

**POLICY ISSUE**  
**NOTATION VOTE**

**RESPONSE SHEET**

**TO:** Carrie M. Safford, Secretary

**FROM:** Commissioner Marzano

**SUBJECT:** SECY-24-0058: Rulemaking Plan on Drug and Alcohol Testing: Technical Issues and Editorial Changes

Approved  X  Disapproved       Abstain       Not Participating     

**COMMENTS:** Below       Attached  X  None     

**Entered in STAR**

Yes  X

No     

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**Signature**  
**Matthew J. Marzano**

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**Date** **05/08/2025**

**Commissioner Marzano's Comments on SECY-24-0058, "Rulemaking Plan on Drug and Alcohol Testing: Technical Issues and Editorial Changes"**

The NRC's fitness-for-duty programs described in Title 10 of the *Code of Federal Regulations* Part 26, "Fitness for Duty Programs," are an important aspect of ensuring the safe and secure operation of the nation's nuclear power plants and use of strategic special nuclear material. Licensee personnel with certain responsibilities and access to facilities and material must not be under the influence of any substance that would impair their ability to safely and competently perform their duties.

I agree that an examination of the NRC's fitness for duty requirements is warranted at this time to ensure the continued adequacy of program requirements and consistency with the policies of other federal agencies. The staff appropriately proposes to focus its rulemaking efforts on 1) incorporating lessons learned from implementing Part 26; 2) aligning Part 26 with updates to the U.S. Department of Health and Human Services (HHS) Mandatory Guidelines for Federal Workplace Drug Testing Programs (HHS Guidelines) and the U.S. Department of Transportation (DOT) drug testing requirements; and 3) resolving three petitions for rulemaking related to professional credentials to serve as a Substance Abuse Expert and testing for synthetic drugs.

I approve the staff's recommendation to initiate rulemaking (Alternative 2) to amend Part 26 to address technical and administrative issues associated with the implementation of the NRC's drug and alcohol testing program requirements and to resolve the three related petitions for rulemaking. Pursuing rulemaking is the most appropriate method of addressing each topical area identified by staff in this paper.

I agree with Commissioner Hanson that staff should ensure that the proposed changes made in this rulemaking plan are consistent with Part 53, including changes to Sanctions and Medical Review Officer test result reviews. Also, as noted by Commissioner Caputo, staff should use this opportunity to "take advantage of real-life experimental data on the effect of eliminating blind testing requirements for a drug testing process that is coupled with defense-in-depth elements similar to those embodied in NRC fitness for duty regulations." Specifically, in the regulatory analysis for this rulemaking, staff should compare the costs and benefits of requiring, reducing, or omitting blind performance test samples in Part 26.

I thank the staff for their efforts to seek improvements and efficiencies in this vital area.