



DEPARTMENT OF THE NAVY

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20350-1000

SECNAVINST 12792.3
ASN(M&RA)/OCPM 31
8 December 1988

SECNAV INSTRUCTION 12792.3

From: Secretary of the Navy

Subj: DEPARTMENT OF THE NAVY DRUG-FREE WORKPLACE PROGRAM

Ref: (a) Executive Order 12564
(b) Public Law 100-71
(c) Department of Health and Human Services Mandatory Guidelines for Federal Workplace Drug Testing Programs (Fed. Reg., Vol. 53, No. 69)
(d) FPM 792
(e) CPI 792
(f) CPI 752
(g) 5 U.S.C. Chapter 75
(h) 5 U.S.C. Chapter 71

Encl: (1) Certification of Department of the Navy Drug-Free Workplace Plan

1. Purpose. To provide Department of the Navy policy and delegate responsibility for implementing the Drug-Free Workplace Program (DFWP).

2. Background. Reference (a) established a goal of achieving a Drug-Free Federal Workplace and made it a condition of employment for all federal employees to refrain from using illegal drugs on or off duty. Section 503 of reference (b) was enacted to establish uniformity among federal agencies, require reliable and accurate drug testing, permit employee access to their personal drug testing records, ensure confidentiality of test results, and provide centralized program oversight. A Department of the Navy Drug-Free Workplace Plan was developed in compliance with references (a) and (b), and has been certified as meeting all requirements. The certification of the Department of the Navy Plan is attached at enclosure (1).

3. Applicability. Applies to Department of the Navy appropriated fund civilian employees and applicants tentatively selected for Department of the Navy appropriated fund positions. Testing of foreign national employees stationed outside the United States may be conducted only as authorized by, and consistent with, intergovernmental and labor agreements negotiated on a country-by-country basis.

4. Policy

a. The Department of the Navy, as a result of its national defense responsibilities and considering the sensitive nature



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of its work, has a compelling obligation to eliminate illegal drug use by its employees.

b. Illegal drug use by any civilian employee of the Department of the Navy is incompatible with the maintenance of high standards of conduct and performance, military discipline, military readiness and safe and reliable mission accomplishment. As a military department, the primary mission of Department of the Navy is to protect the United States by the effective prosecution of war at sea and to maintain freedom of the seas. The performance of every civilian employee must, at all times, support this mission with a high level of productivity, reliability and judgment. It is also essential that those employees entrusted with national defense secrets and those supporting our national defense efforts be free of the possibility of coercion or influence of criminal elements. This is especially important for those civilian employees who have been entrusted with the most sensitive classified information or who, for instance, are responsible for the handling and repair of ship and/or aircraft parts or weapons, including those with nuclear, as well as conventional capabilities. The performance of sensitive and critical duties, such as those mentioned, by personnel who use illegal drugs could adversely affect personnel safety, risk damage to government property, significantly impair day-to-day operations or expose extremely sensitive intelligence information.

c. It is the Department of the Navy's policy to fully implement references (a) and (b) to achieve a drug-free workplace. A successful program depends on employees being informed of the hazards of drug use and providing assistance to drug abusers. Therefore, the DFWP includes policies and procedures for employee education, employee assistance, supervisory training and identification of drug use through drug testing.

d. Drug Testing. The goal of the DFWP is deterrence of illegal drug use through a carefully controlled and monitored program of drug testing. The program will include:

(1) Procedures for random testing of civilian employees in testing designated positions and other employees who volunteer to be included in random testing.

(2) Procedures for testing of any employee when:

(a) There is a reasonable suspicion that the employee may be using drugs.

(b) Authorized as part of an investigation of an accident or unsafe practice.

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(c) Conducted as part of or follow-up to a rehabilitation or counseling program under the Civilian Employee Assistance Program (CEAP).

(3) Testing of applicants for certain Department of the Navy appropriated fund positions.

All drug testing will be conducted in compliance with reference (c).

e. Testing Designated Positions. The list of Department of the Navy testing designated positions (TDPs) certified by enclosure (1) will be disseminated as an Appendix to Civilian Personnel Instruction 792-3 which will provide the procedures for implementing this program. This list comprises the Department of the Navy positions determined to be appropriate for random drug testing along with the criteria and justification on which the determination was based. The TDP list will be used by Department of the Navy activities to identify and designate the activity positions that will be subject to random testing.

f. Employee Assistance. CEAP, administered in compliance with references (d) and (e), will be used to provide initial counseling and referral to any employee who has been identified as a user of illegal drugs through a verified positive drug test, self admission or by other means. CEAP will also monitor the employee's progress through treatment and rehabilitation.

g. Education. Education and training will be provided for employees and military and civilian supervisors and managers. This will include appropriate information on recognizing drug problems and the effects on performance and conduct; the relationship of CEAP to DFWP; Department of the Navy policy for discipline of illegal drug use; and responsibilities in connection with civilian drug testing.

h. Administrative Actions. Appropriate administrative action will be taken in every instance of illegal drug use. Procedures shall be established to ensure that the following actions are taken:

(1) Any employee found to use illegal drugs shall be referred to CEAP. If such employee occupies a sensitive position as defined in reference (a), he or she will immediately be removed from the sensitive position without regard to whether the position is a TDP. However, as part of a counseling or rehabilitation program, an employee may be returned to the sensitive position if such action would not endanger public health, safety or national security.

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(2) Disciplinary action up to and including removal shall be initiated against any employee found to use illegal drugs, except as indicated in paragraph 4i below. The severity of the action will depend on the circumstances of each case, and will be consistent with the provisions of references (f) and (g). Any employee who fails to appear for testing without a deferral, who refuses to be tested when appropriately directed, or who adulterates a sample, will be subject to discipline in compliance with reference (f).

(3) Action to remove an employee shall be initiated in all cases when:

(a) The employee refuses to obtain counseling or rehabilitation through CEAP after having been found to use illegal drugs; or

(b) The employee has failed to refrain from illegal drug use after a first finding of illegal drug use.

(4) A final offer of employment will not be made to any applicant with a verified positive test result and such applicant will not be considered for employment by that activity or any other Department of the Navy activity serviced by that Civilian Personnel Office for a period of six months after the date of withdrawal of the offer.

i. Safe Harbor. The Department of the Navy DFWP includes a provision to create a "safe harbor" (immunity from discipline for admitted illegal drug use) for any employee who:

(1) Voluntarily identifies himself or herself as a user of illegal drugs prior to being identified by other means, and before being officially informed of an impending drug test;

(2) Obtains counseling and rehabilitation through CEAP;

(3) Agrees to be periodically tested, as required by the activity or a rehabilitation agency, during counseling and rehabilitation and during the post-treatment and evaluation phase;

(4) Consents, in writing, to release of all records related to drug counseling and rehabilitation, including urinalysis test results, to appropriate management and CEAP officials; and

(5) Refrains thereafter from using illegal drugs.

Disciplinary action for the admitted acts of illegal drug use, or possession incident to such use, will not be initiated against any employee who meets the above conditions.

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5. Responsibilities

a. The Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN(M&RA)) has overall responsibility for policies and programs associated with the Department of the Navy DFWP and CEAP. The ASN(M&RA) is delegated the authority to identify civilian position titles meeting the criteria in references (a) and (b) to be subject to random testing.

b. The Director, Office of Civilian Personnel Management (OCPM) will develop and issue Department of the Navy-wide procedures, guidance and training programs associated with this DFWP policy. The Director, OCPM will appoint a Department of the Navy Drug Program Coordinator (DPC) to administer the DFWP and serve as a central point of contact for Department of the Navy DFWP issues.

c. The Assistant for Administration, Office of the Under Secretary of the Navy (AA/USN); the Chief of Naval Operations (CNO); the Commandant of the Marine Corps (CMC); and the Chief of Naval Research (CNR), are responsible for implementing the DFWP in their respective organizations and shall ensure that appropriate measures are taken to:

(1) Provide guidance and assistance to activity heads/ commanders to ensure effective execution of the program.

(2) Ensure that military and civilian supervisors and managers, DPCs, collection team personnel and Medical Review Officers are trained with regard to DFWP policies and procedures and, as appropriate, Department of Health and Human Services collection procedures.

(3) Disseminate the list of Department of the Navy TDPs to commands and activities under their cognizance.

(4) Recommend to the ASN(M&RA) that positions be added to or deleted from the list of TDPs.

(5) Allot laboratory specimen quotas among their subordinate commands and activities.

d. The CNO shall operate drug testing laboratories to be fully responsive to the civilian urinalysis testing requirements of the Department of the Navy.

e. Activity heads and commands shall:

(1) Ensure that DFWP policies and procedures are carried out at the activity level consistent with this instruction and any other implementing instructions issued by OCPM or other appropriate authorities.

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(2) Ensure that contracts approved to perform the drug collection or Medical Review Officer functions conform to the technical specifications of reference (c) wherever existing facilities are inadequate to implement DFWP policies and procedures.

(3) Appoint a DPC, who must be an employee of Department of the Navy.

(4) Establish the positions and responsibilities of the collection team personnel and the Medical Review Officer as required by reference (c) and Department of the Navy procedures. These functions may be performed by Department of the Navy or contract personnel.

6. Action. Commanding officers may commence urinalysis testing only after:

a. The Secretary of the Navy issues a general notice to all Department of the Navy employees in compliance with reference (a). This notice will be issued at least 60 days in advance of commencing civilian drug testing.

b. The Director, OCPM issues a Civilian Personnel Instruction setting forth necessary procedures and guidance.

c. AA/USN, CNO, CMC and CNR issue guidance and an instruction, if appropriate, to their respective organizations on the DFWP.

d. Activity/command DPC(s), collection team personnel and a Medical Review Officer are trained with regard to the requirements of the DFWP and testing collection procedures under reference (c).

e. The positions of the individuals to be tested have been reviewed to confirm that the actual duties performed meet the criteria and justification for designation as TDPs.

f. An individual notice complying with the requirements of references (a) and (b) is given to each activity employee in a TDP no later than 30 days before testing commences.

g. Collective bargaining obligations under reference (h) have been satisfied.

h. A local activity/command instruction is issued.

Distribution
(See page 7)


William L. Ball, III
Secretary of the Navy

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THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

SECNAVINST 12792.3
8 DEC 1988

APR 27 1988

The Honorable Frank C. Cariucci, III
Secretary of Defense
The Pentagon
Washington, DC 20301-1155

Dear Mr. Secretary:

I am pleased to provide you with a copy of the Report that I am sending to the Congress today, as required by Section 503 of the Supplemental Appropriations Act of 1987, Pub. L. 100-71, 101 Stat. 391, 468-471, codified at 5 U.S.C. Section 7301 note (hereafter, the "Act") to certify that your Plan and those of all other Agencies covered by Section 503 (a) (2) (hereafter, "Tier I Agencies") meet the requirements of the Act and of the Executive Order 12564 (hereafter the "Order").

Appended to the enclosed Report are the final Mandatory Guidelines for Federal Drug Testing Programs; a copy of the Office of Management and Budget's estimate of the cost of implementing Drug-Free Workplace Programs in Tier I Agencies over the next 5 years; and a list of Tier I Agency liaisons. Also enclosed is a copy of your Plan as it was submitted to Congress.

As provided under the Act, funds appropriated to your Agency are now available to implement your Drug-Free Workplace Program. Notification to employees that testing for use of illegal drugs is to be conducted and that they may seek counseling and rehabilitation, as well as informing them of the procedures for obtaining such assistance through your Employee Assistance Program, may be issued immediately. This notification must be issued 60 days prior to the implementation of a drug testing program pursuant to the Executive Order and should be coordinated with the Department of Justice.

Although your Agency's Plan has been certified under Section 503 of the Act, I wish to call your attention to the requirements of the Act and the Order that your Plan must comply with all provisions of the aforementioned Mandatory Guidelines for Federal Drug Testing Programs. Any request for deviation from the Guidelines must be submitted to my attention, in writing, in accordance with Section 1.1(f) of the Guidelines.

The Guidelines require prior approval for an Agency to include in its testing protocol any drugs (or classes of drugs) not authorized in the Guidelines. Thus, your Agency's proposal to test for barbiturates and LSD in the U.S. Navy should be separately submitted to me for approval, in accordance with Sections 1.1(f) and 2.1 (b) of the Guidelines, along with the proposed cut-off limits and testing protocols for each drug. Until this approval is granted, your Agency is not authorized to test for these additional drugs.

Enclosure (1)

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The Office of Workplace Initiatives, National Institute on Drug Abuse; Alcohol, Drug Abuse, and Mental Health Administration, Public Health Service, is available to assist in the implementation of your Drug-Free Workplace Plan. Queries may be directed to J. Michael Walsh, Ph.D., Director, Office of Workplace Initiatives, Room 10-A-53, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, or telephone (301) 443-6780. In addition, the Department of Justice and the Office of Personnel Management have specific responsibilities for assisting Agencies with their Drug-Free Workplace Programs under the Act and the Order. Approval for issuance of the sixty-day notice under the Executive Order should be obtained from John R. Bolton, Assistant Attorney General, Civil Division, Department of Justice.

Sincerely,



Otis R. Bowen, M.D.
Secretary

Enclosures

bcc: Sharon Cooper, Primary Liaison

Enclosure (1)