

OCPMINST 12792.3A

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CPI-792-3A-D

APPENDIX D

NOTICES

1. Attachment 1 is the General Notice dated 6 August 1988, signed by the Secretary of the Navy, announcing the Department of the Navy Drug-Free Workplace Program. This notice must be issued to all new hires.
2. Attachment 2 is the individual notice which must be used to advise current employees that their position has been designated for random drug testing as a Testing Designated Position (TDP). Such notification must be signed by (may use facsimile) the activity head/commander; the employee is required to acknowledge receipt of the notice.



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

6 August 1988

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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

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USE FOR INDIVIDUAL NOTICE TO DEPARTMENT OF THE
NAVY EMPLOYEES
CURRENTLY ASSIGNED TO TESTING DESIGNATED POSITIONS

From: Activity Head/Commander
To: Employee Name, Title, Series, and Grade
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 (DFWP). I have determined that your position meets the criteria for random drug testing under the Department of the Navy DFWP. 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 30 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 792-3A, 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.

Attachment 2 to
Appendix D

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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 Testing Designated Position (TDP) through reassignment, detail, or other personnel action to ensure that you do not occupy a TDP. I may restore you to your TDP as part of your successful participation in a 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 (provide name, address, telephone number). 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" from discipline for those actions.

5. If you believe your position has been wrongly designated as a TDP, you may request a review of the determination. Such a request must be submitted in writing to me (insert address) 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

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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.

SIGNATURE

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ACKNOWLEDGMENT OF RECEIPT

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