlap with access authorization requirements. Elements of NEI 03-01 performed and maintained under previous versions of NEI 03-01 remain valid. This may occur prior to but no later than March 31, 2008. The remainder of the performance requirements will be implemented with licensee programs and procedures no later than March 31, 2009. Subparts I and K performance requirements will be implemented no later than September 30, 2009, and the SAE requirements no later than March 31, 2010. An implementation schedule for 10CFR 73.56 will be developed once the final rule is received and the NRC implementation requirements understood.

NRC Response: NEI has revised the guidance document to state: "Revision 2 must be implemented by March 31, 2009. All elements completed and maintained under prior versions of NEI 03-01 remain valid under this revision and future versions of this document." The second sentence reads as though elements completed and maintained prior to the implementation deadline of the final rule will be "grandfathered in," which is inconsistent with the first sentence and inconsistent with the rule. Also, in NEI's response, it is unclear what the March 31, 2008 date represents. Lastly, in NEI's response, the implementation date of the requirements in Subpart K is incorrect. As stated in the March 31, 2008, *Federal Register* notice, licensees must comply with the requirements of Subpart K as of April 30, 2008.

2. Section 4.

NRC Comment: The guidance contains acronyms which are not defined in the definitions section (e.g., MRO). The guidance should include a sentence such as "Terms not defined in this document have the meanings provided in 10 CFR Part 26" to address this.

NEI 4/24/08 Response: On hold per NRC.

NRC Response: NEI 03-01 should be revised to address the NRC's comment.

NEI 6/20/08 Response: Comment accepted. The term Medical review officer was added to the definitions section, Section 4, NEI 03-04. The document was checked for additional acronyms and.....In addition Section 4, Revision 2, NEI 03-01 was amended to include text as follows "Part 26 terms not defined within this document have their meanings specified within 10 CFR 26."

NRC Response: Contrary to NEI's response, the sentence "Part 26 terms not defined within this document have their meanings specified within 10 CFR 26" was not included in this Revision of NEI 03-01. Also, it is unclear why NEI's response refers to NEI 03-04.

3. Section 4: The definition of "Behavioral Observation Program."

- A. NRC Comment: This definition should be revised to include references to the Knowledge and Abilities (KAs) from 26.203(c).
- B. NRC Comment: This definition should be updated to delete reference to “aberrant behavior,” consistent with Part 26.

NEI 4/24/08 Response: On hold per NRC.

NRC Response: NEI 03-01 should be revised to address the NRC’s comment.

NEI 6/20/08 Response: The text “aberrant behavior or” was deleted from the definition. In addition, the reference to the knowledge and abilities (K&A’s) has been added to the text as follows:

NRC Response: The reference to knowledge and abilities addressed the NRC’s first comment, but, contrary to NEI’s response, the term “aberrant behavior” was not deleted from the definition. NEI 03-01 should be revised to delete this term.

4. Section 4: The definition of “Fitness for Duty Authorization”

NRC Comment: Part 26 requires that covered individuals must be subject to types of drug testing other than pre-access and random testing (e.g. for cause, post event, follow up). This definition should be updated to be consistent with Part 26.

NEI 4/24/08 Response: On hold per NRC.

NRC Response: NEI 03-01 should be revised to address the NRC’s comment.

NEI 6/20/08 Response: The text to the FFD Authorization definition has been modified to include for cause, post-event and follow-up drug and alcohol testing, when appropriate. The definition text is as follows:

NRC Response: The revision includes a typo: “pose-event,” which should be revised.

5. Resolved.

6. Section 4: The definition of “Knowledgeable and Practiced”

NRC Comment: This definition should be updated to include the knowledge and practice related to FFD program.

NEI 4/24/08 Response: On hold per NRC.

NRC Response: At the March 25, 2008 public meeting, NRC staff explained that this comment is a recommendation. NEI should either accept or reject the NRC’s comment.

NEI 6/20/08 Response: Section 13.1 has been changed to reflect that a person “knowledgeable” of the FFD program will be a member of the audit team. In addition, Section 13.2 has been amend to include a person knowledgeable of FFD program implementation as a member of a team auditing a C/V FFD program.

NRC Response: Section 13.1 was not included in this draft, therefore, NRC staff cannot review these revisions. The revisions to the definition of “Knowledgeable and Practiced” address the NRC’s comment.

7. Section 4: The definition of “Potentially Disqualifying Information (PDI).”

- A. NRC Comment: Although the definition refers to Fitness for Duty Potentially Disqualifying Information (FFDPDI) as a subset of PDI, the guidance does not contain a separate definition of FFDPDI. Because the guidance contains several references to FFDPDI, the guidance should contain a separate definition for that term. [Note: the term used in Part 26 is PDFFDI.]
- B. NRC Comment: Item 2 in the definition does not include the potentially disqualifying fitness-for-duty information (PDFFDI) defined under 26.35(c)(2), 26.53(i), and 26.75(b)-(e), which are explicitly stated in the Part 26 definition of PDI.

NEI 4/24/08 Response: On hold per NRC.

NRC Response: NEI 03-01 should be revised to address the NRC’s comment.

NEI 6/20/08 Response: The 10 CFR 26 acronym, PDFFDI, was cross-referenced within Section 4, Revision 2, NEI03-01, Potentially Disqualifying Information (PDI) definition to ensure the inclusion of the NRC Term as a subset of PDI. The text is as follows:

NRC Response: Although this revision addresses the NRC’s first comment, it does not address the NRC’s second comment. The definition does not include all of the potentially disqualifying fitness-for-duty information (PDFFDI) defined under 26.35(c)(2), 26.53(i), and 26.75(b)-(e), which are explicitly stated in the Part 26 definition of PDI.

8. Resolved.

9. Page 8, Section 6: “Once authorized UAA and while under an approved BOP, the individual may be maintained in a UAA-authorized status ready to be granted UA.”

NRC Comment: Under 26.71, in order to maintain authorization, an individual must also comply with the licensee’s FFD policies and procedures, remain subject to a drug and alcohol testing program (per 26.31), and complete required FFD training (per 26.29(c)).

NEI 4/24/08 Response: Comment accepted. The text is changed as follows: Once authorized UAA, the individual may be maintained in a UAA authorized status ready to be granted UA provided that the individual is monitored under a BOP and completes appropriate training.

NRC Response: Consistent with NEI’s revision to Section 6.6 on page 24 (i.e., addition of the phrase “and qualified on their responsibilities for remaining trustworthy and reliable, for both the UAA/UA and FFD programs”), this sentence should be revised to clarify that maintenance of UAA authorization requires maintenance with FFD authorization. Specifically, the text should be revised to state that an individual must comply with the licensee’s FFD policies and procedures and remain subject to a drug and alcohol testing program.

NEI 6/20/08 Response: Comment accepted. In addition, the paragraph has been amended to include the FFD authorization maintenance requirements.

NRC Response: NEI has added a sentence that states “FFD Authorization is maintained as long as the individual is covered by a licensee-approved BOP and the 10 CFR Part 26 drug and alcohol testing program.” This revision does not fully address the NRC’s comment, which was to clarify that maintenance of UAA authorization requires maintenance of FFD authorization. Specifically, the text of this sentence should be revised to state that an individual must comply with the licensee’s FFD policies and procedures and complete the required FFD training.

10. Resolved.

11. Page 10, Section 6.1: “In every case, the reviewing official shall evaluate trustworthiness and reliability...”

NRC Comment: This sentence also should include a reference to fitness for duty determinations.

NEI 4/24/08 Response: Comment accepted. The text of the paragraph has been changed as follows: “In every case, the reviewing official shall evaluate trustworthiness and reliability based on an accumulation of information including PDI *and/or any subsequent determination of fitness....*”

NRC Response: This sentence should include “fitness-for-duty” before “trustworthiness and reliability,” as in NEI’s revision to the first sentence in Section 6.1.

NEI 6/20/08 Response: Comment Accepted. The text was added to paragraph 6.1, Revision 2, NEI 03-01 as follows: The licensee or as applicable, approved C/V, is required to designate in writing one or more individuals as a reviewing official to make access determinations relative to an individual’s fitness-for-duty, trustworthiness and reliability.

NRC Response: The language in the guidance document does not match the language in NEI’s response. The language in NEI’s response addresses the NRC’s comment.

12. Page 14, Section 6.1.2:

NRC Comment: This section does not include the following requirement from 26.69(e)(1): 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.

NEI 4/24/08 Response: The 2nd bullet is expected to be covered within the site FFD program procedures as it is a subset of the SAE duties.

NRC Response: NEI 03-01 should include language to clarify that this requirement will be specified by the site FFD program procedures.

NEI 6/20/08 Response: Since the SAE will not be integrated into the program until a later date, NEI proposes a separate change to NEI 03-01 to integrate an SAE. In the meantime, the NEI 03-01 text refers to “the MRO or other appropriate professional.”

NRC Response: The guidance document should be revised to be consistent with 26.69(e)(1) or the guidance document should include language to clarify that this requirement will be specified by the site FFD program procedures.

13. Resolved.

14. Page 16, Section 6.1.4.

NRC Comment: This section does not include the requirements of 26.75(h) and (i).

NEI 4/24/08 Response: The licensees each have these criteria specified within their FFD program procedures. These are responsibilities assigned specifically to the FFD program personnel. The industry believes that this separation is appropriate separation to avoid misuse of the information.

NRC Response: NEI 03-01 should include language to clarify that these requirements will be specified by the site FFD program procedures.

NEI 6/20/08 Response: Comment accepted. A new paragraph has been added to Section 6.1.4 to recognize that 10 CFR 26.75 (h) and (i) contain licensee limitations on the use of the results of drug tests.

NRC Response: For clarity and specificity, the guidance document should be revised to include reference to specific regulatory provisions (i.e., 26.75(h) and (i)).

15. Resolved.

16. Page 18-19, Section 6.4, number 6: “No drug or alcohol test is required if the individual was either subject to both a licensee-approved BOP and a licensee-approved random drug and alcohol testing program throughout the period of interruption, *or* the individual had negative test results from drug and alcohol tests performed within the past 30 days.”

NRC Comment: Under 26.65(d)(2)(ii), even if an individual had a negative test result from drug and alcohol tests performed within the last 30 days, the individual must have remained “subject to a drug and alcohol testing program that includes random testing and a behavioral observation program that includes arrest reporting ... beginning on the date the drug and alcohol testing was conducted through the date the individual is granted authorization.”

NEI 4/24/ Response: Comment accepted. The text has been changed as follows:
“No drug or alcohol test is required if the individual was either subject to a *drug and alcohol testing program that includes random testing and a BOP that includes arrest reporting beginning on the date the drug and alcohol testing was conducted through the date the individual is granted authorization*, or the individual had a negative test results from drug and alcohol tests performed within the last 30 days.”

NRC Response: NEI’s revision does not address the NRC’s comment because the underlined “or” should be an “and.” 26.65(d)(2)(ii) states that for Authorization reinstatement after an

interruption of more than 30 days, the licensee or other entity need not conduct pre-access testing of individuals if 1) the licensee or other entity relies on negative results from drug and alcohol tests that were conducted under the requirements of Part 26 at any time before the individual applied for authorization, *and* 2) the individual remains subject to a drug and alcohol testing program that includes random testing *and* a behavioral observation program that includes arrest reporting, which both meet the requirements of this part, beginning on the date the drug and alcohol testing was conducted through the date the individual is granted authorization. Also, "within the last 30 days" should be revised to "within the 30-day period before authorizing UAA or granting UA," as appears earlier in paragraph 6.

NEI 6/20/08 Response: Comment accepted. The text of Section 6.4.6 is changed as specified in Question 15 response above.

NRC Response: The edit made in response to the previous comment does not address the NRC's comment. However, NEI added a text box that states: "NOTE: No drug or alcohol test is required if the individual was either subject to a drug and alcohol testing program that includes random testing and a BOP that includes arrest reporting beginning on the date the drug and alcohol testing was conducted through the date the individual is granted authorization." To address the NRC's comment, the guidance should be revised to delete "either."

17. Page 20, Section 6.6: "UAA is maintained as long as the individual is covered by a licensee-approved BOP."

NRC Comment: Under 26.71(a)(1) an individual also must comply with the licensee's or other entity's policies and procedures and meet the annual FFD training requirements specified in 26.29 and 26.203(c).

NEI 4/24/08 Comment: The NRC comment is accepted. The text has been changed as follows: "UAA is maintained as long as the individual is covered by a licensee approved BOP and the individual remains currently trained *and qualified on their responsibilities for remaining trustworthy and reliable, for both the UAA/UA and FFD programs.*"

NRC Response: Under 26.71(a)(1) an individual also must comply with the licensee's or other entity's policies and procedures.

NEI 6/20/08 Response: Comment accepted: The first paragraph of Section 6.6 has been changed as follows: UAA is maintained as long as the individual is covered by a licensee-approved BOP, the individual remains currently trained and qualified on their responsibilities for remaining trustworthy and reliable, for both the UAA/UA and FFD programs *and complies with the licensee's or C/V's policies and procedures.* If a period of interruption of greater than 30 days occurs, UAA shall be withheld until requirements for UAA are made current.

NRC Response: Although NEI's response above addresses the NRC's comment, the guidance document does not match NEI's response. In the guidance document, NEI also added a sentence that states "FFD Authorization is maintained as long as the individual is covered by a licensee-approved BOP and the 10 CFR Part 26 drug and alcohol testing program." This sentence is not accurate, as an individual must also comply with the licensee's or other entity's policies and procedures and meet the annual FFD training requirements. To address the NRC's comment, the guidance document should be revised to reflect NEI's response.

18. Resolved.

19. Resolved.

20. Resolved.

21. Resolved.

22. Page 20-21, Section 6.6.2, 3rd bullet and 6.6.3, 1st bullet:

NRC Comment: These sections should be clarified to state that, although the individual has not been under a random drug and alcohol testing program, the remaining criteria for FFD Authorization remain current. Also, the language in these two bullets should be consistent with one another.

23. Top of page 8, first bullet

NRC Comment: The second "to" should be deleted.

24. Page 14, section 6.1.3

NRC Comment: The following sentence was removed from the April version even though it is in 10 CFR 26.189(a): "A professional called on by the licensee or C/V may not perform a determination of fitness regarding fitness issues that are outside of his or her areas of expertise." Why was this sentence removed?

25. Page 14, section 6.1.3.a

NRC Comment: The content in 6.1.3 a.1 through 5 was removed from the April version even though it is in 10 CFR 26.189(a): "The types of professionals and the fitness issues for which they are qualified to make determinations of fitness include, but are not limited to, the following: ..." Why was this content removed?

26. General

NRC Comment: NRC review of NEI documents could occur more quickly if the supposed "redline" version of the document accurately showed the changes from the previous version of the document. For example, section 6.1 of June 2008 Rev. 2 is very different than section 6.1 of April 2008 Rev. 2, yet the June 2008 version does not reflect those changes in section 6.1. See also section 6.1.1.2.

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