



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 5, 2022

ALL AGREEMENT AND NON-AGREEMENT STATES
STATE LIAISON OFFICERS
FEDERALLY RECOGNIZED TRIBES

FINAL RULE: FITNESS FOR DUTY DRUG TESTING REQUIREMENTS (STC-22-066)

PURPOSE: To provide notification that the U.S. Nuclear Regulatory Commission (NRC) has published a final rule to amend the fitness for duty drug testing requirements in Part 26 of Title 10 of the *Code of Federal Regulations* (10 CFR), "Fitness for Duty Programs."

BACKGROUND: On September 16, 2019, the NRC published the proposed rule, "Fitness for Duty Drug Testing Requirements," in the *Federal Register* (84 FR 48750). The NRC proposed to more closely align the drug testing requirements in 10 CFR Part 26 with the 2008 HHS Guidelines (73 FR 71858; November 25, 2008) and to enhance the ability of NRC licensees and other entities to identify individuals using illegal drugs, misusing legal drugs, or attempting to subvert the drug testing process. The proposed rule would have incorporated lessons learned from the NRC's current fitness for duty (FFD) regulations, provided additional protections to individuals subject to drug testing, and improved the clarity, organization, and flexibility of the FFD regulations. The *Federal Register* notice for the proposed rule also included questions concerning inclusion of certain aspects of the 2017 HHS Guidelines, which were published on January 23, 2017 (81 FR 7920).

DISCUSSION: This final rule incorporates provisions from the 2008 and 2017 HHS Guidelines into the NRC's FFD drug testing requirements in 10 CFR Part 26. The major provisions of this final rule include the following:

- Add initial and confirmatory drug testing for two illegal amphetamine-based controlled substances—methylenedioxymethamphetamine (MDMA) and methylenedioxyamphetamine (MDA)—referred to as Ecstasy-type drugs in this final rule.
- Add initial and confirmatory drug testing for four opioid drugs (i.e., hydrocodone, hydromorphone, oxycodone, and oxymorphone).
- Add initial drug testing for 6-acetylmorphine (6-AM), a metabolite of the illegal drug heroin, and update the confirmatory drug testing method for 6-AM.
- Lower the initial and confirmatory drug testing cutoff levels for amphetamine, cocaine metabolite, and methamphetamine.
- Enhance the detection of subversion attempts by strengthening the testing methods used to identify drugs and drug metabolites in urine specimens with dilute validity test results and in specimens collected under direct observation.
- Permit the collection and drug testing of an oral fluid specimen as an alternative to the collection and testing of a directly observed urine specimen.

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The compliance deadline for licensees and other entities to implement the revised requirements is 1 year after the date that this final rule is published in the *Federal Register*.

Enclosed with this letter is the *Federal Register* notice for the final rule. The final rule was published in the *Federal Register* (87 FR 71422) (<https://www.federalregister.gov/documents/2022/11/22/2022-24903/fitness-for-duty-drug-testing-requirements>), on November 22, 2022, and posted on the Federal e-rulemaking portal <https://www.regulations.gov> under Docket No. NRC-2009-0225. The rule will become effective on December 22, 2022.

If you have any questions regarding the Fitness for Duty Drug Testing Requirements rulemaking or this correspondence, please contact the individual named below:

POINT OF CONTACT: Stewart Schneider E-MAIL: Stewart.Schneider@nrc.gov
TELEPHONE: (301) 415-4123

Sincerely,



Signed by Regan, Christopher
on 12/05/22

Christopher M. Regan, Director
Division of Rulemaking, Environmental,
and Financial Support
Office of Nuclear Materials Safety
and Safeguards

Enclosure:
As stated

STC-22-066 Rulemaking Final Rule: Fitness For Duty Drug Testing Requirements, 10 CFR Part 26 DATE
December 5, 2022

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