



Application of 10 C.F.R. 707 Workplace Substance Abuse Programs at DOE Sites

2007-05

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PURPOSE

This Advisory is being issued to alert Department of Energy (DOE) and DOE contractor personnel to new Departmental Policy regarding drug testing programs. On September 14, 2007, the Secretary issued a memorandum stating that all Federal and contractor positions that require a security clearance ("Q" or "L") and all employees in positions that currently have security clearances have the potential to significantly affect the environment, public health and safety, or national security. Therefore, all Federal employees with Security clearances will be considered to be in testing designated positions (TDP), and all contractor employees with security clearances will be included as TDPs following consultation with the contractors as required by 10 C.F.R. 707. All such positions will be subject to applicant, random, and for cause drug testing at the rate prescribed under the current version of the regulation.

BACKGROUND

Contractors must follow Title 10 Code of Federal Regulations Part 707 (10 C.F.R. 707) *Workplace Substance Abuse Programs at DOE Sites*. Each contractor subject to 10 C.F.R. Part 707.5 (Submission, approval, and implementation of a baseline workplace substance abuse program) shall develop a written program. This program must be consistent with the requirements of 10 C.F.R. 707 and the guidelines of the Department of Health and Human Services' *Mandatory Guidelines for Federal Workplace Drug Testing Programs*. Part 707.7 provides random drug testing requirements and identifies TDPs.

(Note: Federal employee TDPs are identified in DOE Order 3792.3 *Drug-Free Federal Workplace Testing Implementation Program*.)

GENERAL INFORMATION

10 C.F.R. Part 707.7(b) describes which jobs are classified as TDPs. These positions include: those covered by the Personnel Security Assurance Program; employees with critical duties involving nuclear explosives; personnel directly engaged in construction, maintenance, or operation of nuclear reactors; individuals having unescorted access to the control areas of DOE reactors; personnel working with hazardous materials; protective force personnel, pilots, and firefighters; and other positions that could significantly impact the environment, public health and safety, or national security. Currently all those TDPs identified under this section of the rule are designated to be included in the pool for 50 percent annual random sampling. In some cases, other Rules or DOE directives will require individuals to be included in a 100 percent annual sample. In order to make

the requirements of 10 C.F.R. 707 consistent with the Secretary of Energy's memorandum, 10 C.F.R. 707 is being amended to reduce the sampling rate of the TDPs designated for 50 percent testing to 30 percent annual sampling for random drug testing.

All applicants for TDPs (including those that do not require clearances) will be tested before final selection into the position or, for current Federal or contractor employees, before a security clearance is granted.

All applicants for security clearances (including current Federal employees and contractor employees applying for a new clearance) who have been determined to have used illegal drugs within the twelve months preceding their completion of a Questionnaire for National Security Positions (SF-86) will be disqualified from further consideration for a security clearance, until such time as they can demonstrate non-use of illegal drugs for twelve consecutive months.

ADDITIONAL SOURCES OF INFORMATION

- 10 C.F.R. Part 707
<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=%2Findex.tpl>
- Department of Health and Human Services, Substance Abuse and Mental Health Service Administration
<http://www.workplace.samhsa.gov/>
 - Mandatory Guidelines for Federal Workplace Drug Testing Programs
http://www.workplace.samhsa.gov/FedPgms/Fed_DF_WP.aspx
 - Model Plan for a Comprehensive Drug-Free Workplace Program
http://www.workplace.samhsa.gov/FedPgms/Pages/Model_Plan.aspx
 - Current list of Certified Laboratories
http://workplace.samhsa.gov/DrugTesting/Level_1_Pages/CertifiedLabs.aspx

If you have any questions, please contact Dr. Bill McArthur by telephone at (301) 903-9674 or at bill.mcarthur@hq.doe.gov.

(signed October 31, 2007 by)

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