
(a) If an individual is performing, or being assessed for, work under a waiver of the requirements contained in §26.205(d)(1) through (d)(5)(i) and declares that, due to fatigue, he or she is unable to safely and competently perform his or her duties, the licensee shall immediately stop the individual from performing any duties listed in §26.4(a), except if the individual is required to continue performing those duties under other requirements of this chapter. If the subject individual must continue performing the duties listed in §26.4(a) until relieved, the licensee shall immediately take action to relieve the individual.

(b) Following a self-declaration, as described in paragraph (a) of this section, the licensee—

(1) May reassign the individual to duties other than those listed in §26.4(a), but only if the results of a fatigue assessment, conducted under the requirements of §26.211, indicate that the individual is fit to safely and competently perform those other duties; and

(2) Shall permit or require the individual to take a break of at least 10 hours before the individual returns to performing any duties listed in §26.4(a).

§ 26.211 Fatigue assessments.

(a) Licensees shall ensure that fatigue assessments are conducted under the following conditions:

(1) For cause. In addition to any other test or determination of fitness that may be required under §§26.31(c) and 26.77, a fatigue assessment must be conducted in response to an observed condition of impaired individual alertness creating a reasonable suspicion that an individual is not fit to safely and competently perform his or her duties, except if the condition is observed during an individual’s break period. If the observed condition is impaired alertness with no other behaviors or physical conditions creating a reasonable suspicion of possible substance abuse, then the licensee need only conduct a fatigue assessment. If the licensee has reason to believe that the observed condition is not due to fatigue, the licensee need not conduct a fatigue assessment;

(2) Self-declaration. A fatigue assessment must be conducted in response to an individual’s self-declaration to his or her supervisor that he or she is not fit to safely and competently perform his or her duties for any part of a working tour because of fatigue, except if, following the self-declaration, the licensee permits or requires the individual to take a rest break of at least 10 hours before the individual returns to duty;

(3) Post-event. A fatigue assessment must be conducted in response to events requiring post-event drug and alcohol testing as specified in §26.31(c). Licensees may not delay necessary medical treatment in order to conduct a fatigue assessment; and

(4) Followup. If a fatigue assessment was conducted for cause or in response to a self-declaration, and the licensee