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UNITED STATES MARINE CORPS
U.S. MARINE CORPS AIR STATION
YUMA, ARIZONA 85369-5001

StaO 12792.2 CH 1
3AA3
29 Apr 91

STATION ORDER 12792.2

From: Commanding Officer
To: Distribution List

Subj: DRUG-FREE WORKPLACE PROGRAM (DFWP) FOR CIVILIAN EMPLOYEES

1. Purpose. To direct a pen change to the basic Order.
2. Action. Change the Station Order No. 12792.2 to read StaO 12792.3 throughout the order.
3. Filing Instructions. File this Change transmittal immediately behind the signature page of the basic Order.

DISTRIBUTION: C


C. T. DUNSTAN
By direction



DEFINITIONS

1. Access. As defined in OPNAVINST 5510.1H, the ability and opportunity to obtain knowledge or possession of classified information. An individual may have access to classified information merely by being in a place where such information is kept, if the security measures which are in effect do not prevent the person from gaining knowledge or possession of classified information.
2. Applicant. Any individual who applies for or is otherwise being considered for placement in a Testing Designated Position (TDP).
3. Blind Performance Test Specimen. An audit of the accuracy of the screening process and check on the chain of custody of urine specimens. This is accomplished by submitting prepared urine samples (blind samples) to the laboratory along with the urine samples collected from employees by the activity. These blind samples must meet the specifications of the Department of Health and Human Services (DHHS) Guidelines and requirements.
4. Chain of Custody. Procedures to ensure the integrity of each urine sample by tracking its handling and storage from point of collection to final disposition.
5. Collection Site Coordinator. An individual assigned by the Drug Program Coordinator (DPC) to a collection site who has full responsibility for coordinating all collection activities at that site including determining the temperature of the urine specimen, etc.
6. Drugs Tested. These are cocaine, cannabis (marijuana), opiates, amphetamines and phencyclidine (PCP). When conducting reasonable suspicion, accident or unsafe practice testing, the urine may be tested for any drug listed in Schedule I or II of the Controlled Substances Act (CSA).
7. Employee in a Sensitive Position. For purposes of this instruction, this term means:
 - a. An employee in a position designated by the Secretary of the Navy as Special-Sensitive, Critical-Sensitive, or Noncritical Sensitive under chapter 731 of the Federal Personnel Manual; or an employee in a position designated by SECNAV as sensitive, per E.O. 10450 as amended.
 - b. An employee granted access to classified information or who may be granted to classified information pursuant to a determination of trustworthiness by the Secretary of the Navy under Section 4 of EO 12356.
 - c. Individuals serving under Presidential appointments.

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- d. Law enforcement officers as defined in 5 U.S.C. 8331(20).
 - e. Employees in other positions that the Secretary determines involve law enforcement, national security, the protection of life and property, public health or safety, or other functions requiring a high degree of trust and confidence. To meet this definition, the sensitive position must be a TDP.
8. Illegal Drugs. Controlled substances included in Schedule I or II of the Controlled Substances Act, as defined by 21 U.S.C. S 802(8), the possession of which is unlawful under 21 U.S.C., Chapter 13, or any others subsequently approved by DHHS for testing.
 9. Illegal Use of Drugs/Illegal Drug Use. These two terms are used interchangeably to refer to the use of an illegal drug or a drug for which the individual does not have a valid prescription, or other use not authorized by law.
 10. Medical Review Officer. A licensed physician responsible for receiving laboratory results generated by the Drug-Free Workplace Program (DFWP) who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's positive test result together with their medical history and any other relevant biomedical information.
 11. Observer. An individual assigned the responsibility of accompanying the person being tested while a specimen is being provided.
 12. Permanent Record Book. A permanently bound record book which may be maintained by the DPC to record data on each specimen collected.
 13. Random Testing. A system of drug testing imposed without individualized suspicion that a particular individual is using illegal drugs. Random testing may either be uniform unannounced testing of testing designated employees working in a specific geographic area, organizational unit or position; or randomly selected employees based on a neutral criterion, such as social security number.
 14. Safe Harbor. A provision of the DFWP which gives an employee a one-time opportunity to voluntarily identify oneself as a user of illegal drugs willing to undertake counseling and, as necessary, rehabilitation. "Safe Harbor" insulates the employee from discipline for these admitted, but otherwise unknown, past acts of illegal drug use. It does not protect the employee from discipline for admitting to drug trafficking or other drug-related offenses.
 15. Testing Designated Positions. Positions within the Department of the Navy which have been determined to meet the criteria for random drug testing.

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16. Urine Sample/Urine Specimen. These two terms are used interchangeably to refer to the urine collected from an individual which will be tested for evidence of illegal drug use.
17. Verified Positive Test Result. A test result that has been screened positive by a Food and Drug Administration-approved immunoassay test, confirmed by a gas chromatography/mass spectrometry assay (or other confirmatory tests approved by DHHS), and determined by the Medical Review Officer to have no legitimate medical reason for the drug's presence in the employee's system.

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GENERAL NOTICE OF IMPLEMENTATION OF DRUG TESTING



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20350

6 August 1988

GENERAL NOTICE OF IMPLEMENTATION
OF
DRUG TESTING
UNDER
DEPARTMENT OF THE NAVY
DRUG-FREE WORKPLACE PROGRAM

TO DEPARTMENT OF THE NAVY CIVILIAN APPROPRIATED FUND EMPLOYEES:

1. On 15 September 1986, President Reagan signed Executive Order 12564, establishing the goal of a Drug-Free Federal Workplace. The Executive Order made it a condition of employment for all Federal employees to refrain from using illegal drugs on or off duty. The Department of the Navy Drug-Free Workplace Program, developed to implement the Order, is designed to accomplish these goals through deterrence, identification, rehabilitation, and personnel action. While the Department of the Navy (DON) will assist employees with drug problems, it must be recognized that the employees who use illegal drugs are primarily responsible for changing their own behavior and actions.

2. Illegal drug use by any civilian employee of the DON is incompatible with the maintenance of high standards of conduct and performance. Moreover, illegal drug use could adversely affect personnel safety, risk damage to government and personal property, and significantly impair day-to-day operations. The DON program is aimed at identifying illegal drug users in order to maintain a safe, secure workplace and efficient DON operation.

3. The determination that an employee uses illegal drugs may be made on the basis of direct observation, a criminal conviction, the employee's own admission, other appropriate administrative determination or by a confirmed positive urinalysis. The program subjects all civilian appropriated fund employees to drug testing (urinalysis) under the following conditions:

a. When there is a reasonable suspicion that the employee uses illegal drugs.

b. As part of an authorized examination regarding an accident or unsafe practice.

c. As a part of or as a follow-up to counseling or rehabilitation for illegal drug use.

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4. In addition, certain employees occupying specifically designated sensitive positions within DON, will be subject to random drug testing. These are called Testing Designated Positions.

a. Employees in this category will receive individual written notices that their positions have been included in the activity random testing pool at least 30 days prior to actual testing.

b. Employees selected for or otherwise placed in a designated sensitive position, will be subject to a drug test prior to final selection/placement and to random testing thereafter.

c. Any employee can volunteer for random testing and will be included in the activity random testing pool.

5. All employees subject to testing shall be allowed to provide urine specimens in private except when there is reason to believe the specimen will be altered. Employees will be given the opportunity to declare the legitimate use of over-the-counter or prescription drugs prior to taking a test. The DON has developed strict chain-of-custody procedures to ensure proper identification of the specimen tested.

6. All urine specimens will be tested in DON laboratories or approved contract laboratories in accordance with mandatory guidelines published by the Department of Health and Human Services on 11 April 1988 in the Federal Register. A two step procedure has been established for testing urine specimens. The first test procedure used is called a radioimmunoassay (RIA) test and is used as an initial screening test. If the results of that procedure are positive, a second, confirmatory procedure is used, called a gas chromatography-mass spectrometry (GC/MS). The screening levels of these tests are sufficiently high to eliminate extraneous reasons for a positive test and with confirmation by the second, but different test method, the chemical test results are highly reliable and accurate. A Medical Review Officer (MRO) will review all positive test results. Employees will be given an opportunity to provide evidence to an MRO for verification of the legitimate use of over-the-counter or prescription drugs authorized by a physician or medical officer.

7. Drug test results will be handled in a confidential manner. Positive test results from the laboratory will only be disclosed to a Medical Review Officer. Positive results, verified by the MRO, may only be disclosed to the employee, the appropriate Civilian Employee Assistance Program (CEAP) Administrator, and appropriate supervisory/management officials necessary to take and process an administrative and/or adverse action against the

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employee. in an administrative proceeding (such as appeals and grievances) or in a court proceeding.

8. The Navy cannot tolerate the use of illegal drugs and we encourage any employee who has a substance abuse problem to seek assistance through his/her activity Civilian Employee Assistance Program (CEAP). Such assistance may be obtained by contacting the activity CEAP administrator. Employees who voluntarily identify themselves to their supervisor or other appropriate management official as users of illegal drugs, prior to being so identified by other means, and who seek counseling and/or rehabilitation assistance, will not be subject to disciplinary action for their prior drug use. This is referred to as "safe harbor." It is important to note that once an employee is officially informed of an impending drug test, the employee is no longer eligible for "safe harbor." All employee medical and rehabilitation records maintained in connection with the CEAP program will be deemed confidential "patient" records and may not be disclosed without the prior written consent of the employee.

9. All employees are expected to refrain from drug use and participate in the testing program. Disciplinary action up to and including removal from Federal service will be initiated for the first failure to remain drug-free or refusal to submit to a drug test. Removal action will be initiated for any employee upon a second positive test result, failing to refrain from illegal drug use after counseling and/or rehabilitation, or adulterating or substituting a specimen.

10. This is a general notice to all employees that the Navy intends to implement a drug testing program. Actual testing by the activity/command will begin no sooner than 60 days from the date this notice is issued by the local activity/command. This notice is intended to provide general information on the DON drug testing program.



William L. Ball, III
Secretary of the Navy

ENCLOSURE (2)

INDIVIDUAL NOTICE OF RANDOM DRUG TESTING

From: Commanding Officer, Marine Corps Air Station
To:

Subj: NOTICE OF RANDOM DRUG TESTING UNDER THE DEPARTMENT OF THE NAVY
DRUG-FREE WORKPLACE PROGRAM

1. You were advised by a General Notice from the Secretary of the Navy, dated 6 August 1988, that the Department of the Navy was implementing drug testing as part of the Drug-Free Workplace Program. I have determined that your position meets the criteria for random drug testing under the Department of the Navy Drug-Free Workplace Program. Performance of the duties of your position is sufficiently critical to this activity, that screening to detect the presence of drugs is warranted as a requirement of your position. It is mandatory for your continued employment in this position that you refrain from the use of illegal drugs and, when directed, submit to drug testing.

2. No sooner than thirty days from receipt of this notice, you may be subject to random drug testing on an unannounced basis for marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP). You will receive specific instructions concerning when and where the test will be conducted immediately prior to the test. You will be allowed individual privacy while providing the urine specimen unless there is reason to believe the specimen will be altered. To ensure the accuracy of the test result, the collection, handling, and testing of the urine specimen will be conducted under strict chain of custody procedures established by the Department of Health and Human Services Guidelines for Federal Workplace Drug Testing Programs and described in the Department of the Navy Civilian Personnel Instruction 792-3, the Department of the Navy Drug-Free Workplace Program. The procedures used to test the urine specimens are very accurate and tightly monitored to ensure reliable results. The test results will be handled with maximum respect for individual confidentiality. In the event your specimen tests positive, you will be given an opportunity to submit medical documentation to a designated Medical Review Officer to establish your legitimate use of the specific drug(s) before any administrative action will be taken.

3. If you refuse to furnish a urine specimen or fail to report for testing as directed, you will be subject to the same range of discipline as a verified positive test result for illegal drug use for failure to meet a condition of employment. If, by any means, illegal drug use is detected, you will be subject to the following two administrative actions mandated by Executive Order 12564.

a. You will immediately be taken out of your sensitive position through reassignment, detail, or other personnel action to ensure that you do not occupy a sensitive position. I may restore you to your

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sensitive position as part of your successful participation in rehabilitation or counseling program.

b. You will also be referred to the Civilian Employee Assistance Program (CEAP) as required by the Executive Order.

In addition, disciplinary action up to and including removal from the federal service will be initiated. As required in the Executive Order, a removal action will be initiated if you refuse to obtain counseling or rehabilitation through the CEAP after being found to use illegal drugs or for a second finding of illegal drug use.

4. If you believe you have a drug problem, you are encouraged to seek counseling and/or referral services by contacting the CEAP Administrator. If you voluntarily identify yourself to your supervisor or other higher level management official as a user of illegal drugs prior to being so identified through other means, such as drug testing, seek counseling and/or rehabilitation assistance, and thereafter refrain from using illegal drugs, you will not be subject to discipline for your prior drug use. This immunity from discipline under these circumstances is referred to as "safe harbor." It is important to note that once you are informed of an impending drug test, you are no longer eligible for "safe harbor." Further, if you are arrested or convicted of a drug-related offense, you will not be eligible for "safe harbor" or from discipline for those actions.

5. If you believe your position has been wrongly designated as a Testing Designated Position (TDP), you may request a review of the determination. Such a request must be submitted in writing to me (Commanding Officer, MCAS, Yuma, AZ 85369-5000) within 15 days of receipt of this notice. It should state the reasons why you believe that your position should not be a TDP and include all other relevant information. My decision is not subject to further review, nor is it grievable under the administrative grievance procedure. If you are a member of a bargaining unit, you must seek review of your position designation through your negotiated grievance procedure, unless the agreement specifically excludes such decisions from the negotiated procedure.

6. As stated in the General Notice announcing the Program, you, as well as all Department of the Navy employees, may also be subject to testing due to reasonable suspicion, involvement in an accident or safety mishap, and as part of or follow-up to a rehabilitation and/or counseling program for illegal drug use. When conducting reasonable suspicion, accident or mishap testing, the Department of the Navy may test for any drug listed in Schedule I or II of the Controlled Substances Act, not just the five previously identified in paragraph 2.

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7. If you have any questions on this program that your immediate supervisor has not answered to your satisfaction, you may contact the Drug Program Coordinator, to schedule an appointment to answer your questions.

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ACKNOWLEDGMENT OF RECEIPT

By my signature below and my initials on the upper right-hand corner of pages 1 and 2, I acknowledge receipt of this letter and have read its contents. I understand that I may be selected for random drug testing and also tested when there is reasonable suspicion to believe that I may be using drugs, or as the result of a safety mishap, or as part of or follow-up to rehabilitation. I also understand that refusal to submit to testing will result in initiation of disciplinary action, up to and including removal.

SIGNATURE OF EMPLOYEE

DATE

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REQUEST FOR "SAFE HARBOR"

From: (Name of Requester)
To: Commanding Officer, Marine Corps Air Station, Yuma
Via: (1) Immediate Supervisor
(2) Drug Program Coordinator, DPC

Subj: REQUEST FOR SAFE HARBOR

1. I voluntarily identify myself as an illegal user of drugs and I request safe harbor under the provisions of the Department of the Navy Drug-Free Workplace Program. I understand this means I will not be subject to disciplinary action during my rehabilitation period, but if I occupy a sensitive position, I will not be permitted to continue performing those duties. I voluntarily agree to the following conditions:

- a. To obtain counseling and rehabilitation through the Civilian Employee Assistance Program (CEAP);
- b. To be tested by the command as part of and as a follow-up to counseling and rehabilitation;
- c. To the release to appropriate management and CEAP officials of all counseling and rehabilitation records related to my illegal use of drugs; and
- d. To refrain from any subsequent illegal use of drugs.

Signature

Date

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(date)

FIRST ENDORSEMENT

From: Commanding Officer, Marine Corps Air Station, Yuma
To: (Name of Requester)
Via: (1) Drug Program Coordinator
(2) Immediate Supervisor

Subj: REQUEST FOR "SAFE HARBOR"

I acknowledge your request for safe harbor and your agreement to the conditions that it requires. Your supervisor will arrange with you the scheduling of your first appointment with the CEAP Administrator.

Signature of Commanding Officer

Date

ENCLOSURE (4)

CHECKLIST FOR SUPERVISORS

On the actual date that random drug testing is scheduled to be conducted, your Drug Program Coordinator (DPC) or Collection Site Coordinator (CSC) will notify you which of your employees have been selected for drug testing and the proposed schedule. This information is confidential. The following procedures should be followed in notifying employees of the collection process.

Approximately 15-30 minutes prior to the actual collection, inform the employees verbally and privately that they have been identified through a random selection process for drug testing by urinalysis. Clearly inform the employee of the time and exact location to report for testing and instruct them to take photo identification.

Employees normally will be scheduled to report to the collection site at 15-minute intervals. Coordinate any scheduling changes necessary to maintain work operations closely with your supervisor and the DPC/CSC. Do not make any unilateral changes.

Advise employees to be prepared to provide a urine specimen at the scheduled collection time.

_____ You may provide the Checklist for Employees, which offers helpful information about the collection process, to scheduled employees.

_____ When an employee selected for random testing is unavailable for legitimate reasons (e.g., working a different shift, travel, leave), you must inform the DPC/CSC. Once an employee has been notified of testing, any leave requests submitted for the same time as the tests should be carefully scrutinized.

_____ Immediately report any problems encountered during employee notification to the DPC/COC. Employees who fail to cooperate with the collection procedures will be subject to disciplinary action consistent with Department of the Navy regulations. (You may obtain guidance from the Civilian Personnel Office, Labor and Employee Relations).

_____ If you have any questions or concerns, you should share them with the Drug Program Coordinator.

ENCLOSURE (5)

CHECKLIST FOR EMPLOYEES

You have been identified through a process of random selection for drug testing by urinalysis. Your selection for such drug testing in no way reflects that this activity has any specific cause to suspect the usage of illegal drugs. Please take a few minutes to read the following information, which describes your responsibilities in the collection process.

- _____ Present required photo identification to the collector.
- _____ When instructed by the collector, provide the information required in the Permanent Record Book. On this form, you may list any prescription and over-the-counter drugs that you use.
- _____ Remove any unnecessary outer garments, (e.g., coat, jacket, coveralls). All personal belongings (e.g., purse, briefcase) must remain with your outer garment(s). You may retain your wallet.
- _____ When instructed by the collector, wash and dry your hands.
- _____ You may provide the specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy. It will be necessary for you to provide a specimen of at least 60 milliliters. If you are unable to provide a sufficient quantity of urine, you will be asked to drink sufficient fluids to facilitate urination. You will be required to remain at the collection site in the presence of the DPC/CSC until the sample is provided.
- _____ You should observe the entire collection procedure.
- _____ When instructed, read and sign the statement in the Permanent Record Book that certifies that this is your urine specimen.
- _____ If you have any questions or concerns, share them with your supervisor, and/or with the collection-site personnel.

REQUEST FOR VOLUNTARY DRUG TESTING

MEMORANDUM

From: (Requesting Employee)
To: Drug Program Coordinator
Via: (1) First-line Supervisor
(2) Second-line Supervisor

Subj: REQUEST FOR VOLUNTARY DRUG TESTING

1. I voluntarily request to be included in the pool of Testing Designated Positions (TDPs) subject to random testing. This decision has been made without any management coercion or pressure. I understand I will be subject to the same conditions and procedures as an employee in a TDP. I also understand I may withdraw from inclusion in the random testing pool at any time upon submission of a written statement and before an actual specimen is collected.

2. The following information is provided in support of this request:

- a. NAME:
- b. SOCIAL SECURITY NUMBER:
- c. GENDER: M F
- d. POSITION TITLE:
 SERIES:
 GRADE:
- e. ORGANIZATION:
 PHONE NUMBER:
- f. DUTY STATION:

EMPLOYEE SIGNATURE

DATE

ENCLOSURE (7)

LEFT BLANK INTENTIONALLY

From: Drug Program Coordinator
To: (Requesting Employee)

Subj: ACKNOWLEDGMENT REQUEST FOR VOLUNTARY DRUG TESTING

Ref: (a) MCO 12792.1
(b) StaO 12792.2

1. This will acknowledge your written request to volunteer for agency drug testing. Pursuant to Executive Order 12564, "Drug-Free Federal Workplace," the Department of the Navy has initiated a comprehensive program to achieve the goal of a drug-free workplace. This program is set forth in references (a) and (b).
2. As a result of your request, you will be included in the pool of Testing Designated Positions (TDPs) subject to random testing. You will remain in the pool until you withdraw from participation, which you may do at any time, even after being notified of an impending random drug test, by returning a copy of this acknowledgment with a statement that you wish to withdraw from the program and the effective date.
3. Drug testing is being performed through urinalysis by certified forensic toxicology drug testing laboratory. The testing methodology reflects the scientific and technical procedures necessary to assure the results are highly reliable and accurate. The certification process provides for strict quality control procedures. These procedures will include an initial screen of the urine sample you provide for drugs and confirmation by gas chromatography/mass spectrometry.
4. To assure that the sample collected from you is not accidentally confused with any other sample, strict procedures will be used when collecting and transferring the specimen. The total of these procedures is known as the chain of custody. The test results from your sample will be handled with maximum respect for individual confidentiality consistent with safety and security. Any confirmed positive test result reported by the laboratory will be reviewed by a Medical Review Officer (MRO) before a determination is made that an employee has used illegal drugs. You will be given an opportunity to justify the results by submitting medical records and/or a valid prescription.
5. If it is determined that you are using illegal drugs on or off-duty by means of this drug test or any other means, you will be provided the opportunity to use the services of the Civilian Employee Assistance Program. Through this program, you will receive counseling and learn about the availability of rehabilitation.

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6. You will be subject to the same conditions and procedures as an employee in a TDP as described in references (a) and (b). If a determination is made that you are using illegal drugs, you will be subject to unannounced follow-up testing for a period of one year after you complete a rehabilitation/abatement program. Refusal to enter or successfully complete a rehabilitation/abatement program will be grounds for removal from the Federal service. If you test positive a second time as a result of any subsequent drug test or a second determination of illegal drug use by you is made, you also will be subject to removal.

7. Sign and return one copy of this notice to the DPC no later than ten (10) working days of receipt. Failure to do so will be viewed as a withdrawal of the request.

8. If you have other questions, please contact the undersigned.

DPC

MEMORANDUM

From: Requesting Employee
To: Drug Program Coordinator

Subj: ACKNOWLEDGMENT OF REQUEST FOR VOLUNTARY DRUG TESTING

I hereby acknowledge receipt of this notice and agree to the conditions stated therein.

Signature of Employee

Date

ENCLOSURE (7)

NOTICE OF REASONABLE SUSPICION TESTING FOR ILLEGAL DRUG USE

From: (Supervisor or Management Official)
To: Drug Program Coordinator

Subj: NOTICE OF REASONABLE SUSPICION TESTING FOR ILLEGAL DRUG USE

Ref: (a) SECNAVINST 12792.3
(b) OCPMINST 12792.3
(c) MCO 12792.1
(d) StaO 12792.2

Encl: (1) Documentation in Support of Reasonable Suspicion Drug Testing

1. The Department of the Navy has initiated a comprehensive program to achieve the goal of a drug-free workplace. This program is set forth as prescribed in references (a) through (d).
2. It has been determined that sufficient grounds exist to authorize collection of a urine sample from you on the basis of reasonable suspicion. This drug test is required since management has formed a reasonable suspicion that you are using illegal drugs. Collection procedures under reasonable suspicion testing will require you to provide a specimen under direct observation. Enclosure (1) is a statement describing all relevant circumstances which formed the basis for the decision to conduct this drug test.
3. Drug testing for Department of the Navy civilian employees is performed through urinalysis. The testing methodology complies with Guidelines issued by the Department of Health and Human Services and reflects the scientific and technical procedures necessary to assure that the results are highly reliable and accurate. These procedures will include an initial screening of the urine sample you provide for the presence of illegal drugs and, if appropriate, a confirmation test by gaschromatography/mass spectrometry.
4. To assure that the sample collected from you is not accidentally confused with any other sample, strict procedures will be used when collecting and transferring the sample. These procedures are known as the chain of custody. The test results from your sample will be handled with maximum respect for individual confidentiality consistent with safety and security. A confirmed positive test result reported by the laboratory will be reviewed by a Medical Review Officer (MRO) before a determination is made that you have used illegal drugs. MRO are licensed physicians with experience in substance abuse disorders. You will be given an opportunity to submit medical documentation to the MRO to establish your legitimate use of the specific drug(s) detected by testing before any administrative action is taken.

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5. If it is determined that you are using illegal drugs by means of this drug test or any other means, you will be referred to the MCAS, Yuma Civilian Employee Assistance Program (CEAP). Through this program, you will receive counseling and learn about the availability of sources of treatment and rehabilitation assistance. Information concerning the CEAP may be obtained from your immediate supervisor or by contacting the CEAP Administrator.

6. If you are employed in a Testing Designated Position (TDP), as defined in reference (b), and illegal drug use is detected, you will be immediately taken out of your position by detail, reassignment, or other personnel action. You may be returned to your TDP by the Commanding Officer, MCAS Yuma, as part of your successful participation in a rehabilitation or counseling program. In addition, disciplinary action up to and including removal from the federal service will be initiated. A disciplinary action will be initiated if you refuse to submit to this drug test. A removal action will be initiated if you refuse to obtain counseling or rehabilitation through the CEAP after being found to use illegal drugs or for a second finding of illegal use.

7. If you have other questions after providing a urine sample, please contact the Command's Drug Program Coordinator.

Signature of Issuing Management Official

Date

Signature of at least the Next Level
of Management

Date

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CONCURRENCE

I have reviewed the details and facts supporting an incident of suspected illegal drug use relevant to reasonable suspicion testing and concur in reasonable suspicion testing. I have scheduled the approved test as indicated below. Your immediate supervisor, or the next available management official in your chain of command is hereby instructed to provide you with this letter and to accompany you to the indicated test site.

Date of Test _____ Time of Test _____ Place of Test _____

Signature of Drug Program Coordinator

Date

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DOCUMENTATION IN SUPPORT OF
REASONABLE SUSPICION DRUG TESTING

1. Date(s) and time of drug-related incident:

2. Reliable/credible source(s) of information: (Be specific, use name, title, organization, relationship to person being tested, e.g., co-worker, police officer, spouse, etc., of individual providing information on a drug-related incident).

3. Reason(s) leading to the reasonable suspicion test: (Be specific, e.g., arrest or conviction of an on- or off-duty drug-related offense; direct observation of employees using illegal drugs; direct observation of employees tampering with their urine specimens; temperature of urine samples outside the normal range; etc.)

4. Any other pertinent facts:

Documented by:

Name (print): _____

Phone: _____

Title (print): _____

Signature: _____

Date: _____

ENCLOSURE (8)

NOTICE OF POST ACCIDENT/UNSAFE PRACTICE TESTING FOR ILLEGAL DRUG USE

MEMORANDUM

From: (Supervisor or Management Official)
To: Drug Program Coordinator

Subj: NOTICE OF POST ACCIDENT/UNSAFE PRACTICE TESTING FOR ILLEGAL
DRUG USE

Ref: (a) SECNAVINST 12792.3
(b) OCPMINST 12792.3
(c) MCO 12792.1
(d) StaO 12792.2

Encl: (1) Documentation in Support of Accident/Unsafe Practice Drug
Testing

1. The Department of the Navy has initiated a comprehensive program to achieve the goal of a drug-free workplace. This program is set forth as prescribed in references (a) through (d).

2. It has been determined that sufficient grounds exist to authorize collection of a urine sample from you based on your involvement in an accident/unsafe practice. Enclosure (1) describes the specific incident to substantiate this action.

3. Drug testing for Department of the Navy civilian employees is performed through urinalysis. The testing methodology complies with Guidelines issued by the Department of Health and Human Services and reflects the scientific and technical procedures necessary to assure that the results are highly reliable and accurate. These procedures will include an initial screening of the urine sample you provide for the presence of illegal drugs and, if appropriate, a confirmation test by gas chromatography/mass spectrometry.

4. To assure that the sample collected from you is not accidentally confused with any other sample, strict procedures will be used when collecting and transferring the sample. These procedures are known as the chain of custody. The test results from your sample will be handled with maximum respect for individual confidentiality consistent with safety and security. A confirmed positive test result reported by the laboratory will be reviewed by a Medical Review Officer (MRO) before a determination is made that you have used illegal drugs. MROs are licensed physicians with experience in substance abuse disorders. You will be given an opportunity to submit medical documentation to the MRO to establish your legitimate use of the specific drug(s) detected by testing before any administrative action is taken.

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5. If it is determined that you are using illegal drugs by means of this drug test or any other means, you will be referred to the MCAS, Yuma, Civilian Employee Assistance Program (CEAP) Administrator. Through this program, you will receive counseling and learn about the availability of sources of treatment and rehabilitation assistance. Information concerning the CEAP may be obtained from your immediate supervisor or by contacting the CEAP Administrator.

6. If you are employed in a Testing Designated Position (TDP) as defined in reference (b), and illegal drug use is detected, you will be immediately taken out of your position by detail, reassignment, or other personnel action. You may be returned to your TDP position by the Commanding Officer, MCAS Yuma, as part of your successful participation in a rehabilitation or counseling program. In addition, disciplinary action up to and including removal from the federal service will be initiated. A disciplinary action will be initiated if you refuse to submit to this drug test. A removal action will be initiated if you refuse to obtain counseling or rehabilitation through the CEAP after being found to use illegal drugs or for a second finding of illegal use.

7. If you have other questions after providing a urine sample, please contact the Command's Drug Program Coordinator.

Signature of Issuing Management Official

Date

Signature of at least the Next Level
of Management

Date

ENCLOSURE (9)

CONCURRENCE

I have reviewed the details and facts supporting an incident of suspected illegal drug use relevant to accident or unsafe practice testing and concur in reasonable suspicion testing. I have scheduled the approved test as indicated below. Your immediate supervisor, or the next available management official in your chain of command is hereby instructed to provide you with this letter and to accompany you to the indicated test site.

Date of Test _____ Time of Test _____ Place of Test _____

Signature of Drug Program Coordinator

Date

ENCLOSURE (9)

StaO 12792.2³
24 Apr 91

DOCUMENTATION IN SUPPORT OF
ACCIDENT/UNSAFE PRACTICE DRUG TESTING

1. Date and time of accident/unsafe practice:

2. Reason(s) leading to the accident/unsafe practice test: (Be specific, e.g., describe what happened, how it happened, names of witnesses, type of property destroyed and its value, if relevant, injuries or fatalities, etc.)

3. Any other pertinent facts:

Documented by:

Name (print): _____ Phone: _____

Title (print): _____

Signature: _____

Date: _____

ENCLOSURE (9)



OFFICIAL FILE COPY

UNITED STATES MARINE CORPS
U.S. MARINE CORPS AIR STATION
YUMA, ARIZONA 85369-5000

StaO 12792 *3, w/ ch 1*
3AA3
24 Apr 91

STATION ORDER 12792.3, w/ ch 1

From: Commanding Officer
To: Distribution List

Subj: DRUG-FREE WORKPLACE PROGRAM (DFWP) FOR CIVILIAN EMPLOYEES

Ref: (a) MCO 12792.1
(b) SECNAVINST 12792.3
(c) CPI 792-3

Encl: (1) Definitions
(2) General Notice of Implementation of Drug Testing
(3) Individual Notice of Random Drug Testing
(4) Request for "Safe Harbor"
(5) Checklist for Supervisors
(6) Checklist for Employees
(7) Request for Voluntary Drug Testing
(8) Notice of Reasonable Suspicion Testing for Illegal Drug Use
(9) Notice of Post Accident/Unsafe Practice Testing for Illegal Drug Use

1. Purpose. To implement the U.S. Marine Corps (USMC) policy on the DFWP as set forth in references (a), (b), and (c) for those civilians employed by the Marine Corps Air Station (MCAS), Yuma, Arizona.

2. Scope. Includes all appropriated funded employees that are intermittent, temporary, or permanent. This Order explicitly excludes all tenant commands aboard the air station unless they enter into an inter/intraservice support agreement requesting the Commanding Officer (CO), MCAS Yuma, to provide such services.

3. Policy. The USMC will not tolerate the possession, use, or distribution of illegal drugs and is committed to the eradication of them from the workplace. A drug-free environment is essential to mission accomplishment. The use of illegal drugs, or unlawful use of prescription drugs, undermines the quality of job performance, endangers the safety of others, and brings discredit to the USMC. It shall be the policy of this command to work toward a drug-free workplace through mandatory training of all supervisors, an ongoing education program for all employees, and a program of random, reasonable suspicion, unsafe act, applicant, voluntary and follow up testing to applicable employees.

4. Background. Executive Order 12564 established a goal of achieving a drug-free workplace and made it a condition of employment for all

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federal employees to refrain from using illegal drugs on or off duty. Reference (b) sets forth the Department of the Navy (DON) policy and responsibilities for DFWP implementation. The Secretary of Health and Human Services has certified the DON Drug-Free Workplace Plan as meeting the requirements of Public Law 100-71.

5. Guidelines. An employee found to use illegal drugs must be referred to the Civilian Employee Assistance Program. Disciplinary action will be initiated against any employee for the first instance of illegal drug use. However, an employee who voluntarily seeks treatment for illegal drug use and meets the "Safe Harbor" conditions set forth in paragraph 8e of this Order will not be subject to discipline for the admitted acts of illegal use, including possession incident to such personal use. "Safe Harbor" will not be granted to drug dealers or those involved in other drug-related misconduct.

6. Definitions. See enclosure (1).

7. Responsibilities

a. Drug Program Coordinator (DPC). The DPC and Deputy DPC will be appointed in writing by the Commanding Officer and shall:

(1) Direct, administer, and manage the DFWP within the command in accordance with the references.

(2) In accordance with reference (a), the DPC is hereby authorized to commence random drug testing upon completion of the prerequisites established in the references. In addition to the duties specified in the references, the DPC will:

(a) Establish a budget and request funding sufficient to administer the DFWP.

(b) Administer the drug testing quotas allocated to the command.

(c) Obtain the services of and certify a Collection Site Coordinator (CSC), either through appointment of a DON civilian employee or by contract.

(d) Obtain the services of a qualified Medical Review Officer (MRO), either through agreement with a DON medical facility, or by contract.

(e) Designate and certify official collection sites as needed.

(f) Maintain adequate supplies to operate the program.

(g) Insure appropriate notices are issued as prescribed by the reference.

(h) Insure that the method of random selection meets the requirements of the references and does not select individuals on the basis of a desire to test a particular individual employee.

(i) Recommend appropriate disciplinary action to the supervisor or manager of each employee with a valid positive test result.

b. Collection Site Coordinator (CSC). The CSC shall:

(1) Administer the collection of urine specimens at collection sites authorized by the DPC in accordance with the references, insuring that the chain of custody is not violated.

(2) If a Collection Site Observer (CSO), other than the CSC is used, insure employee has proper certification from the DPC and the provisions of the references are followed.

c. Civilian Personnel Officer (CPO). The CPO shall:

(1) Administer the CPO duties for DFWP as prescribed in the references.

(2) Insure that bargaining obligations under 5 U.S.C., Chapter 71, have been satisfied for all bargaining units in the command.

(3) Institute a system that will monitor all position and job descriptions which come under the provision of the references, and notify the DPC of changes that bring present or new positions into or out of the random test criteria.

(4) Provide to the DPC, as requested, a list of positions under the provisions of random test criteria, including the name, social security number, gender, and work location.

(5) In conjunction with the DPC, institute a mandatory training program for all present supervisors in the DFWP.

(6) Insure all future supervisors receive this training within 90 days of their appointment.

(7) In conjunction with the DPC, develop and institute an on-going educational program for all employees in the command on the dangers and penalties of drug use, including rehabilitation opportunities available to present drug users.

d. Civilian Employee Assistance Program (CEAP). The administrator shall:

(1) Implement and operate the CEAP as prescribed in the references and in CPI 792.

(2) Notify the DPC, as soon as practical, of any employee who elects the "Safe Harbor" provisions of this Order.

(3) Obtain the necessary training to be certified in the CEAP duties of the DFWP.

e. Security Officer. The Security Officer shall:

(1) Provide to the CPO and DPC a list of civilian personnel who fall under the scope of this Order and have an active security clearance of Top Secret with Access as of 1 January 1990.

(2) Notify the CPO when an employee is either granted a Top Secret with Access or when there is a change in the status of an incumbent previously possessing a top secret clearance.

f. Supervisors. Supervisors shall:

(1) Attend mandatory training on the DFWP.

(2) Issue a 30-day notice to employees under their supervision and document the delivery of this notice per paragraph 9 of this Order.

(3) Notify individual employees of a scheduled drug test.

(4) Obtain a deferral of an employee's random or follow-up drug test from the DPC, per paragraph 10c of this Order.

(5) Initiate a reasonable suspicion test, after first ascertaining appropriate factual information and obtaining approval, as provided in paragraph 12 of this Order.

(6) Initiate an accident or unsafe practice test following the instructions in paragraph 13 of this Order.

(7) Upon finding the use of illegal drugs:

(a) Refer employees to the CEAP for assistance in obtaining counseling and rehabilitation.

(b) Initiate appropriate administrative and disciplinary actions after consulting with the DPC and the Labor Relations Officer in CPO.

(8) Not select an applicant who has a verified positive test result.

g. Employees. Employees shall:

- (1) Refrain from the illegal use of drugs on or off duty at all times.
- (2) Provide a urine sample when required.
- (3) Be responsible for successful completion of any rehabilitation or treatment required as the result of illegal drug use.

8. General Program Provisions

a. Notices

(1) General Notice. A general notice signed by the Secretary of the Navy (SECNAV) announcing the drug testing program was issued on or about 1 September 1988 to all covered employees. This notice is also provided to all newly hired employees during the employee orientation process (enclosure (2)).

(2) Individual Notice. A one-time notice must be issued to all employees in Testing Designated Positions (TDP) advising that their position has been determined to meet the criteria and justification for random drug testing. This notice must be given at least 30 days before that employee is subjected to unannounced random testing (enclosure (3)).

b. Types of Testing. The DON program includes the following types of drug testing: (1) random testing of employees in sensitive positions identified as TDPs; (2) reasonable suspicion testing; (3) accident or unsafe practice testing; (4) voluntary testing; (5) testing as part of or as a follow-up to counseling or rehabilitation; and (6) applicant testing.

c. Types of Drugs. The DON will test employees and applicants for cocaine, cannabis (marijuana), amphetamines, opiates, phencyclidine (PCP), and/or the metabolites of these drugs. The DON will also test for any other drug(s) or classes of drugs subsequently approved by Department of Health and Human Services (DHHS) for testing on an agency-wide basis. Per the DHHS Guidelines, the DON is also authorized to test for any drug in Schedules I and II of the Controlled Substances Act (CSA) in cases of reasonable suspicion and after an accident or unsafe practice.

d. Technical Guidelines for Drug Testing. E.O. 12564 granted the authority to issue mandatory scientific and technical guidelines for federal civilian employee drug testing program to DHHS. Any collection service utilized by MCAS will be in accordance with guidelines established by DHHS.

e. Voluntary Self-Referral For "Safe Harbor"

(1) E.O. 12564 allows agencies to provide an opportunity for assistance to those employees who voluntarily seek treatment for drug use. "Safe Harbor" insulates the employee from discipline for admitted acts of using illegal drugs when the agency is unaware of such use. The DON will offer such a "Safe Harbor" for any employee who meets all of the following conditions:

(a) Voluntarily identifies oneself as an illegal user of drugs to a supervisor or other higher level management official prior to being identified through other means (enclosure (4)).

(b) Obtains counseling and rehabilitation through CEAP.

(c) Agrees to be tested by the command as part of or as a follow-up to counseling and rehabilitation.

(d) Consents, in writing, to the release to appropriate management and CEAP officials of all counseling and rehabilitation records related to the illegal use of drugs.

(e) Subsequently refrains from illegal use of drugs.

All of these conditions must be documented in an agreement between the employee and the command.

(2) An employee who admits to drug use after being notified of a scheduled test or just after a sample is collected, or who is found to use drugs on the basis of other appropriate evidence (e.g., direct observation or evidence obtained from an arrest or criminal conviction) is not eligible for "Safe Harbor." For example, an employee arrested over the weekend on drug-related charges is released and reports to work as usual on Monday requesting "Safe Harbor". Since the command is unaware of the arrest, it signs the agreement. A "Safe Harbor" agreement signed under these circumstances will be considered invalid and obtained by the employee under false pretense.

(3) An employee who meets the "Safe Harbor" conditions will not be subject to discipline for the admitted acts of illegal use of drugs, including possession incident to such personal use. However, if the employee occupies a sensitive position subject to random testing, they must immediately be removed from the sensitive position.

f. Privacy During Urine Collection

(1) Unobserved. Generally, an individual subject to testing will be permitted to provide a urine specimen privately in a rest room stall or similar enclosure so that the employee is not visually observed while providing the sample, except as provided below.

Collection site personnel (Observer) of the same gender, will escort the employee or applicant to the rest room and remain outside the stall during the test.

(2) Observed. If a there is reason to believe the individual may alter or substitute the specimen, the individual may be required to provide the specimen under direct visual observation. Any such action must be documented in writing and retained with the collection records by the DPC or with an adverse action file. Examples of situations calling for direct visual observation include when:

(a) The individual is being tested based on reasonable suspicion, and there is an individualized determination that visual monitoring is warranted, i.e., there is specific reason to believe that the person from whom the specimen is being collected may alter or substitute the specimen.

(b) Facts and circumstances suggest the individual is under the influence of drugs at the time of the test.

(c) The individual has previously been found by the DON to be an illegal drug user and is undergoing follow-up testing, including employees with "Safe Harbor" agreements.

(d) Facts and circumstances suggest that the individual has equipment or materials capable of tampering with or adulterating a urine sample.

(e) The individual has previously tampered with a sample.

g. Failure to Report to the Designated Collection Site

(1) If an individual fails to appear at the collection at the assigned time, the DPC will note the fact in the record and immediately notify the supervisor. If the collection is being managed by a CSC, that individual will immediately notify the DPC who will notify the supervisor.

(2) An employee who fails to appear for any type of testing (except for a deferral granted by a supervisor from random or follow-up testing under paragraphs 10c of this Order) will be subject to the same range of discipline as a verified positive test result for illegal drug use.

(3) Due to the nature of this offense, there is no requirement for referral to the CEAP.

(4) An applicant's failure to appear for a test will result in the cancellation of any tentative offer of employment.

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h. Refusal to be Tested

(1) If an employee refuses to be tested, regardless of the reason for the testing (random, reasonable suspicion, accident/unsafe practice, and follow-up), that person will be informed that refusal will be considered failure to follow a direct order and will result in the same range of discipline as a verified positive test result.

(2) If the refusal occurs at the work site, the supervisor will immediately notify the DPC. If the refusal occurs at the collection site, the DPC will immediately notify the supervisor.

(3) Due to the nature of this offense, there is no requirement for referral to the CEAP.

(4) Any applicant's refusal to be tested will result in the cancellation of any tentative offer of employment.

i. Failure to Provide a Sample

(1) Insufficient sample. An employee should be given a reasonable amount of time to provide the sample. If an employee is unable to provide at least 60 milliliter of urine, the sample will be submitted, the temperature checked and the partial specimen will be placed in a secure area. The following steps should then be taken:

(a) The employee will be asked to drink sufficient fluids and will remain at the collection site within view of the DPC or CSC until that person is able to provide a sufficient sample.

(b) When the employee is ready to provide the second specimen, that person will void into a new bottle or catch container and the temperature of that sample will be checked. If it is within the acceptable temperature range, both the first and second sample will be combined in a single container and processed per the references.

(c) If the temperature for either sample is outside the acceptable range, they will be combined and so noted in the permanent record book. An additional sample will be taken using "direct observation" rules as described in paragraph 8f(2) of this Order.

(2) Unable to Void. If the employee is unable to void, that person will be asked to drink sufficient fluids to facilitate urination. The employee will be required to remain at the collection site within view of the DPC or CSC until ready to provide the sample. After at least four (4) hours of drinking liquids the DPC may offer the employee an opportunity to be seen by a physician at the dispensary for a medical determination to justify the employee's failure to provide the sample.

Under either of these conditions, the DPC may elect to release the employee. Such a release is not considered a deferral under paragraph 10c of this Order, and no special test will be scheduled.

j. Collection Extending Beyond the Regular Shift. If the collection extends beyond the end of the employee's regular work shift, the DPC in conjunction with the employee's supervisor or higher level management will invoke one of the following options:

(1) The DPC may require the employee to remain at the collection site and pay overtime or give compensatory time as the situation may warrant.

(2) The DPC may release the employee, which will not be considered the same as a deferral as described in paragraphs 10c, and no special test will be scheduled.

k. Opportunity to Justify a Positive Test Result. The collection service will provide drug test results to the MRO. The MRO will give an employee or applicant with a positive test result an opportunity to justify the result by submitting medical records, a valid prescription, and/or other relevant biomedical information. The employee or applicant will be allowed to discuss the test results with the MRO. This discussion will not necessarily be in person, but may be by telephone. The MRO review is described in paragraph 15.

1. Release of Test Results

(1) The laboratory will disclose tests results only to the MRO. Any positive result which the MRO determines to be justified by legitimate medical use will be treated as a negative test result and may not be released for purposes of identifying illegal drug use. Test results are governed by the provisions of the Privacy Act, U.S.C. 552a, et seq., as any record in a system of records and additionally restricted by section 503(e) of P.L. 100-71. An employee's test results may not be disclosed without the prior written consent of the employee, unless the disclosure would be:

(a) To the MRO.

(b) After MRO review, to the DPC.

(c) After MRO review, to the CEAP Administrator for the purpose of counseling and rehabilitation.

(d) After MRO review, to any supervisor or management official within DON having the authority to recommend, decide or process an adverse personnel action against the employee or to an administrative tribunal in a review of an adverse personnel action.

(e) Under an order of a court of competent jurisdiction or required by the United States Government, to defend against a challenge of an adverse personnel action.

(2) Any records of the MRO, including drug test results, may be released to any management official for purposes of auditing the activities of the MRO, for collection, or other purposes consistent with requirements to comply with Section 503(f) of P.L. 100-71 or DON requirements. This form of disclosure may not include personal identification information on any employee.

9. Random Testing

a. DON TDP

(1) Identifying Positions. The SECNAV has identified certain sensitive positions within the DON that may be subject to random drug testing. The list of DON TDPs is provided in the references along with the description, justification, and rationale for including the positions on the list.

(2) Additions to and Deletions from the DON TDP List. Requests for additions to and deletions from the TDP list will be forwarded to the command DPC for processing.

b. Command TDPs. The DPC in conjunction with the Civilian Personnel Office has developed the command's TDP using the guidelines in the references.

c. Individual Notice

(1) Each employee in a TDP must be issued an individual notice, enclosure (3), at least 30 days before that employee is subject to unannounced random testing. In addition, each employee, upon entering a TDP, will receive an individual notice. For those employees not occupying a TDP immediately prior to this position change, the command will not subject the employee to random testing for at least 30 days following issuance of the notice.

(2) Each employee in a TDP will be required to acknowledge in writing that:

(a) They have received and read the notice which states that the employee's position has been designated for random drug testing.

(b) They understand that refusal to submit to testing will result in administrative action and the initiation of disciplinary action, up to and including removal as specified in CPI 752.

If the employee refuses to sign the acknowledgment, the employee's supervisor will note on the acknowledgment form that the employee

received the notice and will forward the form to the command DPC. An employee's failure to sign the notice will not preclude testing of the employee.

(3) A copy of the signed acknowledgment or supervisor's note on the form, must be retained by the command DPC.

d. Review of TDP Designation

(1) Non-bargaining Unit Employee. An employee who believes their position has been wrongly designated as a position in the command TDP pool may request that the CO review the determination. The request must be submitted by the employee in writing to the CO within 15 days of receipt of the individual notice or other form of notification of the TDP decision. It must set forth the reasons why the employee believes it should not be a TDP and include all other relevant information. The CO will review the request based upon the criteria applied in designating the employee's position as a TDP and issue a final written decision. This decision is not subject to further review nor is it grievable under the administrative grievance procedure.

(2) Bargaining Unit Employee. A bargaining unit employee covered by a collective bargaining agreement who seeks review of the designation of their position as a TDP must grieve the designation under the negotiated grievance procedure, provided the agreement does not exclude these decisions from that procedure.

Seeking review of the TDP determination, whether or not the employee is covered by a bargaining unit, will not exempt the employee from random testing during the review process or negotiated grievance procedure.

e. Temporary Position Changes

(1) An employee who is detailed or temporarily promoted or reassigned to a TDP through a personnel action documented by an SF-50 provided that the assignment is expected to exceed 30 days.

(2) Since testing of the employee prior to temporary placement will not be required, the employee will be issued the individual 30-day notice, enclosure (3), when they enter the position. The employee will be subject to unannounced random testing 30 days after receiving the notice. However, a new notice is not required if the employee is moving between two TDPs.

(3) If an employee is temporarily promoted or reassigned out of a TDP for over 30 days, the employee will be issued another individual notice upon re-entry. However, if the employee is only detailed out of a permanent TDP, no notice is required because the employee remains in their permanent position.

10. Random Testing Procedures

a. Frequency. The frequency of testing will be determined by the command DPC. The rate of random testing will optimize overall deterrence; it is not necessary to ensure each employee in a TDP is tested every year or to limit any employee to a specific number of tests. The SECNAV reserves the right to increase or decrease the frequency of testing based on DON's mission needs, availability of resources, and experience in the program consistent with the duty to achieve a drug-free workplace under the E.O. 12564.

b. Procedures Prior to Collection

(1) Authorization and Selection. The DPC will randomly select employees to be tested from the TDP pool and document the method or means of selection, which will remain confidential.

(2) Scheduling. The DPC will schedule the selectees for testing at a rate which the collection team can process specimens efficiently and effectively, preferably in the first half of the shift.

(3) Supervisor Notification

(a) The DPC will notify the selected employee's first level supervisor approximately two hours prior to the actual time of collection. If the first level supervisor is unavailable, the next higher level of supervision will be contacted.

(b) The supervisor should review the provided checklist (enclosure (5)).

(c) The DPC should annotate the list with the date and time the supervisor has been contacted.

(4) Employee Notification

(a) Approximately 15 to 30 minutes prior to the scheduled collection, the supervisor will privately inform the employee of the exact time and location of the test. In the event the collection site is distant from the work site, transportation will be provided and the supervisor will inform the employee where to report for the transportation.

(b) The supervisor will explain that there is no suspicion of the employee taking drugs and that the employee's name was randomly selected. The supervisor will attempt to respond to any employee's questions to avoid misunderstanding. The supervisor will provide a copy of the Checklist for Employees (enclosure (6)).

(c) The employee will be instructed to take an appropriate photo identification to the test site.

(d) The supervisor will discuss with a higher level supervisor any problem which may arise with regard to the employee reporting for the test as scheduled. If a deferral, as described immediately below, is necessary, the DPC will be notified as soon as possible.

c. Deferral of Testing

(1) An employee selected for drug testing (random and follow-up) may be given a deferral from testing if the employee's first-line and a higher-level supervisor concurs that a compelling need necessitates a deferral on the grounds that the employee is:

(a) In a non-duty status such as annual leave, sick leave, suspension, absent without leave, continuation of pay, etc.

(b) In an official travel status away from the test site or is about to embark on official travel scheduled prior to testing notification.

(c) working a different shift.

(d) Performing a task or project that requires the employee's presence at the work site during the time the test is scheduled. The supervisor will inform the DPC of the deferral and attempt to reschedule for the same day at a different time.

(2) If the test is not administered that day, the supervisor will inform the employee that a test may be administered within 60 days from the date of the deferral or the date the employee returns to duty or the work site.

d. Exemption during Treatment and Rehabilitation. While undergoing initial treatment or rehabilitation through the CEAP, and at the request of the CEAP Administrator, the employee may be exempted from random testing for a period not to exceed 60 days or for a time period specified in an abeyance agreement or rehabilitation plan. Upon completion of the stipulated exemption, the employee will be included in a separate testing pool at the command as follow-up to counseling or treatment for illegal drug use for a period of one year, in addition to remaining in the regular random testing pool if occupying a TDP.

e. Standard Collection Procedures. The unobserved method of collection, per paragraph 8f and the references, will be followed to ensure strict chain of custody and specimen control.

11. Voluntary Testing

a. In order to demonstrate a commitment to the DON goal of drug-free workplace and to set an example for others, an employee not in a TDP may volunteer to be included in the random testing program. This

employee will then be included in the pool of TDPs and will be subject to the same conditions and procedures for random testing.

b. An employee may volunteer by completing enclosure (7) and forwarding it to the DPC. Any employee who volunteers, may withdraw from the program at any time before an actual specimen is submitted.

12. Reasonable Suspicion Testing

a. Determination of Reasonable Suspicion

(1) A test may be authorized when management has a reasonable suspicion that any employee is using drugs illegally. This belief must be based on specific objective facts and reasonable inferences drawn from these facts.

(2) Reasonable suspicion testing may be based upon, among other things:

(a) Observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug.

(b) A pattern of abnormal conduct or erratic behavior.

(c) Arrest or conviction for a drug-related offense, identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking, when on-duty use or drug-impaired performance is suspected.

(d) Information provided either by reliable and credible sources or independently corroborated.

(e) Newly discovered evidence that the employee has tampered with a previous drug test.

(f) The temperature or color of the urine sample, or other evidence, which indicates probable adulteration, tampering or substitution.

(3) Although reasonable suspicion testing does not require certainty, mere "hunches" or "rumors" are not sufficient to meet this standard.

b. Authorization. If an employee is suspected of illegal use of drugs, the appropriate supervisor or management official will gather all information, facts, and circumstances leading to and supporting this suspicion. Approval for testing must be received from at least one level above the supervisor or manager requesting the test, who then may present the evidence to the DPC who has final authority to

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authorize the test. If practicable, the decision to conduct a test will be made the same day the event or behavior occurred or as soon as management becomes aware of the event or behavior.

c. Types of Drugs. In addition to testing for cocaine, marijuana, amphetamines, opiates and PCP, the command performing a reasonable suspicion (or an accident/unsafe practice) test is authorized to include any drug on Schedules I and II of the CSA. The command must specify the drug or drugs for which the employee is being tested on the Urine Sample Custody Document.

d. Documentation. As an immediate follow-up procedure to the test, the appropriate supervisor or manager will present, in detailed writing, the circumstances which warranted the test. At a minimum, the report will include the appropriate dates and times of reported drug-related incidents, reliable and/or credible sources of information, reasons leading to the test, the second-level concurrence, the DPC concurrence, and any action taken. Results of the test will be added to the report as soon as available by the DPC. The DPC will retain a copy of this documentation.

e. Scheduling. The DPC will usually arrange for the collection to be conducted immediately, on the same day as the test is approved. This test may be conducted without regard to the employee's regular work shift, etc., and overtime pay or compensatory time will be provided as needed.

f. Notification

(1) Supervisor

(a) The supervisor, if not directly involved in the determination, will be notified by the DPC that an emergency collection procedure has been initiated. If the immediate supervisor is not available, a next higher level of supervision will be contacted.

(b) The DPC will provide the supervisor with the estimated time and location of the collection and any necessary information to be conveyed to the employee.

(2) Employee

(a) After the DPC confirms the time and location, the supervisor or management official will notify the employee of the test and issue the specific written notice that they are being tested for reasonable suspicion. A sample of that notice is included (enclosure (8)).

(b) The employee will be informed of the exact time and location of the test and directed to take an appropriate photo identification to the test site. The supervisor or other management official will escort the employee to the site.

g. Collection Procedures

(1) The employee will provide the urine sample as described in paragraph 8f(1) or (2), as appropriate.

(2) Required collection procedures must be followed to ensure that strict chain of custody and specimen control is not violated.

13. Accident or Unsafe Practice Testing

a. Determination

(1) The DON is committed to providing a safe and secure work environment. Any employee involved in an on-the-job accident or who engages in unsafe, on-duty, job-related activities is subject to drug testing. Management must evaluate the situation to determine whether the employee's actions may have contributed to the incident.

(2) An accident or unsafe practice which requires medical treatment or hospitalization, or results in death or damage to property in excess of \$10,000, or a series of unexplained minor accidents or unsafe practices that have occurred within the last six months are examples of the criteria that will require a test. A supervisor may elect not to request a test for a one-time minor injury or minor unsafe act if in the supervisor's mind the accident or unsafe act is explainable.

b. Authorization. If a supervisor or manager believes an accident or unsafe practice meets the established criteria to require a test, the guidelines in paragraph 12b above will be followed.

c. Types of Drugs. Same as in paragraph 12c above.

d. Documentation. Same as in paragraph 12d above.

e. Scheduling. Same as in paragraph 12e above.

f. Notification

(1) Supervisor. Same as in paragraph 12f above.

(2) Employee

(a) After the DPC confirms the time and location, the supervisor or management official will notify the employee of the test and issue the specific written notice that they are being tested because of an accident or unsafe practice. A sample of that notice is included as enclosure (9).

(b) The employee will be informed of the exact time and location of the test, directed to take an appropriate photo identifi-

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cation, and be escorted to the test site by the supervisor or other management official.

g. Standard Collection Procedures. These procedures must be allowed to ensure strict chain of custody and specimen control. The specific procedures to be followed are provided in paragraph 10e.

14. Follow-up Testing

a. Description. All DON employees referred through administrative action who undergo counseling or rehabilitation through CEAP for illegal drug use will be subject to unannounced drug testing as a follow-up to their program. This testing is separate from the regular random testing conducted by the command. The employee will be tested for a period of one year or for such time as specified in an abeyance agreement, rehabilitation plan, or other form of written agreement. In addition, a command may elect to impose testing as part of the rehabilitation or treatment program.

b. Documentation. The abeyance agreement, rehabilitation plan, or other form of written agreement will be retained and serve as evidence that the employee was aware of the requirement for follow-up testing.

c. Frequency. Such employees will be tested at a frequency determined by the DPC in conjunction with the CEAP administrator.

d. Deferral of Testing. See paragraph 10c.

e. Collection Procedures

(1) The employee will be directed to provide the urine sample under direct observation as specified in paragraph 8f(2).

(2) Direct observation collection procedures must be followed to ensure that strict chain of custody and specimen control is not violated.

15. Applicant Testing

a. Coverage. Drug testing will be required of all individuals tentatively selected for a TDP unless the selection involves only a temporary position change or the individual currently occupies a DON TDP. These selections may include those made under merit promotion procedures and any other personnel action resulting in the permanent placement of an individual in a TDP (i.e., assignment, promotion and change to lower grade actions). Activities and commands are not authorized to test other than TDP applicants.

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b. Vacancy Announcements

(1) All vacancy announcements for TDPs will contain the following statement:

"Any applicant tentatively selected for this position will be required to submit to urinalysis for illegal use of drugs prior to a final selection. The selection is contingent upon a negative drug test result and, thereafter, the selectee will be subject to drug testing on a random basis as the incumbent of a Test Designated Position (TDP). Further, all DON employees may be subject to drug testing under certain circumstances such as reasonable suspicion and after an accident. All individuals will have an opportunity to submit medical documentation that may support the legitimate use of a specific drug to a Medical Review Officer (MRO). An applicant's test results will be provided to the selecting official and servicing Civilian Personnel Office before a final selection is made. A verified positive drug test result of a current DON employee will also be provided to the employing activity/command."

(2) Failure of the vacancy announcement to contain such notice will not preclude testing if advance notice is provided to the applicant in some other manner, except orally. Other forms of notice are proper if a vacancy announcement is not used.

c. Notification. The CPO will notify the DPC as soon as possible when a drug test needs to be scheduled for a tentative selectee. The CPO will verify with the DPC that the selectee has not had a verified positive drug test result within the last six months. If the selectee has had a verified positive test within the last six months, the DPC will inform the CPO who, in turn, will notify the selecting official that the applicant cannot be selected. If the selectee has not had a verified positive test, the DPC will arrange for the test and inform the CPO of the date, time, and place of the test. The CPO will provide this information to the individual to be tested. The drug test must be taken as soon after notifying the applicant as possible, and no later than 48 hours. Where appropriate, applicants may be reimbursed for reasonable travel expenses (see Joint Travel Regulations for specific information).

d. Opportunity to Justify a Positive Test Result. All applicants will have an opportunity to justify a positive test result to the command MRO. See paragraph 16 below.

e. Standard Collection Procedure. These procedures are the same as paragraph 8f(1) above and must be followed to ensure strict chain of custody and specimen control.

f. Test Results. The MRO will notify the DPC of the test results and the DPC will inform the CPO. The CPO will document the

test results in the selection package so that the process can continue. If an applicant has a verified positive test result, the following procedures apply:

(1) DON Employee Applicant

(a) The DPC will notify the CPO who will inform the selecting official that another tentative selection must be made.

(b) The DPC will notify the applicant that the verified presence of a drug in their urine precludes the command from hiring or placing the applicant in the position. Also, the DPC will advise the applicant that they will not be considered for any other vacancies (including other than TDPs) by the command or any other command serviced by the same personnel office for a period of six months from the date the positive test was verified by the MRO.

(c) The DPC will notify the applicant's supervisor if the vacancy was at the employee's own command.

(d) If the applicant is an employee from another DON activity or command, the DPC will notify the Commanding Officer, who will notify the head of the employee's activity or command.

(e) If the applicant was tentatively selected from an OPM certificate, the CPO will object to hiring the applicant on the basis of failure to meet a condition of employment and lack of personal characteristics necessary for employment in this TDP.

(2) Other Applicants

(a) The DPC will notify the CPO who will inform the selecting official so that another tentative selection can be made.

(b) The DPC will then notify the applicant that the verified presence of a drug in their urine precludes the command from hiring the applicant. Also, the DPC will advise the applicant that they will not be considered for any other vacancies (including other than TDPs) by the command and or any other command serviced by the same personnel office for a period of six months from the date the positive test was verified by the MRO.

(c) If the applicant was tentatively selected from an OPM certificate, the CPO will object to hiring the applicant on the basis of failure to meet a condition of employment and lack of personal characteristics necessary for employment in the DON.

(3) Under 42 U.S.C. 290ee-1(b)(1), "no person may be denied or deprived of federal civilian employment or a federal professional or other license or right solely on the ground of prior drug abuse."

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The DON has determined that the term "prior drug abuse" excludes any individual who has obtained a verified positive test result within any preceding six month period.

16. Review of Drug Test Results

a. Receipt of Results. The laboratory will send or deliver all drug test results, positive and negative, to the MRO with a certified copy of the original Urine Sample Custody Document, OCPM 12792/2.

b. Procedures

(1) Negative Drug Test Results. The MRO will immediately forward all negative drug test results to the DPC.

(2) Positive Drug Test Results. The medical review of positive test results by the MRO will be initiated and completed within five working days. The purpose of the review is to determine if the positive result is evidence of illegal drug use. It will not address issues of innocent ingestion as this is a matter to be considered by the appropriate management/supervisor official.

(a) The MRO will evaluate alternative medical explanations of a positive test result. This may include conducting a medical interview with the individual, review of the individual's medical history, or consideration of other relevant biomedical factors.

(b) Any requests for medical information will be made by the MRO directly to the individual to ensure maximum confidentiality. The MRO will obtain the information necessary to contact the employee from the DPC. The MRO will review all medical records, including valid prescriptions, made available by the tested individual when a positive test could have resulted from legally prescribed medications. The individual will have an opportunity to discuss the test results with the MRO, although a face-to-face interview is not required. Individuals are not entitled to present evidence to the MRO in a "hearing" or other similar administrative proceeding, although the MRO has the discretion to accept evidence in any manner deemed efficient or necessary.

(c) The MRO is authorized to order a re-analysis of the original sample should questions arise as to the accuracy or validity of a positive test result. Since some drug levels may deteriorate or are lost during freezing and/or storage, the retest must only show the drug or its metabolic is present to reconfirm its presence during retesting.

(d) Detailed scientific guidance is contained in the "Medical Review Officer Guide" prepared by DHHS and provided to each MRO.

c. Notification

(1) Negative Drug Test Results. The MRO will forward all negative drug test results to the DPC within two working days of receipt. He will ensure employees are informed of their results.

(2) Verified Positive Drug Test Results. If the MRO determines there is no medical justification for the positive results, such results will be considered verified positive test results. Within five working days, the MRO will forward the report of the verified positive test results to the DPC. The DPC will notify the CEAP administrator and the supervisor or management official having authority to take a personnel action against the employee.

17. Consequences of a Finding of Illegal Drug Use

a. Mandatory Administrative Actions

(1) CEAP Referral. An employee found to use illegal drugs must be referred to the CEAP.

(2) Position Actions

(a) If the employee occupies a TDP, the employee must immediately be removed from the position through appropriate personnel action. The employee will be assigned to a non-sensitive position, if available.

(b) The CO may return the employee to duty in a sensitive position as part of a rehabilitation and counseling program, if it would not endanger public health, safety or national security. This determination should consider information obtained from the DPC the MRO, CEAP personnel, and the employee's supervisors.

b. Disciplinary/Adverse Action

(1) Disciplinary action will be initiated against any employee for the first instance of illegal drug use, except under the circumstances set forth in paragraph 8e. Action will be initiated to remove an employee:

(a) Who refuses to obtain counseling or rehabilitation through the CEAP as required by E.O. 12584 after having been found to use illegal drugs.

(b) For a second finding of illegal drug use.

(2) Failure to Report to the Designated Collection Site. An employee who fails to appear for testing will be subject to the same range of discipline as a verified positive test result for illegal drug use.

(3) Refusal to be Tested When Required. An employee refusing to be tested will be subjected to the same range of discipline as one with a verified positive test result.

(4) Disciplinary action must be taken consistent with the provisions of CPI 752 and the requirements of any applicable collective bargaining agreement.

(5) Advice and guidance on disciplinary or adverse actions will be provided by the CPO as necessary.

c. Reasonable Accommodation Requirements. A verified positive result does not equate to a requirement that the employee be afforded reasonable accommodation. A verified positive result indicates that the employee ingested a controlled substance at some recent time prior to providing the urine sample. The result will not show whether the employee was a first time drug abuser, a casual drug abuser or a drug addict. Casual or occasional use of drugs is not a handicapping condition which invokes the requirements of the Rehabilitation Act, 29 U.S.C. 791, et seq. To be entitled to reasonable accommodation, the employee must establish that they suffer from a handicapping condition. Further, even if the employee establishes that they are handicapped by a legitimate drug addiction, reasonable accommodation is only required if the employee is an "otherwise qualified" handicapped individual.



C. T. DUNSTAN
By direction

DISTRIBUTION: C