

July 6, 2009

Mr. Jack W. Roe
Director, Security
Nuclear Generation Division
Nuclear Energy Institute
1776 I Street, NW, Suite 400
Washington, DC 20006-3708

SUBJECT: STAFF COMMENTS REGARDING NUCLEAR ENERGY INSTITUTE'S
"FITNESS FOR DUTY PROGRAM GUIDANCE FOR NEW NUCLEAR POWER
PLANT CONSTRUCTION SITES"

Dear Mr. Roe:

The U.S. Nuclear Regulatory Commission (NRC) staff has reviewed Nuclear Energy Institute's (NEI) 06-06, revision 4, "Fitness for Duty Program Guidance for New Nuclear Power Plant Construction Sites," dated February 2009. Based on your letter dated February 13, 2009, we acknowledge that NEI 06-06 describes only the random drug and alcohol testing and behavior observation program options of Title 10 of the *Code of Federal Regulations* Part 26, Subpart K, and that all references to the fitness monitoring program option have been removed. We also note that NEI 06-06, revision 4 provides guidance to the industry to conduct a random drug and alcohol testing program that implements a random testing rate of 50 percent for the construction site workforce.

The NRC staff found that NEI has addressed most of the staff's comments as provided to you during our December 16, 2008, public meeting. However, as noted in the Enclosure, there are a number of new comments and two comments that were not completely resolved by NEI 06-06, Revision 4. The new comments primarily focus on applying the Subpart K fitness-for-duty (FFD) program to construction activities *near the footprint* of the reactor facility and the need to enhance the NEI 06-06 guidance to help ensure that the construction site workforce will be subject to random drug and alcohol testing at an annual rate of *at least* 50 percent even as this workforce (i.e., the random testing pool) changes day to day. I am hopeful that you and your constituents will find the comments beneficial in helping to clarify and enhance your document.

Following your review of our enclosed comments and your revision of NEI 06-06 as necessary, we plan to schedule a public meeting on or before August 20, 2009, to discuss any items requiring further dialogue, including items of interest, and next steps. Should you agree to our comments and/or make acceptable changes to NEI 06-06, our current intent is to publish a draft Regulatory Guide for public comment. Following resolution of those public comments, we would pursue publication of a final Regulatory Guide to endorse NEI 06-06 with certain clarifications, additions, and exceptions, as necessary.

J. Roe

- 2 -

I appreciate your continuing effort to provide the nuclear industry with guidance on FFD programs at new reactor construction sites. If you have any questions regarding the information contained in this letter, please contact Mr. Paul Harris at 301-415-1169.

Sincerely,

/RA/

Richard P. Correia, Director
Division of Security Policy
Office of Nuclear Security and Incident Response

Enclosure:
NRC Staff Comments on NEI 06-06, revision 4

cc: V. Barnes, RES
C. Erlanger, NSIR/DSP
D. Huyck, NSIR/DSP
W. Reckley, NRO
P. Madden, NRO

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**NRC Staff Comments on Nuclear Energy Institute’s
“Fitness for Duty Program Guidance for New Nuclear Power Plant Construction”
(NEI 06-06, revision 4)**

Reference: Title 10 of the *Code of Federal Regulations*, Part 26, (10 CFR Part 26), “Fitness for Duty Programs,” Subpart K, Fitness for Duty Program for Construction, with the final rule published on March 31, 2008, (73 FR 16965).

Note: All new comments are provided, except as indicated.

Comment Number (See note)	Page	Section	Paragraph / Sentence	Comment
1	1	1	1 / 2	<p>In the first sentence, the document refers to implementation “criteria.” In the second sentence, the document refers to: “This criterion” that is required for each new plant construction site. “This criterion” in the second sentence appears to be a reference to the “criteria” in the first sentence. The guidance should be revised as bolded:</p> <p>“This criterion is These criteria are required for each new plant construction site...”</p>
2	1	2	1 / 1	<p>The guidance states that it applies to “persons who direct construction or construct, at the location where the nuclear plant will be constructed and operated, safety- and security-related structures, systems, and components (SSCs).” However, Section 6.2.4 states that “Random testing shall be performed at an annual rate of 50% of the construction site workforce...”</p> <p>Therefore, the guidance introduces confusion and inconsistency in whether it applies only to those individuals who direct construction of or construct safety- and security-related SSCs or to the “construction site workforce,” as defined in Section 4, which could be everyone on site. For example, even if the construction site workforce is tested per Section 6.2.4, the guidance might be interpreted to say that sanctions would apply only to individuals who direct the construction of or construct safety- or security-related SSCs.</p>

Comment Number (See note)	Page	Section	Paragraph / Sentence	Comment
3	1	2	2 / 1-3	<p>Section 2 states that the guidance applies to construction activities “performed at the location within the footprint of the new nuclear power reactor...”</p> <p>This part of the guidance is unacceptable because its scope of applicability is too narrow and is inconsistent with the Part 26 final rule Statement of Considerations (SOC).</p> <p>On pages 17154 and 17155 of the March 31, 2008, <i>Federal Register</i> Notice containing the SOC, the NRC described “the FFD program for construction in the final rule applies only to construction activities that are performed at the location where the new plant will be constructed and operated.” Furthermore, “the program covers all those individuals who perform construction activities within the footprint of the new power reactor (e.g., the exterior boundary of the reactor building once it is completed) as well as the nearby areas where safety- and security-related SSCs will be installed and operated when the plant begins operations.” Additionally, an FFD program is required when a licensee or other entity begins “fabricating, erecting, integrating, and testing safety- or security-related SSCs, and the installation of their foundations, including the placement of concrete.”</p> <p>As a minimum, the guidance should be revised as bolded “...within or near the footprint of the new power reactor...” and should explain that “near the footprint” would include buildings located at the construction site in which the above construction activities are taking place. This would include, but not be limited to temporary construction facilities or permanent licensee facilities in which safety- or security-related: (1) motor operated valves, pumps, breakers, pressure sensors, and other components are being tested to support installation into the nuclear power plant and (2) systems or sub-systems (such as those delivered to or fabricated in-part or in-whole onsite) are being welded, fabricated, or inspected to support the integration of such systems or sub-systems into the nuclear power plant. The applicability of Subpart K to these activities would not include delivery, storage, or maintenance of SSCs on site, unless such activity(ies) is/are the last activity(ies) required prior to that particular safety- or security-related SSC being installed into the nuclear power plant.</p>
4	2	3	1 / 2	<p>The following guidance should be moved to Section 6.2.1 because the guidance is associated with pre-access testing procedures. See Comment 17. Also, revised as bolded for consistency.</p> <p>“Once it has been determined that an individual has a negative drug and alcohol test result, the individual may be eligible to gain access to the construction facility site. A construction site entity can maintain an individual in this status as long as the person remains in the construction site entity random fitness for duty testing program for new plant construction and is subject to a behavioral observation program; or is subject to a fitness monitoring program.”</p>

Comment Number (See note)	Page	Section	Paragraph / Sentence	Comment
5	2	4	"Construction Site"	<p>Consistent with the final rule SOC, page 17154, the guidance should define "Construction Site" as revised as bolded:</p> <p>"The defined physical location within or near the footprint of the new power reactor where safety- and security-related SSCs will be installed and operated when the plant begins operations. Nearby areas include, but are not limited to areas used to fabricate, erect, integrate, and test any safety- or security-related SSCs or materials used to fabricate, erect, integrate, and test safety- or security-related SSCs (e.g., producing the concrete to be used for the foundation of the reactor building in a facility)." See comment 3 for additional discussion.</p>
6 (old comment 10)	3	4	"Illegal Drugs"	<p>The beginning of Section 4 states that "any term that is not defined in this document but is defined in 10 CFR Part 26 has the meaning given in 10 CFR Part 26."</p> <p>The definition of "illegal drug" is provided in 10 CFR Part 26. The "illegal drugs" definition in NEI 06-06 should be removed from the guidance document to ensure consistency.</p>
7	3	4	"Construction Site Workforce"	<p>To be consistent with the descriptions provided in § 26.3 and § 26.4, the discussion of the Construction Site Workforce should be revised as bolded:</p> <p>"The construction site workforce is defined, at a minimum and in compliance with § 26.4(f), as those personnel working on-site and performing construction or directing the construction of safety or security-related SSCs. The personnel in the construction site workforce may be expanded for purposes of practical implementation."</p> <p>The deleted words are more relevant to those who must be randomly tested than to those who are in the random testing pool. For example, Section 3 of the guidance states that once an individual has negative pre-access drug and alcohol test results, the individual may gain and maintain access to the construction facility as long as the person remains in the construction site entity random fitness for duty testing program and is subject to a behavioral observation program. Regardless of whether this individual is onsite, he/she is part of the construction site workforce.</p>
8	3	5 & 5.1		<p>To improve the clarity of the guidance, NEI should consider integrating the text from Section 5.1 into Section 5 to ensure that the Policy and Procedures discussion covers the topics in Section 5.1.</p>

Comment Number (See note)	Page	Section	Paragraph / Sentence	Comment
9	4	5, Procedures	1 st bullet	The guidance should be revised as bolded to more clearly specify the intent of the sentence: “These methods, techniques, and procedures shall be based on comply with the requirements contained in 10 CFR Part 26, Subparts E, F, and G.”
10	4	5, Procedures	Last bullet	To be consistent with NEI 06-06, page 1, Section 2, first sentence, and § 26.4(f), the guidance should be revised as bolded : “The process to be followed if an individual’s behavior or condition raises a concern regarding the possible use, sale, or possession of illegal drugs on or off site; the possible use or possession of alcohol while constructing or directing the construction of safety- or security-related SSCs; or impairment from any cause which in any way could adversely affect the individual’s ability to safely and competently perform his or her duties.”
11	5	5.2	2 / 1	To be consistent with § 26.409, Section 5.2 of the guidance should be revised as bolded : “The construction site entity shall establish sanctions for FFD policy violations that, at a minimum, prohibit the individuals from being assigned to construct or direct the construction of safety- or security-related SSCs unless or until the construction site entity determines that the individual’s condition or behavior does not pose a potential risk to public health and safety or the common defense and security. ”

Comment Number (See note)	Page	Section	Paragraph / Sentence	Comment
12	5	5.2	2 – 3	<p>(A) The text in Section 5.2 addresses one instance where a sanction will be imposed (e.g., not appearing for a test once notified). This guidance text should be included in Section 6.2.4, Notification Procedures, for consistency.</p> <p>(B) Similar to Comment 10, the guidance should be revised as bolded: “If an individual is notified to report for random testing and fails to report at the collection location in the specified time period, the individual’s supervisor and FFD management will be notified; and the individual will be prohibited from being assigned to construct or direct the construction of safety- or security-related SSCs until it is determined whether there was a valid reason for not reporting for testing. If it is determined that the individual intentionally avoided random testing or the individual’s condition or behavior poses a potential risk to public health and safety or the common defense and security, the individual’s access to the construction site will be terminated.”</p> <p>(C) The guidance text also should be revised as bolded to be consistent with § 26.403 (e.g., follow instructions provided by FFD personnel (i.e., cooperate) to comply with FFD program requirements): A refusal to submit to testing or failing to cooperate comply with the FFD program requirements will result in termination of access to the construction site.”</p>
13	5	5.2	2 – 3	<p>Section 5.2 should provide guidance on deciding what constitutes a “valid reason” for an individual not reporting for testing. This will help ensure compliance with § 26.403(b)(2)(iii) and (iv).</p> <p>For example, would a flat tire be a valid reason for not reporting to an offsite testing facility within the licensee FFD program policy’s established time frame?</p> <p>The staff acknowledges that licensees need appropriate latitude in determining what constitutes a “valid reason.” However, examples are necessary to establish an appropriate and consistent threshold across the industry. The guidance could include, but may not be limited to, a verifiable and/or documented: medical reason, weather condition, accident, or vehicular maintenance condition.</p>
14	7	5.3	Middle of the page	<p>The statement should be revised as bolded to ensure that other illegal drugs are not substituted for those listed in Subpart K. See § 26.405(d) and, for example, § 26.133.</p> <p>“Construction site entities may specify more stringent cutoff levels as well as other additional illegal drugs as necessary.”</p>

Comment Number (See note)	Page	Section	Paragraph / Sentence	Comment
15	8	5.3	1	The Section header titled “Confirmed Positive Test Results for Alcohol” should be revised to “Determining Positive Test Results for Alcohol,” consistent with § 26.103 of the final rule. The current header is inappropriate because the section also discusses a test result that would not be considered a confirmed positive test result (see last paragraph under Section 5.3).
16	9	6.2.1	1	The guidance should be revised as bolded to be consistent with other sections: “Each worker who will construct or direct the construction of safety- or security-related SSCs shall have negative drug and alcohol test results prior to the start of the worker’s construction, or direction of the construction of any safety- or security-related SSCs. These drug and alcohol tests must be administered no more than 30 days prior to the start of the worker’s constructing or directing the construction of a safety- or security-related SSC.”
17	9	6.2.1	1	The following guidance should be added to Section 6.2.1 to clarify the relationship between pre-access testing, access, and random testing: “Once it has been determined that an individual has negative pre-access drug and alcohol test results, the individual may be eligible to gain access to the construction site. A construction site entity can maintain an individual in this status as long as the person remains in the construction site entity random fitness for duty testing program for new plant construction and is subject to a behavioral observation program.”
18	9	6.2.2	2	The guidance should be revised as bolded and moved under the title “For Cause” to ensure that non-urgent injuries do not result in a for-cause testing delay: “In all cases treatment of an individual’s illness or injury takes precedence over drug and alcohol testing. Drug and alcohol for-cause testing may be delayed only if necessary to seek urgent medical care. “Urgent medical care” could include, but is not limited to: head trauma; broken bones; internal organ problems; and burns and other wounds requiring a medical doctor, paramedic, or nursing care.”
19	9	6.2.2	Definition of “accident”	Has industry considered whether the definition of “accident” should include cases where individuals experience over-exposures due to radiography?

Comment Number (See note)	Page	Section	Paragraph / Sentence	Comment
20	9	6.2.2	3 rd bullet	To make clear in the guidance that the Behavior Observation Program always applies, the guidance should be revised as bolded : “Significant property damage -- Damage, during construction, to any safety- or security-related SSC in excess of \$100,000. (Individuals involved in events resulting in property damage to safety- or security-related SSCs valued at less than \$100,000 or undetermined amounts also will be evaluated for drug and alcohol testing under the Observed Behavior section of this guidance.) ”
21	10	6.2.2	2 nd bullet	Because § 26.405(g) requires an Medical Review Officer (MRO) review of positive, adulterated, substituted, and invalid confirmatory drug and validity test results before such test results are reported to management, the guidance should be revised as bolded : “The MRO-reviewed positive, adulterated, substituted, and invalid confirmatory drug and validity test results and alcohol test results shall be submitted to the construction site entity management.”
22 (old comment 48)	10	6.2.4	NOTE	To ensure that the NEI guidance provides for an acceptable method for determining who is in the construction site workforce, i.e., the random testing pool, and for randomly selecting individuals for testing, and to meet the requirements of Sections 26.401(b), 26.403(b)(1), and 26.405(b)(3), the guidance should be revised as bolded : “(NOTE: The construction site entity should must specify in their its applications application the method to be used to determine the current construction site workforce and the method to be used for random selection.)”
23	11	6.2.4	1 / 1	To ensure that construction site entities test at least 50% of their construction site workforce, the guidance should be revised as bolded : “Random testing shall be performed at an annual rate of at least 50% of the construction site workforce that is subject to testing under this FFD program. ”

Comment Number (See note)	Page	Section	Paragraph / Sentence	Comment
24	11	6.2.4	2 / 3	To enhance clarity, the guidance should be revised as bolded : “If an individual is selected and is not at work on the day of testing , the individual is not required to report for the purposes of random testing; and the construction site entity will randomly select another individual for testing.”
25	11	6.2.4	4 / 1	To enhance clarity, the guidance should be revised as bolded : “Random selection includes all individuals described in Section 2.0 herein and who are actively working at the construction site. The population of individuals subject to random testing (i.e., the random testing pool) includes all individuals in the construction site workforce as defined in Section 4.”
26	11	6.2.4	4 / 2	The sentence beginning with “Actively working...” is unnecessary and should be deleted because only members of the construction site workforce who are onsite the day that testing is conducted will be subject to testing (i.e., those not onsite the day of testing will be excused).

Comment Number (See note)	Page	Section	Paragraph / Sentence	Comment
27	11	6.2.4	4	<p>To comply with § 26.405, the guidance should be revised as bolded:</p> <p>(1) To ensure that the construction site workforce encompasses workers who arrive after the random testing pool has been determined, the guidance should state: “When updating the construction site workforce to determine the random testing pool, the construction site entity must account for all workers who will be constructing or directing the construction of safety- or security-related SSCs during the time period between updates to the construction site workforce.” For example, if a construction site entity updates the construction site workforce on a weekly basis every Monday, then all individuals who will be working on safety- or security-related SSCs between Monday and Sunday should be included in the workforce, even if they join the construction site workforce after Monday.</p> <p>(2) The guidance also should provide “An individual cannot construct or direct the construction of safety- or security-related SSC unless he/she is in the random testing pool for the time period he/she is actively constructing or directing the construction of safety- or security- related SSCs.”</p> <p>(3) To make NEI 06-06, page 11, paragraph 4, consistent with NEI 06-06, Sections 3 and 6.2.1 (as revised per NRC comment 17 herein), paragraph 4 on page 11 should include the following: “The random testing pool must include anyone who has negative pre-access drug and alcohol test results and has access to the construction site to construct or direct the construction of safety- or security-related SSCs.”</p>
28	11	6.2.4	4	<p>Based on § 26.405(b) and the NEI 06-06 guidance, the NRC believes that random testing will be conducted at least weekly because the construction site workforce is being updated at least weekly; however, this is not explicit in the guidance. To enhance clarity, the guidance should be revised as bolded:</p> <p>“Since the construction site workforce is expected to change often, the construction site entity will make a determination of the current construction site workforce on a weekly basis and conduct random testing at least on a weekly basis,” at a minimum and consistent with the random testing frequency.”</p> <p>If this is not the intent of NEI 06-06, NEI should provide guidance as to how a licensee will comply with § 26.405(b)(3).</p> <p>For example, the staff provides the following simple equation to help describe the random drug and alcohol testing at an annual rate of <i>at least</i> 50 percent: Number of persons tested randomly per week = (Total number of persons in the construction site workforce for that testing week)(0.5) / 52 weeks.</p>

Comment Number (See note)	Page	Section	Paragraph / Sentence	Comment
29	11	6.2.4	4	<p>To provide reasonable assurance that selected individuals who are onsite actually will be tested on that day, additional guidance is necessary for the use of the “random number generator” selection methodology. For example, what is the process that will be used to determine if the individual(s) selected for testing are at the construction site on the day of testing? Would the construction site entity utilize a site badge system, such as key card-actuated turn styles to generate the random numbers to generate the random testing pool? In other words, how would a construction site entity link an individual's true identity and his/her access to the construction site to the random number generator?</p>

Comment Number (See note)	Page	Section	Paragraph / Sentence	Comment
30	12	6.2.4, Notification Procedures	2 nd bullet	<p>(1) To ensure compliance with § 26.413 and § 26.415, the guidance should include the new bolded bullet (see comment 42):</p> <p>A record of individuals selected for testing, but who were not onsite that day and therefore not tested, shall be documented.</p> <p>(2) To ensure compliance with § 26.405(b)(2), the guidance should be revised as bolded: “The construction site entity shall notify the subject individuals and direct them to report to the collection site as soon as reasonably practicable after notification, within the time period specified in the construction entity FFD program.”</p> <p>(3) Following this sentence in bullet 2, guidance is necessary to describe “reasonably practicable.” For example: “If the individual’s supervisor determines that the selected individual is performing safety- or security-related construction work in which a relief is not reasonably possible or safe, then the individual should report for testing immediately upon the next break or immediately after his/her shift, and in all cases prior to leaving the construction site unless the testing facility is located offsite, in which case a reasonable amount of travel time shall be established in licensee procedures.”</p> <p>(4) In addition, guidance should be considered to address cases when it is not reasonably possible or safe to actually notify an individual that he/she needs to report to testing. For example: “Valid reasons to delay the random testing notification include those situations in which an individual is performing or directing safety- or security-related work described in § 26.4, in which the immediate disruption of such work would have a high likelihood of causing an unsafe or unsecure work environment. For example, these activities could involve a person: performing activities within an atmosphere requiring OSHA respiratory-controls; welding a reactor coolant pressure boundary (including time-sensitive weld preparation); manipulating crane controls during a heavy lift; or implementing security contingency response actions.”</p> <p>(5) The second and third sentences in the 2nd bullet should be bullets by themselves, beginning with: “Individuals failing to report at the specific time will be...”</p>
31	12	Notification procedures	5 th bullet	<p>To enhance clarity, the fifth bullet should be revised as bolded:</p> <p>“Individuals selected for random testing that are not onsite the day the random selection is determined testing is conducted will not be subject to testing unless they are selected randomly for random testing again or are required to submit to testing under Sections 6.2.2 or 6.2.3 herein.”</p>

Comment Number (See note)	Page	Section	Paragraph / Sentence	Comment
32	12	Notification procedures	6 th and 7 th bullets	<p>The sixth and seventh bullets should be made into a separate paragraph because these actions do not occur at the time the individual is notified of random drug and alcohol testing, as implied by the first sentence under sub-heading “Notification Procedures.”</p> <ul style="list-style-type: none"> • “When the construction site entity receives the results of the tests...” • “The laboratory forwards a written report...”
33	12	Notification procedures	7 th bullet	<p>The seventh bullet should be revised as bolded: “The laboratory Medical Review Officer forwards a written report...”</p>
34	12	6.3		<p>To enhance consistency between the heading and the guidance, the sub-heading at the bottom of page 12 should be revised to as bolded: “Collection Site and Collector qualifications and responsibilities”.</p>
35	13	6.3	1	<p>To help ensure consistency with the regulations, the guidance for “Urine Collector Qualifications” should be revised as bolded: “Urine collector qualifications: Urine collectors shall be knowledgeable of the requirements of the construction site FFD policy and procedures and shall keep current on any changes to urine collection procedures. Collectors shall receive qualification training that meets the requirements of this paragraph 10 CFR 26.85 and demonstrate proficiency in applying the requirements of this paragraph 10 CFR 26.85 before serving as a collector.”</p>
36	13	6.3	“Alternative Collection and Testing”	<p>To enhance the consistency between the heading and the guidance, the heading at the bottom of page 13 should be revised to “Alternate Collection Sites.”</p>
37	13	6.3	“Alternative Collection and Testing”	<p>In the paragraph following this heading, the guidance should be revised to delete the parenthetical reference to the Federal Register. This revision should be made throughout the document. The guidance should refer construction site entities to the current version of 49 CFR Part 40.</p>

Comment Number (See note)	Page	Section	Paragraph / Sentence	Comment
38	13	6.3	“Alternative Collection and Testing”	The last sentence on page 13 is unnecessary because similar language already exists on page 14 under “Testing Methods.” If left unchanged, the guidance is confusing because of its placement in the paragraph concerning alternative collection sites. Therefore, the sentence on page 13, starting with “The construction site entity may also use...” should be deleted.
39	16	6.8	1 / 2	The guidance should be revised as bolded : “The construction site entity shall obtain a signed consent that authorizes the disclosure of the personal information collected and maintained under the construction site entity's FFD program before disclosing...”
40	17	6.8	1 st and 3 rd bullets	Section 26.411(b) of the rule specifies that licensees shall obtain a signed consent that authorizes the disclosure of personal information, except for disclosures to the individuals and entities specified in § 26.37(b)(1) through (b)(6), (b)(8), and persons deciding matters under review in § 26.413. In particular, § 26.37(b)(5) provides that information can be disclosed, without consent of the individual, to: “A licensee’s or other entity’s representatives who have a need to have access to the information to perform their assigned duties <u>under the FFD program, including determinations of fitness, FFD program audits, or some human resources functions</u> ” (emphasis added). However, the guidance document uses different language to describe this category of individuals covered by § 26.37(b)(5): <ul style="list-style-type: none"> • “Licensee or construction site entity 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;” and • “Persons who have the authority to change personal data in electronic records.” Therefore, this guidance is not consistent with § 26.37(b)(5). The guidance is too broad and should be revised to be consistent with the rule.
41	17	6.8	1 st bullet	The first bullet should be revised as bolded : “Licensee or construction site entity representatives... except where specifically excluded prohibited by law or regulation;”

Comment Number (See note)	Page	Section	Paragraph / Sentence	Comment
42	17	6.9	1 / 1	<p>The construction site entity must be able to produce auditable records to confirm the continuing effectiveness of the program, as required by § 26.415, and show that individuals who are onsite and selected for testing actually are tested (see comment 30).</p> <p>This section of the guidance should therefore specify that construction site entities' records should contain, for each day of random selection, a list of individuals who were selected and tested as well as a list of individuals who were selected and excused because they were absent. Records also should exist to confirm that individuals who were excused from the list were in fact not onsite that day.</p>
43	20	Consent Form	1 / 3	<p>To enhance clarity, the Consent Form should be revised as bolded:</p> <p>"The Nuclear Regulatory Commission (NRC) requires that this information drug and alcohol testing results be used in determining that as part of the determination of whether an individual is fit for duty prior to granting and while maintaining access."</p>
44	20	Consent Form	4 / 1	<p>The Consent Form's fourth paragraph, first sentence should be revised to say "treated as private" rather than "treated as confidential." See § 26.411 regarding protection of information.</p>
45	20	Consent Form	4 / 2	<p>The Consent Form's fourth paragraph, second sentence should be revised as bolded (see § 26.411(b)):</p> <p>"The release of access-related personal information about me that is collected and maintained under [the construction site entity]'s FFD program shall be limited to the following..."</p>
46	20	Consent Form	4 / Bullets	<p>The bulleted list following the fourth paragraph should be the same list that appears in Section 6.8 of NEI 06-06.</p>
47	21	Consent Form	1 / 3	<p>The Consent Form contains the following sentence:</p> <p>"No new activities shall be initiated after receipt of my withdrawal of consent and other construction site entities are not permitted to receive information other than my name and the fact that my consent has been withdrawn, thereafter unless I provide a currently valid Consent or it is required by NRC regulation."</p> <p>This sentence would seem to preclude any PADS-like FFD knowledge transfer between licensees. Is that industry's intent?</p>