

From: [FitnessForDuty Resource](#)
To: [Martin, Kamishan](#); [Benowitz, Howard](#); [Barnes, Valerie](#); [Resner, Mark](#); [Harris, Paul](#); [Ki, DaBin](#); [Smith, Will](#)
Subject: FW: Response from "Contact Us About Fitness-for-Duty"
Date: Tuesday, April 21, 2015 7:58:00 AM

From: Randall Cleveland[SMTP:RANDALL.CLEVELAND@XENUCLEAR.COM]
Sent: Tuesday, April 21, 2015 8:01:25 AM
To: FitnessForDuty Resource
Subject: Response from "Contact Us About Fitness-for-Duty"
Auto forwarded by a Rule

Below is the result of your feedback form. It was submitted by

Randall Cleveland (randall.cleveland@xenuclear.com) on Tuesday, April 21, 2015 at 08:01:25

through the IP 63.141.200.21

using the form at <http://www.nrc.gov/reactors/operating/ops-experience/fitness-for-duty-programs/contact-us.html>

and resulted in this email to fitnessforduty.resource@nrc.gov

comments: FFDPI
Determinations of Fitness:
Safe and Competent Return to Duty
Treatment Plan
Abstinence, AA Attendance and EtG Testing

Potential Fitness for Duty FAQ

10 CFR Part 26.69 (b)(4)(i) identifies that the SAE is to ensure that clinically appropriate treatment and follow up testing plans have been developed. As such, do the NRC regulations place limitations on what the SAE can include as required elements in a treatment plan? Specifically, do NRC regulations preclude an SAE from requiring EtG testing in a treatment plan as a means to monitor an abstinence requirement?

Further, 10 CFR Part 26.69 (d)(3) identifies that the individual comply and successfully complete the recommendations for treatment and follow up drug and alcohol testing established as part of the determination of fitness. Thus, if the assessed individual refuses to comply with elements of the treatment plan (e.g., taking an EtG test), does the refusal constitute a failure to be "in compliance with a treatment plan"?

Background

Nuclear Regulatory Commission (NRC) regulations require licensees to conduct a determination of fitness where fitness for duty potentially disqualifying information (FFDPDI) is identified. FFDPI examples include first positive drug or alcohol tests and mandated treatment for substance abuse, or drug-related legal actions (e.g. DWI arrests, illegal drug possession charges) occurring within the past 5 years (DOF, 26.189(b)(3); PDI, 26.5).

The determination of fitness must be made by a licensed or certified professional who is appropriately qualified and has the necessary clinical expertise to evaluate the specific fitness issues presented by the individual (26.189(a)).

Northern States Power Company, a Minnesota corporation, doing business as Xcel Energy (hereafter "NSPM"), has

a Medical Review Officer (MRO) who is a licensed physician qualified as an SAE in accordance with 26.187. This qualifies the MRO to make FFD determinations on FFDPI. These FFD determinations ensure a clinically appropriate treatment and follow up testing plans have been developed as needed to ensure the individual is fit to safely and competently perform his or her duties (10 CFR Part 26.69 (b)(4)(i)&(ii) and (d)(2)&(3)).

NSPM Rule Implementation

NSPM's MRO/SAE views recovery related to an alcohol dependency diagnosis as a medical issue with significant risk to the public health and safety if recovery is not properly managed and monitored. Potential for symptoms of alcohol withdrawal syndrome (e.g. blackouts, seizures, hallucinations, fatigue, cognitive degradation) at work increase significantly when alcohol consumption is resumed, particularly where individuals binge drink during off-work periods. Accordingly, to ensure individuals are able to safely and competently perform their duties, the MRO/SAE may recommend the following as part of treatment in making a fitness for duty determination:

- a. Abstinence (no consumption of alcohol unless prescribed by a doctor and approved by the SAE prior to performing work within the scope of 10 CFR Part 26);
- b. Alcoholics Anonymous attendance;
- c. Follow-up drug and breath alcohol testing in accordance with 26.31(c)(4); and
- d. Periodic FFD assessments as directed by the MRO/SAE to monitor treatment recovery status, including, for example, EtG and/or PEth testing to validate alcohol abstinence.

NSPM considers individuals who refuse to comply with all MRO/SAE recommended treatment and follow-up program requirements to be out of compliance with the NSPM FFD Program (individuals must comply with all treatment and follow-up testing requirements). For individuals not complying with the NSPM FFD Program, access is suspended and an updated assessment and determination of fitness is conducted. This could lead to denial of access authorization.

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