result of a violation of an FFD policy and shall make available the information on which the denial or unfavorable termination of authorization was based, including, but not limited to, drug or alcohol test results, treatment and followup testing requirements or other results from a determination of fitness, and any other information that is relevant to an authorization decision.

(e) In conducting a suitable inquiry, a licensee or other entity may obtain information and documents by electronic means, including, but not limited to, telephone, facsimile, or e-mail. The licensee or other entity shall make a record of the contents of the telephone call and shall retain that record, and any documents or electronic files obtained electronically, under §§26.711 and 26.713(a), (b), and (c), as applicable.

(f) For individuals about whom no potentially disqualifying FFD information is known (or about whom potentially disqualifying FFD information is known, but it has been resolved by a licensee or other entity who is subject to this subpart) at the time at which the suitable inquiry is initiated, the licensee or other entity shall ensure that a suitable inquiry has been conducted as follows:

(1) Initial authorization. The period of the suitable inquiry must be the past 3 years or since the individual’s eighteenth birthday, whichever is shorter. For the 1-year period immediately preceding the date on which the individual applies for authorization, the licensee or other entity shall ensure that the suitable inquiry has been conducted with every employer, regardless of the length of employment. For the remaining period since authorization was terminated favorably and about whom no potentially disqualifying FFD information has been discovered or disclosed that was not previously reviewed and resolved by a licensee or other entity under the requirements of this subpart.

(2) Authorization update. The period of the suitable inquiry must be the period since authorization was terminated. The licensee or other entity shall ensure that the suitable inquiry has been conducted with the employer by whom the individual claims to have been employed the longest within each calendar month, if the individual claims employment during the given calendar month.

(3) Authorization reinstatement after an interruption of more than 30 days. The period of the suitable inquiry must be the period since authorization was terminated. The licensee or other entity shall ensure that the suitable inquiry has been conducted with the employer by whom the individual claims to have been employed the longest within the calendar month, if the individual claims employment during the given calendar month.

§ 26.65 Pre-access drug and alcohol testing.

(a) Purpose. This section contains pre-access testing requirements for granting authorization to an individual who either has never held authorization or whose last period of authorization was terminated favorably and about whom no potentially disqualifying FFD information has been discovered or disclosed that was not previously reviewed and resolved by a licensee or other entity under the requirements of this subpart.

(b) Accepting tests conducted within the past 30 days. If an individual has negative results from drug and alcohol tests that were conducted under the requirements of this part before the individual applied for authorization from the licensee or other entity, and the specimens for such testing were collected within the 30-day period preceding the day on which the licensee or other entity grants authorization to the individual, the licensee or other entity may rely on the results of those drug and alcohol tests to meet the requirements for pre-access testing in this section.

(c) Initial authorization and authorization update. Before granting authorization to an individual who has never
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held authorization or whose authoriza-
tion has been interrupted for a period
of more than 365 days, the licensee or
other entity shall verify that the re-
results of pre-access drug and alcohol
tests, which must be performed within
the 30-day period preceding the day the
licensee or other entity grants author-
ization to the individual, are negative.
The licensee or other entity need not
conduct pre-access testing if—
(1) The individual previously held au-
 thorization under this part and has
been subject to a drug and alcohol test-
ing program that includes random test-
ing and a behavioral observation pro-
gram that includes arrest reporting,
which both meet the requirements of
this part, from the date the individ-
ual’s last authorization was termin-
ated through the date the individ-
ual is granted authorization; or
(2) The licensee or other entity relies
on negative results from drug and alco-
hol tests that were conducted under
the requirements of this part at any
time before the individual applied for
authorization, and the individual re-
 mains subject to a drug and alcohol
testing program that includes random
testing and a behavioral observation
program that includes arrest reporting,
which both meet the requirements of
this part, beginning on the date the
drug and alcohol testing was conducted
through the date the individual is
granted authorization.

(d) Authorization reinstatement after an
interruption of more than 30 days.
(1) To
reinstate authorization for an indi-
vidual whose authorization has been
interrupted for a period of more than 30
days but no more than 365 days, except
as permitted in paragraph (d)(2) of this
section, the licensee or other entity shall—
(i) Verify that the individual has neg-
ative results from alcohol testing and
and collect a specimen for drug testing
within the 30-day period preceding the
day the licensee reinstates the individ-
ual’s authorization; and
(ii) Verify that the drug test results
are negative within 5 business days of
specimen collection or administra-
tively withdraw authorization until
the drug test results are received.

(2) The licensee or other entity need not conduct pre-access testing of these individuals if—
(i) The individual previously held au-
 thorization under this part and has
been subject to a drug and alcohol test-
ing program that includes random test-
ing and a behavioral observation pro-
gram that includes arrest reporting,
which both meet the requirements of
this part, beginning on the date the in-
dividual’s last authorization was ter-
minted through the date the indi-
vidual is granted authorization; or
(ii) The licensee or other entity relies
on negative results from drug and alco-
hol tests that were conducted under
the requirements of this part at any
time before the individual applied for
authorization, which both meet the require-
ments of this part, beginning on the date
the drug and alcohol testing was conducted
through the date the individual is
granted authorization.

(e) Authorization reinstatement after an
interruption of 30 or fewer days. (1) The
licensee or other entity need not con-
duct pre-access testing before granting
authorization to an individual whose
authorization has been interrupted for
5 or fewer days. In addition, the li-
censee or other entity need not con-
duct pre-access testing if the indi-
vidual has been subject to a drug and
alcohol testing program that includes
random testing and a behavioral obser-
vation program that includes arrest re-
porting, which both meet the require-
ments of this part, from the date the
individual’s last authorization was ter-
minted through the date the indi-
vidual is granted authorization.

(2) In order to reinstate authoriza-
tion for an individual whose authoriza-
tion has been interrupted for a period
of more than 5 days but not more than
30 days, except as permitted in para-
graph (e)(1) of this section, the licensee
or other entity shall take the following
actions:
(i) The licensee or other entity shall
subject the individual to random selec-
tion for pre-access drug and alcohol
testing at a one-time probability that
§ 26.67 Random drug and alcohol testing of individuals who have applied for authorization.

(a) When the licensee or other entity collects specimens from an individual for any pre-access testing that may be required under §26.65 or §26.69, and thereafter, the licensee or other entity shall subject the individual to random testing under §26.31(d)(2), except if—

(1) The licensee or other entity does not grant authorization to the individual;

(2) The licensee or other entity relies on drug and alcohol tests that were conducted before the individual applied for authorization, the licensee or other entity shall subject the individual to random testing when the individual arrives at a licensee’s or other entity’s facility for in-processing and thereafter.

(b) If an individual is selected for one or more random tests after any applicable requirement for pre-access testing in §26.65 or §26.69 has been met, the licensee or other entity may grant authorization before random testing is completed, if the individual has met all other applicable requirements for authorization.

(c) If an individual has confirmed positive, adulterated, or substituted test results from any drug, validity, or alcohol test required in this section, the licensee or other entity shall at a minimum and as appropriate—

(1) Deny authorization to the individual, as required by §26.75(b), (d), (e)(2), or (g);

(2) Terminate the individual’s authorization, if it has been reinstated, under §26.75(e)(1) or (f); or

(3) Grant authorization to the individual under §26.69.

§ 26.69 Authorization with potentially disqualifying fitness-for-duty information.

(a) Purpose. This section defines the management actions that licensees and