

Presentation to the U.S. Department of Health and Human Services' Drug Testing Advisory Board

Operating Experience and Status of Regulatory Issues

10 CFR Part 26, Fitness-for-Duty Programs
"A Direct Contribution to Safety and Security"

December 7, 2021



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Discussion Topics

- Fitness-for-Duty (FFD) Program Objective
- FFD Program Performance Test Results
- Rulemakings & Guidance
 - Part 26, HHS Guidelines
 - Part 50-52, Lessons Learned
 - Part 53, Advanced Reactors
- Items of Possible Interest



FFD Program Objective

Provide reasonable assurance that personnel subject to 10 CFR Part 26 (e.g., nuclear power plant personnel) are trustworthy, reliable, and 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 assigned duties or be afforded unescorted access to the protected areas of nuclear power plants, sensitive information, or strategic special nuclear material (SSNM).

An FFD program developed under 10 CFR Part 26 is intended to create an environment which is free of drugs and alcohol, and the effects of such substances.



FFD Program Performance, 2018-2020

Summary Results

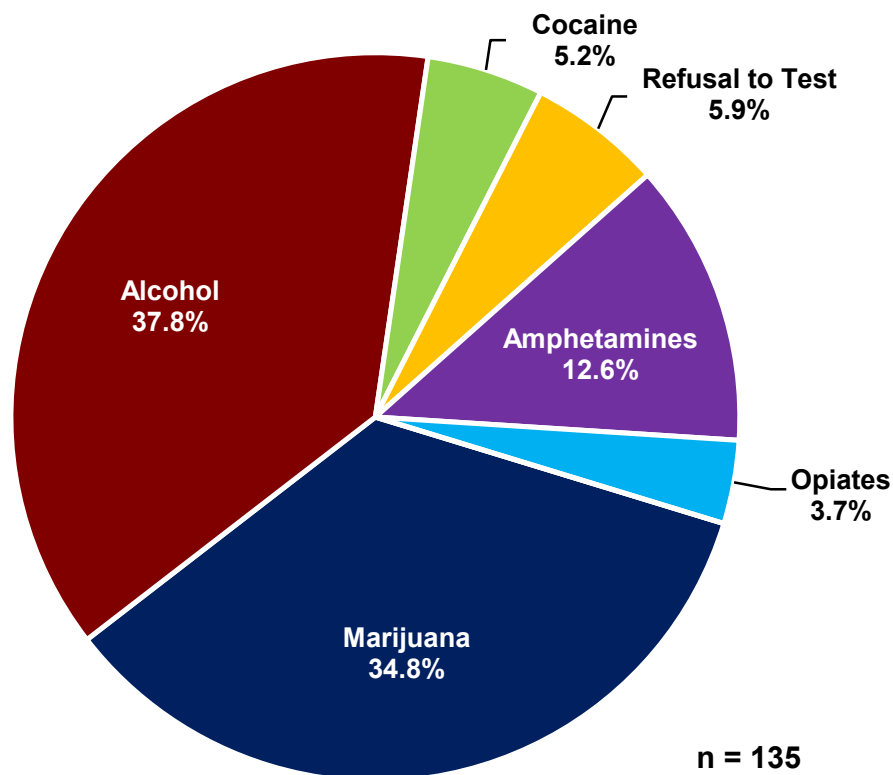
	2018	2019	2020 (draft)
Number of Facilities Reporting	71	70	69
Individuals Tested	145,797	131,417	124,398
Individuals Testing Positive*	1,187	1,085	1,045
Identified at Pre-access Testing	69.6%	67.3%	67.5%
Identified at Random Testing	17.8%	21.8%	22.7%
Industry Positive Rate, All Tests	0.81%	0.83%	0.84%
Licensee Employee (LE)	0.28%	0.26%	0.32%
Contractor/Vendors (CVs)	1.06%	1.10%	1.09%
Industry Positive Rate, Random Tests	0.37%	0.45%	0.49%
LE Positive Rate	0.17%	0.19%	0.23%
CV Positive Rate	0.68%	0.86%	0.92%

* Positive = Positive drug and alcohol tests, adulterated and substituted validity test results, and refusals to test
All results in presentation are MRO verified

FFD Performance Results [DRAFT] by Employment Category, 2020

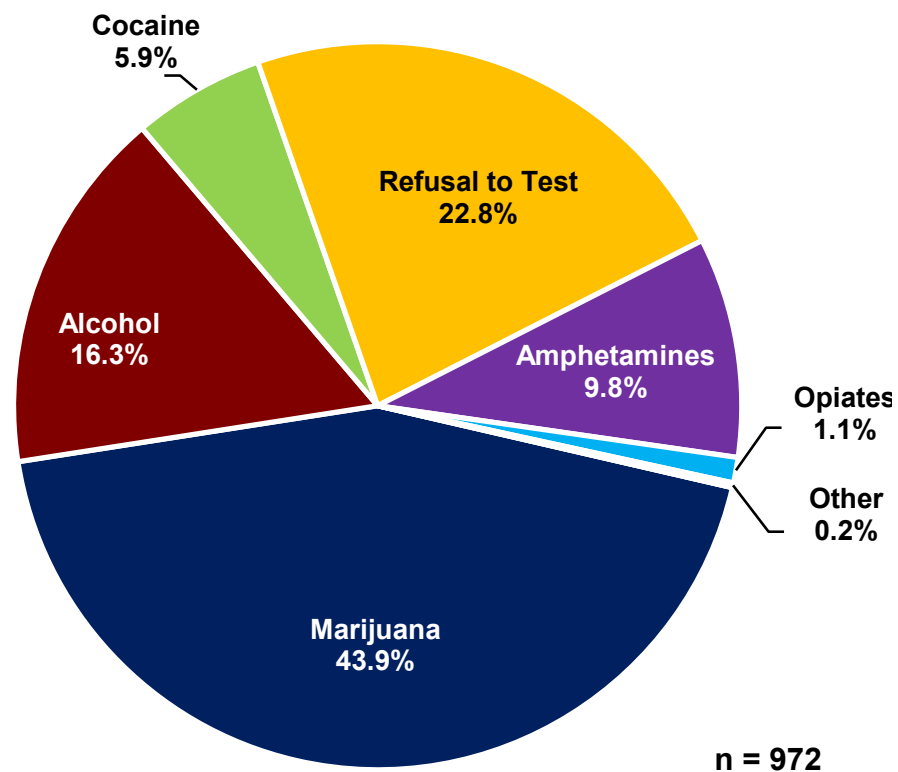
Licensee Employees

(40,001 tested; 127 individuals positive)



Contractors/Vendors

(84,397 tested; 918 individuals positive)



Subversion Attempt Trends (2016-2020)

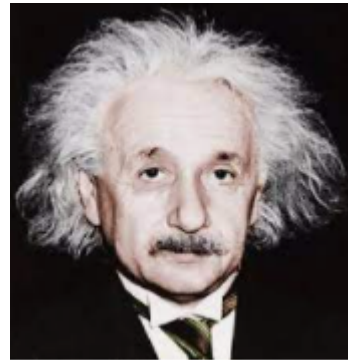
Subversion attempt: Any willful act or attempted act to cheat on a required test (e.g., refuse to provide a specimen, alter a specimen with an adulterant, provide a specimen that is not from the donor's body)

Subversion attempt sanction: Permanent denial unescorted access, 10 CFR 26.75(b)

	2016	2017	2018	2019	2020 (Draft)
Number of Subversion Attempts	305	305	298	307	288
Percentage of Drug Testing Violations	32.4%	31.9%	31.0%	34.5%	34.4%
Identified at Pre-access Testing	77.6%	72.1%	67.5%	77.5%	73.3%
Committed by Contractor/Vendors	98.0%	97.7%	95.6%	97.4%	96.2%
Percentage of Sites Reporting At Least One Subversion	53%	64%	70%	61%	72%

Rulemaking & Guidance

- Part 26, HHS Guidelines
- Part 50-52, Lessons Learned
- Part 53, Advanced Reactors



Rulemakings & Guidance

Part 26, HHS Guidelines

(RIN 3150-AI67; Docket NRC-2009-0225)

Aligns Part 26 drug testing requirements more closely with U.S. Department of Health and Human Services' 2008 and 2017 Mandatory Guidelines for Federal Workplace Drug Testing of urine specimens

- The proposed Final Rule has been provided to the Commission.
- Substantive changes from the Proposed Rule
 - Align drug testing panel to 2017 HHS Guidelines (adding hydrocodone, hydromorphone, oxycodone, oxymorphone)
 - Optional oral fluid testing for observed collection conditions



Rulemakings & Guidance

Part 50-52, Lessons Learned

(RIN: 3150-AI66; Docket: NRC-2009-0196)

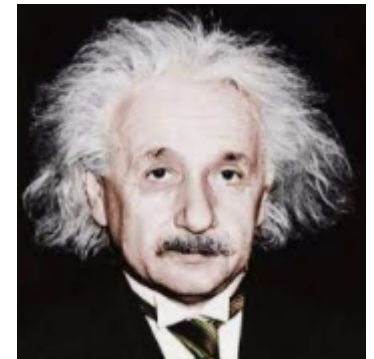
Better aligns licensing requirements of Parts 50 and 52 and incorporate lessons learned from recent new power reactor licensing reviews

- Regulatory Basis completed and issued
- Working to issue the proposed rule (9/22)

FFD Topics:

- “Full program” implementation date - initial core load
- Escorting individuals
- MRO review of dilutes
- Clarifications

**“The only
mistake in life
is the lesson
not learned”**



Rulemakings & Guidance

Part 53, Advanced Reactors

Highlights

A new regulatory paradigm

Risk-informed requirements

- drug/alcohol testing may not be required
- HHS-certified labs are required
- oral fluid and urine testing
- point of collection testing

Objective-based requirements

- fewer prescriptive requirements
- framework conforms to other Parts

Performance-based requirements

- change control process
- performance monitoring

Technical Considerations

Human performance – small staff sizes

Accidents – designed mitigation

Radiological consequences – minimized



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