



**United States
Nuclear Regulatory Commission**

NRC Drug-Free Workplace Plan

Office of Administration

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ABSTRACT

On September 15, 1986, President Reagan signed Executive Order 12564, establishing the goal of a Drug-Free Federal Workplace. The Order made it a condition of employment that all Federal employees refrain from using illegal drugs on or off duty. On July 11, 1987, Congress passed legislation affecting implementation of the Executive Order under Section 503 of the Supplemental Appropriations Act of 1987, Public Law 100-71 (the Act). The Nuclear Regulatory Commission first issued the NRC Drug Testing Plan and, later the Drug-Free Workplace Plan, to set forth objectives, policies, procedures, and implementation guidelines to achieve a Drug-Free Federal Workplace, consistent with the Executive Order and Section 503 of the Act. Revision 2, titled "NRC Drug-Free Workplace Plan" (Plan), supersedes the previous version and its supplements and incorporates changes to reflect NRC's implementation of current guidance from the Department of Justice, the Department of Health and Human Services (HHS) and other guidance.

In 2006, the NRC Commission reviewed the agency's Drug-Free Workplace Program and its random testing component. Consistent with the Office of National Drug Control Policy (ONDCP) guidance and criteria for selecting testing designated positions, and with the concurrence of the ONDCP Interagency Coordinating Group Executive Committee, the Commission determined that all NRC employees are subject to random testing because all occupy positions requiring that they: carry firearms on a daily or regular basis; drive motor vehicles carrying passengers; or are required to have a SECRET or above clearance and have access to truly sensitive information, the disclosure of which could damage national security interests.

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APPENDIX A

Criteria, Frequency, and Justification for Testing-Designated Positions

APPENDIX B

Drugs for Which Individuals Are Tested

I. INTRODUCTION

A. Background

On September 15, 1986, President Reagan signed Executive Order 12564, establishing the goal of a Drug-Free Federal Workplace. This Executive Order made it a condition of employment that all Federal employees refrain from using illegal drugs on or off duty. In a letter to all executive branch employees dated October 4, 1986, the President reiterated his goal of ensuring a safe and drug-free workplace for all Federal workers.

The Executive Order recognized that illegal drug use is seriously impairing a significant portion of the national work force, resulting in the loss of billions of dollars each year. As the largest employer in the Nation, the Federal Government has a compelling proprietary interest in establishing reasonable conditions of employment. Prohibiting employee drug use is one such condition. The NRC is concerned with the well-being of its employees, the successful accomplishment of agency missions, and the need to maintain employee productivity. The intent of the Drug-Free Workplace Program is to offer a helping hand to those who need it, while sending a clear message that any illegal drug use is incompatible with Federal service.

On July 11, 1987, Congress passed legislation affecting implementation of the Executive Order under Section 503 of the Supplemental Appropriations Act of 1987, Public Law 100-71, 101 Stat. 391, 468-471, codified at 5 U.S.C. § 7301(1987) (hereafter, the Act). The objective of this legislation was to establish uniformity among Federal agency drug testing plans, reliable and accurate drug testing, employee access to drug testing records, confidentiality of drug test results, and centralized oversight of the Federal government's drug testing program.

The purpose of the NRC Drug-Free Workplace Plan is to set forth objectives, policies, procedures, and implementation guidelines to achieve a Drug-Free Federal Workplace, consistent with the Executive Order and Section 503 of the Act. This Plan and significant revisions to this Plan will be approved by HHS prior to implementation.

B. Statement of Policy

It is NRC policy that its workplace be free from the illegal use, possession, or distribution of controlled substances (21 U.S.C. Chapter 13, as specified in Schedules I and II, as defined in 21 U.S.C. § 802(6) and listed in 21 U.S.C. § 812(b)) by the officers and employees of NRC. The possession and distribution of controlled substances will be dealt with promptly in accordance with legal and administrative disciplinary procedures. However, the policy's primary goal is to ensure that illegal drug use is eliminated and that the NRC workplace is safe, healthful, productive, and secure.

The NRC regulates the civilian uses of nuclear materials by licensing persons and companies (1) to build and operate nuclear reactors, fuel cycle facilities and other facilities; (2) to own and use nuclear materials (e.g., universities, hospitals, doctors, and industry); (3) to transport nuclear materials; and (4) to store spent fuel and radioactive waste. The NRC through

careful inspection must ensure that these activities are conducted in a manner consistent with the public health and safety, environmental quality, and national security.

The NRC, because of its national security and public health and safety responsibilities and the sensitive nature of its work, has a compelling obligation to detect illegal drug use and eliminate it from its workplace.

Impaired judgment or reliability, inappropriate behavior, or similar aberrant actions by any employee in testing-designated positions resulting from illegal drug use could have disastrous, immediate, and long-term effects upon public health and safety, the quality of the Nation's environment, and the Nation's security.

The success of NRC's Drug-Free Workplace Program depends in large part on how well the NRC informs its employees of the hazards of illegal drug use, and on the type and quality of assistance NRC can provide illegal drug users. Equally important is the employees' confidence that the NRC will respect the personal dignity and privacy of the individual in reaching its goal of a drug-free workplace. Consistent with these goals, this plan includes policies and procedures for (1) employee assistance and protection of employees' personal privacy and legal rights, (2) supervisory training, (3) employee education, and (4) identification of illegal drug use through drug testing on a carefully controlled and monitored basis.

C. Nature, Frequency, and Type of Drug Testing

Section 503 of the Act requires the NRC Plan to specify the nature, frequency, and type of drug testing to be instituted. The NRC Plan includes the following types of drug testing: (1) applicant testing; (2) random testing of those employees in sensitive positions which have been determined to be testing-designated positions (TDP); (3) reasonable suspicion testing; (4) injury, illness, and unsafe or unhealthful practice testing (post-accident); and (5) testing as part of or as a follow-up to counseling or rehabilitation; and (6) voluntary testing.

The frequency of random testing, follow-up testing, and voluntary testing is specified in Section XII and Appendix A of this Plan. The Commission reserves the right to increase or decrease the frequency of testing based on the agency's mission, need, availability of resources, and experience in the program, consistent with the duty to achieve a drug-free workplace under Executive Order 12564.

D. Drugs for Which Individuals Are Tested

Section 503 of the Act requires the NRC Plan to specify the drugs for which individuals shall be tested. These are listed in Appendix B of this Plan. If NRC desires to test for any other drug, advance written approval from the Secretary, Department of Health and Human Services is required.

Page revised August 14, 2007
Sandra I. Schoenmann, C/PSB

E. Scope

This Plan applies to all employees of, and applicants to, the Nuclear Regulatory Commission.

F. Union Rights

The active participation and support of the National Treasury Employees Union (NTEU, which serves as the exclusive representative of NRC's bargaining unit employees) can contribute to the success of this program. Management will seek ways in which bargaining unit representatives might assist in program implementation, such as by acquainting employees with rehabilitation facilities and by enhancing employee confidence in the program. Management will continue to observe agreements already reached, will include union representatives in general orientation programs, and will continue to meet its obligations under Title VII of the Civil Service Reform Act of 1978.

G. References

1. Authorities

- a. Executive Order 12564 (1987), "Drug-Free Workplace."
- b. Executive Order 12958 (2003), "Classified National Security Information."
- c. Executive Order 10450 (1953), "Security Requirements For Government Employment," and Executive Order 12968 (1995), "Access To Classified Information."
- d. Mandatory Guidelines for Federal Workplace Drug Testing Programs, including Scientific and Technical Requirements and Certification of Laboratories Engaged in Urine Drug Testing, 53 FR 11970 (1988), as revised (1994), and 69 FR 19644 (2004).
- e. Civil Service Reform Act of 1978, Pub. L. 95-454.
- f. 42 Code of Federal Regulation (CFR) Part 2, establishing requirements for assuring the confidentiality of alcohol and drug abuse patient treatment records.
- g. The Privacy Act of 1974 (5 U.S.C. Section 552a), prescribing requirements governing the maintenance of records by agencies pertaining to individuals and access to these records by the individual(s) to whom they pertain.
- h. 10 CFR Part 9, implementing the Privacy Act of 1974 within the NRC.

- i. Anti-Drug Abuse Act of 1986, Pub. L. 99-570 as amended, Pub. L. 100-690.
- j. NRC Announcement No. 94, "Drug Testing Policy Statement," dated July 9, 1987.
- k. Section 628 of the Treasury, Postal Service, and General Government Appropriations Act of 1989, Pub. L. 100-440, as amended.

2. Guidance

- a. Pub. L. 91-616, The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, providing guidance to Federal agencies in establishing alcoholism and drug abuse programs and Pub. L. 92-255, The Drug Abuse and Treatment Act, providing employee counseling services programs for Federal employees with alcohol or drug problems.
- b. 5 CFR Part 792, providing guidance for developing and maintaining appropriate prevention, treatment, and rehabilitation programs and services for alcoholism and drug abuse among Federal employees.
- c. NRC Management Directive 10.122 (formerly Manual Chapter and Appendix 4161), "Employee Assistance and Wellness Services Program."
- d. NRC Management Directive 12.3, "NRC Personnel Security Program," Part I (b)"Position Sensitivity Criteria," revised April 27, 2004.
- e. Guidelines to agencies, departments, and instrumentalities in establishing a drug-free workplace pursuant to Pub. L. 100-440.
- f. "NRC Drug Testing Manual," NUREG/BR-0136. (Manual will be replaced by a Management Directive following Plan approval.)

II. DEFINITIONS

- A. "Applicant" means any individual who is tentatively selected for employment at NRC and who has not, immediately prior to selection, been subject to random testing.
- B. "Employee Assistance Program (EAP)" means the NRC-based counseling program that offers assessment, short-term counseling, and referral services to employees for a wide range of drug, alcohol, and mental health problems, and monitors the progress of employees while in treatment.
- C. "EAP Manager" means the individual responsible for the day-to-day implementation of the agency EAP. This individual is also responsible for operating the EAP by providing counseling, assessment, treatment, and education services to employees and supervisors regarding the EAP. The EAP also provides initial assessment of employees found to use illegal drugs and provides a specialist in the diagnosis and treatment of addictive disease for this purpose.
- D. "EAP Administrator" means the individual responsible for ensuring the development and review of the EAP. The NRC Director, Human Resources (HR) performs this function.
- E. "Medical Review Officer (MRO)" means the individual responsible for receiving laboratory results generated from the NRC Drug Testing Program. This official is a licensed physician with knowledge of substance abuse disorders and has the appropriate medical training to interpret and evaluate all positive test results together with an individual's medical history and any other relevant biomedical information.
- F. "Illegal Drug" means a controlled substance included in Schedule I or II of the Controlled Substances Act, as defined by Section 802(6) of Title 21 of the United States Code, the possession of which is unlawful under Chapter 13 of that Title (21 U.S.C. § 801 et seq.). The term "illegal drug" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.
- G. "Management Official" means an employee required or authorized by the NRC to formulate, determine, or influence the policies of the NRC (5 U.S.C. § 7103(a)(11)).
- H. "Random Testing" means a system of drug testing imposed without suspicion that a particular individual is using illegal drugs. Random testing may be either uniform unannounced testing of testing-designated employees occupying a specified area, site, element, or position or a statistically random sampling of such employees based on a neutral criterion.

- I. "Employees in Sensitive Positions" means:
1. Employees in positions designated by the Commission as sensitive in accordance with Executive Order No. 10450 (April 29, 1953), as amended;
 2. Employees granted access to classified information or who may be granted access to classified information pursuant to a determination of trustworthiness by the Commission under Section 4 of Executive Order No. 12958 (April 20, 1995), Section 3.1 of Executive Order No. 12968 (August 2, 1995), and Section 145 of the Atomic Energy Act of 1954, as amended;
 3. Individuals serving under Presidential appointments; or
 4. Employees in other positions that the Commission determines involve national security, the protection of life and property, public health or safety, or other functions requiring a high degree of trust and confidence.
- J. "Supervisor" means an employee having authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove other employees; to adjust their grievances, or effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment (5 U.S.C. § 7103 (a)(10)).
- K. "Testing-Designated Positions" means employment positions within the NRC that have been designated for random testing under Section IX.B and Appendix A of this Plan.
- L. "Verified Positive Test Result" means a test result that has been screened positive by an FDA-approved immunoassay test, confirmed by gas chromatography/mass spectrometry assay (or other confirmatory tests approved by HHS), evaluated by the MRO, and determined by him or her to be unjustified under Section XIII of this Plan.

III. EMPLOYEE ASSISTANCE PROGRAM

A. Function

The NRC EAP plays an important role in preventing and resolving employee drug use by: demonstrating the NRC's commitment to eliminating illegal drug use; providing employees an opportunity, with appropriate assistance, to discontinue their drug use; providing educational materials to supervisors and employees on drug use issues; assisting supervisors in confronting employees who have performance and/or conduct problems and making referrals to appropriate treatment and rehabilitative facilities; and follow-up with individuals during the rehabilitation period to track their progress and encourage successful completion of the program. The EAP, however, shall not be involved in the collection of urine samples or the initial reporting of test results. Specifically, the EAP provides the following services:

1. Provides counseling and assistance to employees who self-refer for treatment or who are referred to the EAP; and monitors the employees' progress through treatment and rehabilitation, crisis intervention, confidential short-term counseling and followup, and referral to community resources on a 24-hour basis.
2. Provides education and training to all levels of NRC personnel on types and effects of drugs; symptoms of alcohol and drug abuse and impact on performance and conduct; relationship of the EAP to the drug testing program; and related treatment, rehabilitation, and confidentiality issues.
3. Provides education and training to managers and supervisors to help clarify their role and responsibilities in recognizing the symptoms of alcohol and drug abuse on the job and familiarizes them with the procedures for confronting and referring individuals for counseling.
4. Ensures that confidentiality of employee records under their control, including drug test results and related medical treatment and rehabilitation records, is maintained in accordance with Section XIV of this Plan.

B. Referral and Availability

Any employee found to be using drugs shall be referred to the EAP. The EAP shall be administered separately from the testing program, and shall be available to all employees without regard to a finding of drug use. The EAP shall provide counseling or rehabilitation for all referrals, as well as education and training regarding illegal drug use. The EAP is available not only to NRC employees, but, when feasible, to the families of employees with drug problems, and to employees with family members who have drug problems.

In the event the employee is not satisfied with the program of treatment or rehabilitation, such employee may seek review of the EAP Manager's referral by notifying the EAP Administrator prior to completion of the program. The decision of the EAP Administrator

shall be final and shall not be subject to further administrative review. Regardless of the treatment program chosen, the employee remains responsible for successful completion of the treatment, and assertions that the counselor failed to consider one or more of the factors in Section VI(C)(12) in making a referral shall not constitute either an excuse for continuing to use illegal drugs or a defense to disciplinary action if the employee does not complete treatment.

C. Leave Allowance

Employees shall be allowed a reasonable period of excused absence, as determined by the EAP Manager in consultation with the appropriate management officials, for each counseling session during the assessment/referral phase. Absences during duty hours for rehabilitation or treatment must be charged to the appropriate leave category in accordance with law and leave regulations.

D. Records and Confidentiality

All EAP operations shall be confidential in accordance with Section XIV of this Plan relating to records and confidentiality.

E. Structure

1. The Director, HR, has responsibility for planning and implementing policies, programs, and services to provide for the effective organization, utilization, and development of the agency's human resources. The Director, HR, is responsible for oversight of the NRC EAP and provides, with the support of the Commission, high-level direction and promotion of the EAP.
2. The NRC EAP is located in the Office of the Director, HR, and falls under the immediate supervision of the EAP Manager.
3. The Director, HR provides direction to the EAP Manager and contractor personnel in the development, implementation, and evaluation of the EAP, both at Headquarters and in the Regional and Field Offices.
4. The EAP Manager is responsible for the development, implementation, and evaluation of the EAP. In-house and contractor personnel provide crisis intervention, short-term counseling and followup, referral to area resources, supervisory consultation and mandatory training, and employee education on addiction and mental health issues. The EAP Manager serves as liaison with other EAPs in Government and industry, professional groups in the field of substance abuse and mental health, and community resources at Headquarters and in the field; provides information for program assessment reports required by NRC and the Office of Personnel Management; and monitors contracts with providers of addiction and mental health services.

IV. SUPERVISORY TRAINING

A. Objectives

Because supervisors have a key role in establishing and monitoring a drug-free workplace, the NRC shall provide training to assist supervisors and managers in recognizing and addressing illegal drug use by agency employees. The purpose of supervisory training is to understand:

1. NRC policies relevant to work performance problems, illegal drug use, and the EAP;
2. The responsibilities of offering EAP services;
3. How employee performance and behavioral changes should be recognized and documented;
4. The roles of the MRO, medical staff, supervisors, HR, drug testing, and EAP staff;
5. How and when to use the NRC EAP;
6. How and when the EAP is linked to the performance appraisal and the disciplinary process;
7. The process of reintegrating employees into the workforce following treatment; and
8. NRC's Drug-Free Workplace Program, including its drug testing component.

B. Implementation

HR shall be responsible for implementing supervisory training, and in collaboration with the Office of Administration, shall develop a training package to ensure that all employees and supervisors are fully informed of the NRC Drug-Free Workplace Plan.

C. Training Package

Supervisory training shall continue to be required of all supervisors and may be presented as a separate course or be included as part of an ongoing supervisory training program. Training shall be provided as soon as possible (within six months) after a person assumes supervisory responsibility. Training courses will cover the following topics:

1. Overall NRC policy;
2. The prevalence of various employee problems with respect to drugs (and alcohol);
3. The EAP approach to handling problems;
4. How to recognize employees with possible problems;
5. Documentation of employee performance or behavior;
6. How to approach the employee;
7. How to use the EAP;
8. Disciplinary action and removal from sensitive positions as required by Section 503 of Executive Order 12564;
9. Reintegration of employees into the workforce;
10. Written materials that the supervisor can use at the work site; and
11. NRC's Drug Testing Program, a component of the Drug-Free Workplace Program.

V. EMPLOYEE EDUCATION

A. Objectives

HR shall continue to offer drug education to all NRC employees. Drug education will include education and training to all levels of the NRC on:

1. Types and effects of drugs;
2. Symptoms of drug use and the effects on performance and conduct;
3. The relationship of the EAP to the drug testing program; and
4. Other relevant treatment, rehabilitation, and confidentiality issues.

B. Means of Education

Drug education activities may include:

1. Distribution of written materials;
2. Videotapes;
3. Lunchtime employee forums; and
4. Employee drug awareness days.

VI. SPECIAL DUTIES AND RESPONSIBILITIES

A. Drug Program Coordinator

NRC's DPC shall be responsible for directing the implementation and management of NRC's Drug-Free Workplace Program and the drug testing component of this program. The DPC function is vested in the Director, Office of Administration, as designated by the Executive Director for Operations (EDO). In carrying out this responsibility, the DPC shall, among other duties:

1. Ensure that all employees subject to random testing receive an individual notice as described in Section VII.B of this Plan, and receive notice prior to implementation of any major changes to the program.
2. In coordination with the EAP Manager, publicize and disseminate drug program educational materials, and contribute to training and education sessions regarding drug use, drug testing, and rehabilitation;
3. Receive verified positive test results from the MRO through the Headquarters Assistant Drug Program Coordinator (ADPC);
4. Inform the employee of positive test results and coordinate with employee's management regarding appropriate security actions;
5. Ensure that appropriate disciplinary action is promptly proposed by the responsible office against an employee found to have engaged in illegal drug use in accordance with Section VIII.A of this Plan, and that a final disciplinary action shall generally be taken after the employee has been given the opportunity to successfully complete an NRC approved treatment program;
6. Provide direction, as necessary, to the NRC ADPCs; and
7. Coordinate with, and report to, the Commission on drug program activities.

B. Headquarters Assistant Drug Program Coordinator

1. NRC's Headquarters ADPC shall be responsible for implementing and managing the collecting and testing portions of the drug program for NRC. The Headquarters ADPC function is vested in the Office of Administration (ADM), in the Director, Division of Facilities and Security (DFS). In carrying out this responsibility, the Headquarters ADPC shall, among other duties:
 - a. Arrange for all testing authorized under this Plan;
 - b. Generate random test lists for Headquarters, Regions and remote sites;

- c. Coordinate with NRC's specimen collection contractor(s) on schedules, lists, and locations;
 - d. Receive all test results from the MRO and notify the DPC of all verified positive drug test results.
 - e. Maintain and retain all NRC drug program collection and test records (e.g., test lists, 30-day notice acknowledgment forms, and test results for NRC employees and applicants);
 - f. Arrange to document through written reports all results of laboratory inspections conducted;
 - g. Report findings to the DPC that may affect the reliability or accuracy of laboratory results;
 - h. Provide program direction and coordinate with Regional ADPCs wherever necessary to conserve resources and to efficiently and speedily accomplish reliable and accurate testing objectives; and
 - i. Oversee administration of the contracts with the MRO, specimen collection contractor, and testing laboratories.
2. NRC's Regional ADPCs or designees shall be responsible for coordinating regional and remote site drug testing activities under the program direction of the Headquarters ADPC. Duties are limited to providing support for the drug testing component of the Drug-Free Workplace Program and shall include:
- a. On the actual drug testing date, notify the appropriate management official located at the specific site;
 - b. Notify the selected individual's supervisor and the selected individual as described in Section IX.D.;
 - c. Aid in confirming positive identification of the individual to be tested, when necessary; and
 - d. Forward all drug-testing-related records to the Headquarters ADPC for storage and retention.

C. Employee Assistance Program Administrator

The EAP Administrator shall:

1. Receive verified positive drug test results from the DPC through the Headquarters ADPC;
2. Assume the lead role in the development, implementation and evaluation of the EAP;
3. Supervise and designate the EAP Manager and counselors, and assist them in establishing the NRC EAP; and
4. Advise NRC organizations on the submission of annual statistical reports and prepare consolidated reports on the NRC's EAP activity.

D. Employee Assistance Program Manager

The EAP Manager shall perform the following duties:

1. Implement and operate the EAP.
2. Provide counseling and assessment services to all employees referred to the EAP by their supervisors or on self-referral, and otherwise offer employees the opportunity for counseling and rehabilitation;
3. Coordinate with the DPC, the MRO, and supervisors, as appropriate;
4. Work with the DPC to provide educational materials and training on illegal drugs in the workplace to manager, supervisors, and employees;
5. Assist supervisors with performance and /or personnel problems that may be related to illegal drug use;
6. Monitor the progress of referred employees during and after treatment and the rehabilitation period, and provide feedback to the DPC in accordance with 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records;
7. Ensure that training is provided to assist supervisors in the recognition and documentation of facts and circumstances that support a reasonable suspicion that an employee may be using illegal drugs;

8. Maintain a list of rehabilitation or treatment organizations that provide counseling and rehabilitative programs, and include the following information on each organization:
 - a. Name, address, and phone number;
 - b. Types of services provided;
 - c. Hours of operation, including emergency hours;
 - d. The contact person's name and phone number;
 - e. Fee structure, including insurance coverage;
 - f. Client specialization; and
 - g. Other pertinent information.
9. Periodically visit rehabilitative or treatment organizations to meet administrative and staff members, tour the site, and ascertain the experience, certification, and educational level of staff and the organization's policy concerning progress reports on clients and post-treatment followup;
10. Serve as the initial point of contact and provide initial assessment and referral services to employees who have had a positive drug test under this plan or who voluntarily refer themselves under the "safe harbor" provision (Section VIII.F.);
11. Be familiar with all applicable laws and regulations, including drug treatment and rehabilitation insurance coverage available to employees through the Federal Employees Health benefits program.;
12. Meet the qualifications as determined by the EAP Administrator and the DPC and be trained in the diagnosis and treatment of drug-related addictive diseases, counseling employees in the occupational setting, identifying drug use, and the planning of drug treatment or rehabilitation programs.
13. Ensure that a treatment plan is prepared for each employee referred for treatment, obtain the employee's signature on the document, and sign the treatment plan after the employee signs;

14. In making referrals, consider the
 - a. Nature and severity of the problem;
 - b. Location of the treatment;
 - c. Cost of the treatment;
 - d. Intensity of the treatment environment;
 - e. Availability of inpatient/outpatient care;
 - f. Other special needs, such as transportation and child care; and
 - g. Preferences of the employee; and
15. Provide an assessment report and any other related information required by the DPC in order to carry out his/her responsibilities as DPC.

E. Medical Review Officer

The NRC shall have a MRO assigned to carry out the purposes of this Plan. The MRO shall perform the following duties, among other duties:

1. Receive all laboratory test results;
2. Assure that an individual who has tested positive has been afforded an opportunity to justify the test result in accordance with Section XIII.D of this Plan;
3. Consistent with confidentiality requirements, refer written determinations regarding all verified positive test results to the Headquarters ADPC including a positive drug test result form indicating that a positive result is "unjustified," together with all relevant documentation, if applicable, and a summary of findings;
4. Confirm with the Headquarters ADPC whether an individual who has been tentatively selected for employment with the NRC has obtained a verified positive test result; and
5. Coordinate with and report to the Headquarters ADPC on all activities and findings on a regular basis.

F. Supervisors

Supervisors will be trained to recognize and address illegal drug use by employees, and will be provided information regarding referral of employees to the EAP, procedures and requirements for drug testing, and behavioral patterns that give rise to a reasonable suspicion that an employee may be using illegal drugs. Except as modified by the NRC to suit specific program responsibilities, first-line supervisors shall perform the following duties:

1. Attend training sessions on awareness of illegal drug use in the workplace;
2. Request a reasonable suspicion test after verbally providing all information, facts, and circumstances leading to and supporting this suspicion to the Office Director/Regional Administrator or above for concurrence;
3. Refer employees to the EAP for assessment and subsequent assistance in obtaining counseling and rehabilitation upon findings of illegal drug use;
4. Receive notification from the DPC upon a finding of illegal drug use;
5. Initiate appropriate disciplinary action upon a finding of illegal drug use; and
6. In conjunction with employee assistance and labor relations specialists, assist higher level supervisors in evaluating employee performance and/or conduct problems that may be related to illegal drug use.

G. Implementation

The DPC shall direct the implementation of the NRC Drug-Free Workplace Plan (Plan) and ensure that the Plan is efficiently and effectively accomplished in accordance with Executive Order 12564 and other applicable regulations.

H. General Program/Structural Provisions

The DPC shall direct the development and implementation procedures to enable NRC to efficiently and swiftly implement all aspects of this Plan, taking into account the unique geographical, personnel, budgetary, and other relevant factors of the Regional offices.

I. Government Contractors

Wherever existing facilities are inadequate to implement this Plan, a representative(s) of ADM/DFS and HR shall:

1. Act as the Project Officer for the administration of all related contracts;

2. Verify that contractors chosen to perform the drug screening tests are duly certified pursuant to HHS Guidelines (69 FR 19644, 2004, "Mandatory Guidelines for Federal Workplace Drug Testing Programs") and that all contracts conform to the technical specifications of the HHS Guidelines; and
3. Ensure that contractors or NRC employees fulfill the responsibilities of the MRO or EAP provided specialist in the diagnosis and treatment of addictive disease, as applicable.

VII. NOTICE

A. General Notice

A general notice from the Commission announcing the testing program, as required by Executive Order 12564, Section 4(a), was provided to all employees 60 days prior to the original implementation date of the Plan, upon completion of Congressional certification procedures prescribed in Sections 503(a)(1)(A), 503(a)(1)(B), and 503(a)(1)(C) of the Act. This notice explained:

1. The purpose of the Plan;
2. That the Plan would include both voluntary and mandatory testing; and
3. That those who hold positions selected for random testing will also receive an individual notice, before testing has begun, indicating that their position has been designated a testing designated position.

Subsequent general notices from the Commission announcing any substantive changes in the testing program will also be provided to all NRC employees 60 days prior to their implementation. The first of these notices is embodied in the Plan (March 2007) and it expands the NRC random testing pool to include all employees detailed in Appendix A.

B. 30-Day Individual Notice

In addition to the general notice, an individual notice will be distributed either by written memorandum or electronic mail (e-mail) message to those individuals who are not currently in the drug testing pool.

C. Acknowledgment

Each employee in a testing designated position shall be asked to acknowledge that he/she has received and read the notice which states that the employee's position has been designated for random drug testing, and that refusal to submit to testing will result in initiation of disciplinary action, up to and including dismissal. For purposes of this Plan, opening an e-mail is the same as acknowledgment. This acknowledgment, which is advisory only, shall be centrally collected for easy retrieval by the Headquarters ADPC. An employee's failure to open the e-mail or sign the notice shall not preclude testing that employee, or otherwise affect the implementation of this order, since the general notice will previously have notified all agency employees of the requirement to be drug-free.

D. Administrative Relief

If an employee believes his or her position has been wrongly designated a testing-designated position (TDP), that employee may file an administrative appeal to the DPC, who has authority to remove the employee from the TDP list. The appeal must be submitted by the employee, in writing, to the DPC within 15 days of the notification in VII.B above, setting forth all relevant information. The DPC shall review the appeal based on the criteria applied in designating that employee's position as a TDP. The DPC's decision is final and is not subject to further administrative review.

VIII. FINDING OF DRUG USE AND DISCIPLINARY CONSEQUENCES

A. Determination

An employee may be found to use illegal drugs on the basis of any appropriate evidence including, but not limited to:

1. Direct observation;
2. Evidence obtained from an arrest or criminal conviction;
3. A verified positive test result; or
4. An employee's voluntary admission.

B. Mandatory Administrative Actions

The NRC shall refer an employee found to use illegal drugs to the EAP. As a result of the finding, his/her security clearance shall be suspended. The security clearance may be reinstated in accordance with personnel security policies and procedures.

C. Range of Consequences

The degree of severity of the disciplinary action taken against an employee found to use illegal drugs will depend on the circumstances of each case; will be consistent with the Executive Order; and may include the full range of disciplinary actions including issuance of written reprimand, admonishment, and removal from service. In determining the actual disciplinary action taken, the agency shall consider whether the employee has completed a treatment or rehabilitation program. The NRC shall initiate disciplinary action against any employee found to use illegal drugs, but shall not discipline an employee who voluntarily admits to illegal drug use in accordance with VIII.F of this Plan. Such disciplinary action shall be consistent with the requirements of any governing collective bargaining agreement and the Civil Service Reform Act and other statutes, orders, and regulations, but some disciplinary action must be initiated.

D. Initiation of Mandatory Removal From Service

The NRC shall initiate action to remove an employee found to use illegal drugs for:

1. Refusing to obtain counseling or rehabilitation through the EAP as required by the Executive Order; or
2. Not refraining from illegal drug use after a first finding of such use.

All letters to propose removal and decisions to remove shall be coordinated with HR and

concurrent in by the Office of the General Counsel.

E. Refusal to Take Drug Test When Required

1. An employee who refuses to be tested when so required will be subject to the full range of disciplinary action, including removal from the NRC.
2. An applicant who refuses to be tested shall not be extended a final offer of employment.
3. Attempts to alter or substitute the specimen provided will be deemed a refusal to take the drug test when required.
4. An employee or applicant who refuses to display the items in his or her pockets at the beginning of the inspection/collection process will be deemed to have refused to take the drug test when required.
5. An employee or applicant who declines to allow a direct observed collection when required will be deemed to have refused to take the drug test when required.
6. An employee or applicant who declines to continue the collection process when his or her first specimen has insufficient volume will be deemed to have refused to take the drug test when required.

F. Voluntary Referral

Under Executive Order 12564, the NRC is required to initiate action to discipline any employee found to use illegal drugs in every circumstance except that such discipline is not required for an employee who (1) voluntarily admits his or her drug use prior to being identified through other means (in accordance with VIII.F.3 below), (2) completes counseling or an EAP, and (3) hereafter refrains from illegal drug use.

1. Because the Order permits an agency to create a "safe harbor" for an employee who meets all three of these conditions, the NRC has decided to create such a "safe harbor" and will not initiate disciplinary action against employees who satisfy the provisions of this section of the Plan.
2. A fundamental purpose of the NRC's Plan is to assist employees who themselves are seeking treatment for drug use. For this reason, the NRC will not initiate disciplinary action against any employee who meets all three of these conditions:
 - a. Voluntarily identifies him/herself as a user of illegal drugs prior to being identified through either means;
 - b. Obtains counseling or rehabilitation through the EAP; and

- c. Refrains from using illegal drugs.

This self-referral option allows any employee to step forward and identify himself/herself as an illegal drug user for the purpose of entering an NRC approved drug treatment program. In stepping forward, and consistent with Section XII.B, any employee may volunteer for a drug test as a means of identification. Although this self-identification test may yield a verified positive test result, such result shall not subject an employee to discipline assuming the three safe harbor requirements are met.

- 3. Since the key to this provision of rehabilitative effectiveness is an employee's willingness to admit his or her problem, this provision will not be available to an employee after:
 - a. Being asked to provide a urine sample in accordance with this Plan; or
 - b. Having been found to use illegal drugs pursuant to Sections VIII.A.1 and 2.

IX. RANDOM TESTING

A. Sensitive Positions Designated for Random Testing

Executive Order 12564 requires random testing for those employees in sensitive positions that have been determined to be TDPs. Appendix A includes the criteria and procedures used in designating such positions for random testing, pursuant to the Act, including the justification for such criteria and procedures.

B. Determining the TDP

NRC considered the extent of the following factors when determining a TDP. Among the factors the NRC has considered in determining a TDP are the extent to which:

1. Its mission is inconsistent with illegal drug use.
2. NRC must foster public trust by preserving employees' reputation for integrity, honesty, and responsibility.
3. NRC must satisfy its national security responsibilities.

NRC has also considered the extent to which the position:

1. Gives employees access to sensitive information;
2. Requires employees, as a condition of employment, to obtain an employment/security clearance; and
3. Requires employees to engage in activities affecting public health or safety.

These positions are characterized by critical safety or security responsibilities related to the mission of the NRC. The job functions associated with these positions directly and immediately relate to public health and safety, the protection of life and property, or national security. These positions are identified for random testing because they require the highest degree of trust and confidence.

The Commission reserves the right to add or delete positions determined to be TDPs pursuant to the criteria established in the Executive Order and this Plan. Moreover, pursuant to 42 U.S.C. § 290ee-1(b)(2) and the pertinent provisions of the CFRs, the Commission has determined that all positions that have been or will be designated as testing-designated positions under this Plan are "sensitive positions" and are therefore exempted from coverage under 42 U.S.C. § 290ee-1(b)(1), which provides that no person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the basis of prior drug abuse.

C. Implementing Random Testing

In implementing the program of random testing, the DPC shall:

1. Ensure that the means of random selection remains confidential; and
2. Evaluate periodically whether the numbers of employees tested and the frequency with which the tests will be administered satisfy the NRC's duty to achieve a drug-free workforce.

The approximate number of sensitive employees occupying testing designated positions and the frequency with which random tests will be administered are specified in Appendix A of this Plan.

D. Notification of Selection

An individual selected for random testing and the individual's first-line supervisor shall be notified the same day the test is scheduled, preferably within one hour of the scheduled testing. After reasonable attempts to contact the supervisor have been made, the employee may be contacted directly by a member of the Drug Program staff. In this case, the supervisor or a higher official in the employee's management chain is still notified the same day the test is scheduled. The employee will be notified that he/she is under no suspicion of taking drugs and that the employee's name was selected randomly.

E. Deferral of Testing

An employee selected for random drug testing may be deferred from testing that day if the employee's first and second line supervisor or higher official in the employee's management chain determines that the employee:

1. is in a leave status (sick, annual, administrative, or leave without pay);
2. is in official travel status away from the test site or about to embark on official travel scheduled before testing notification.

An employee who is deferred from a random drug test will be subject to an unannounced test within the following 60 days.

X. REASONABLE SUSPICION TESTING

A. Individuals Subject to Reasonable Suspicion Testing

Reasonable suspicion testing may be required of any employee when there is a reasonable suspicion that the employee uses illegal drugs on or off duty.

B. Grounds

Reasonable suspicion testing may be based on, among other things:

1. Observable phenomena, such as direct observation of drug use and/or the physical symptoms of being under the influence of a drug;
2. A pattern of abnormal conduct or erratic behavior;
3. Arrest or conviction for a drug-related offense or the identification of an employee as the focus of a criminal investigation into illegal possession, use, or trafficking in illegal drugs. In any references to grounds for "reasonable suspicion testing," the term "trafficking" shall also mean distribution;
4. Information provided by reliable and credible sources or information gained, for example, by anonymous tips that are independently corroborated; or
5. Reliable evidence that the employee has tampered with a previous test.

Although reasonable suspicion testing does not require certainty, mere "hunches" are not sufficient to meet this standard

C. Procedures

If an employee is suspected of using illegal drugs, the appropriate supervisor will verbally provide all information, facts, and circumstances leading to and supporting this suspicion to the Office Director/Regional Administrator or above for concurrence. EAP may be consulted by management if they deem it necessary based on the circumstances. Once concurrence is obtained, a request to schedule a drug test is forwarded to the Headquarters ADPC.

When higher-level management concurrence of a reasonable suspicion determination has been made, the appropriate supervisor will promptly detail, for the record and in writing, the circumstances that formed the basis to warrant the testing. The written report will be prepared to include, at a minimum, the appropriate dates and times of reported drug-related incidents, reliable/credible sources of information, rationale leading to the test, and the action taken.

D. Obtaining the Sample

The employee may be asked to provide the urine sample in accordance with the criteria in Section XIII.B.

E. Supervisory Training

In accordance with Section IV of this Plan, supervisors will be trained to address employee illegal drug use by recognizing facts that give rise to a reasonable suspicion and documenting facts and circumstances to support a finding of reasonable suspicion. Failure to receive such training, however, shall not invalidate otherwise proper reasonable suspicion testing.

XI. APPLICANT TESTING

A. Objectives

To maintain the high professional standards of the NRC's workforce, it is imperative that individuals who use illegal drugs be screened out during the initial employment process before they are placed on the employment rolls of the NRC. This procedure will have a positive effect on reducing instances of illegal drug use by employees working within the NRC, and will provide for a safer work environment. For these reasons, drug testing shall be required of all applicants as defined in Section II

B. Vacancy Announcements

Every vacancy announcement shall indicate the drug testing requirements for applicants/selectees. The vacancy announcement shall state:

"All applicants tentatively selected for or reassigned to this position will be required to submit to urinalysis to screen for illegal drug use prior to appointment."

In addition, the applicant will be notified that appointment to the position will be contingent upon a negative drug test result. Failure of the vacancy announcement to indicate these requirements will not preclude applicant testing if advance written notice is provided to applicants in some other manner.

C. Procedures

The ADPC, Regional ADPC, or HR representative shall schedule an applicant drug test with NRC's collection contractor and notify DFS of the applicant's appointment date, time, and location. Applicants shall be directed to an appropriate collection facility and informed that he/she must appear at the scheduled time and location or else a final offer of employment will not be made. The drug test must be undertaken as soon after notification as possible, and not later than 48 hours after notice to the applicant. Where appropriate, applicants may be reimbursed for reasonable travel expenses.

Applicants will be advised that they may submit medical documentation to the MRO to support a legitimate use for a specific drug and that such information will be reviewed only by the MRO to determine whether the individual is legally using an otherwise illegal drug.

Upon notification that an individual has been tentatively selected for employment with the NRC, the Director, HR, or designee, shall assure, after consultation with the Headquarters ADPC, or designee, that a drug test has been conducted on that individual and determine whether the test result is a verified positive result or invalid test result as reported by the MRO.

D. Consequences

The NRC will decline to extend a final offer of employment to any applicant with a verified positive or invalid test result, and such applicants may not reapply to the NRC for a period of one year. The appropriate HR representative shall be directed by the Headquarters ADPC to decline to extend a final offer of employment to applicants on the basis of failure to satisfy pre-employment processing.

XII. ADDITIONAL TYPES OF DRUG TESTING

A. Injury, Illness, and Unsafe or Unhealthful Practice Testing (Post-Accident)

The NRC is committed to providing a safe and secure work environment. It also has a legitimate interest in determining the cause of serious accidents so that it can undertake appropriate corrective measures. Post-accident drug testing can provide invaluable information in furtherance of that interest. Accordingly, employees may be subject to testing when, based on circumstances of the accident, their actions are reasonably suspected of having caused or contributed to an accident that meets the following criteria:

1. The accident results in a death or personal injury requiring immediate hospitalization; or
2. The accident results in damage to government or private property estimated to be in excess of \$10,000.

If an employee is suspected of having caused or contributed to an accident meeting the above criteria, the appropriate supervisor will present the facts leading to this suspicion to the Office Director/Regional Administrator for approval. Once approval has been obtained and arrangements made for testing, the supervisor will prepare a written report detailing the facts and circumstances that warranted the testing.

B. Follow-up Testing

All employees referred through administrative channels who undergo a treatment or rehabilitation program for illegal drug use will be subject to unannounced testing following completion of such a program for a period of at least 1 year. Such employees shall be tested at the rate stipulated in the abeyance contract or treatment plan (in the alternative) at the increased frequency of up to once every 3 to 5 workdays for a period of 3 months, after which the follow-up tests may be decreased in frequency. Such testing is distinct from testing that may be imposed as a component of a rehabilitation program.

C. Voluntary Testing

The Executive Order requires voluntary testing. However, all NRC employees occupy positions designated for mandatory random testing, so there is no one to voluntarily enter the random testing pool. Should NRC at any time change its designations such that it has any employee(s) not occupying TDPs, the following shall apply:

In order to demonstrate their commitment to the NRC's goal of a drug-free workplace and to set an example for other Federal employees, employees not in testing designated positions may volunteer for unannounced random testing by notifying the Drug Program Coordinator. These employees will then be included in the pool of testing designated positions subject to random testing, and be subject to the same conditions and procedures, including the provisions for

Voluntary Referral. Volunteers shall remain in the testing designated positions pool until they withdraw from participation by notifying the Drug Program Coordinator of such intent at least 48 hours prior to a scheduled test.

Section XII revised August 14, 2007
Sandra I. Schoenmann, C/PSB

XIII. TEST PROCEDURES IN GENERAL

A. Mandatory Guidelines for Federal Workplace Drug Testing

The NRC shall adhere to all scientific and technical guidelines for drug testing programs promulgated by HHS consistent with the authority granted by Executive Order 12564 and to the requirements of Section 503 of the Supplemental Appropriation Act of 1987 (the Act). The NRC's drug testing program shall have professionally trained collection personnel, a laboratory certification program, rigorous analytical standards and quality assurance requirements for urinalysis procedures, and strict confidentiality requirements.

B. Assurance of Privacy

Any individual subject to testing under this plan, shall be permitted to provide urine specimens in private, and in a rest room stall or similar enclosure so that the employee is not observed while providing the sample. Collection site personnel of the same gender as the individual tested, however, may observe the individual provide the urine specimen when such personnel have reason to believe the individual may alter or substitute the specimen to be provided. Collection site personnel may have reason to believe that a particular individual may alter or substitute the specimen to be provided when:

1. The individual:
 - a. Has previously been found by the NRC to be an illegal drug user; or
 - b. Has previously tampered with a sample.
2. Facts and circumstances suggest that the individual
 - a. Is an illegal drug user;
 - b. Is under the influence of drugs at the time of the test; or
 - c. Has equipment or implements capable of tampering with or altering urine samples; or
3. The specimen
 - a. Has a temperature outside the range of 32.5-37.7 degrees C/ 90.5-99.8 degrees F; or
 - b. Shows signs of contaminants.

C. Failure To Appear for Testing

Failure to appear for testing without a deferral (see Section IX.E) will be considered refusal to participate in testing and will subject an employee to the full range of disciplinary actions, including dismissal, and an applicant to the cancellation of an offer of employment. If an individual fails to appear at the collection site at the assigned time, the collector shall contact the ADPC who shall in turn contact the DPC to obtain guidance on action to be taken.

D. Opportunity To Justify a Positive Test Result

When a confirmed positive result has been returned by the laboratory, the MRO shall perform the duties set forth in the HHS Guidelines. For example, the MRO may choose to conduct employee medical interviews, review employee medical history, or review any other relevant biomedical factors. The MRO must review all medical records made available by the tested employee when a confirmed positive test could have resulted from legally prescribed medication. Evidence to justify a positive result may include, but is not limited to:

1. A valid prescription; or
2. A verification from the individual's physician verifying a valid prescription.

Individuals are not entitled, however, to present evidence to the MRO in a trial-type administrative proceeding, although the MRO has the discretion to accept evidence in any manner the MRO deems most efficient or necessary. If the MRO determines there is no justification for the positive result, such result will be considered a verified positive test result. The MRO shall immediately contact the Headquarters ADPC who in turn will contact the DPC.

E. Testing Status During Treatment or Rehabilitation

While participating in a treatment or rehabilitation program, and in coordination with the program, 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 contract or treatment or rehabilitation plan approved by the DPC. Upon completion of the program, the employee immediately shall be subject to follow-up testing pursuant to Section XII.C of this Plan.

F. Savings Clause

To the extent that any of the procedures specified in this section are inconsistent with any of those specified in the Scientific and Technical Guidelines (59 FR 29919) promulgated by HHS, or any subsequent amendment thereto, such HHS Guidelines or amendment shall supersede the procedures specified in this section, but only to the extent of the inconsistency.

XIV. RECORDS AND REPORTS

A. Confidentiality of Laboratory Test Results

The laboratory may disclose confirmed laboratory test results only to the MRO or the staff of the MRO. Any positive result the MRO determines to be justified by licit and appropriate medical or scientific documentation to account for the result as other than the intentional ingestion of an illegal drug will be treated as a negative test result and may not be released for purposes of identifying illegal drug use. Test results will be protected under the provisions of the Privacy Act, 5 U.S.C. §§552a, et seq. and Section 503(e) of the Act, and may not be released in violation of either Act. The MRO may maintain only those records necessary for compliance with this Order. Any records of the MRO, including drug testing results, may be released to any management official for purposes of auditing the activities of the MRO, except that the disclosure of the results of any audit may not include personal identifying information on any employee.

To comply with Section 503(e) of the Act, the results of a drug test of an NRC employee may not be disclosed without the prior written consent of such employee, unless the disclosure would be:

1. To the MRO;
2. To the Headquarters ADPC or designee;
3. To the Manager or designee of the EAP in which the employee is receiving counseling or treatment or is otherwise participating;
4. To the DPC;
5. To any supervisory or management officials within the NRC having authority to take adverse personnel action against such employee; or
6. Pursuant to the order of a court of competent jurisdiction or where required by the United States Government to defend against any challenge against any adverse personnel action.

For purposes of this Section, supervisor or "management official" includes any management or government official whose duties necessitate review of the test results to process an adverse personnel action against the employee. In addition, test results with all identifying information removed shall also be made available to NRC personnel, including the DPC, for data collection and other activities necessary to comply with Section 503(f) of the Act (e.g. Annual Report to Congress).

B. Employee Access to Records

Any employee who is the subject of a drug test shall, upon written request, have access to any records relating to:

1. Such employee's drug test; and
2. The results of any relevant certification, review, or revocation of proceedings, as referred to in Section 503(a)(1)(A)(ii)(III) of the Act.

Except as authorized by law, an applicant who is the subject of a drug test, however, shall not be entitled to this information.

C. Confidentiality of Records in General

All drug testing information specifically relating to individuals is confidential and should be treated as such by anyone authorized to review or compile program records. To implement this Plan efficiently and to make information readily retrievable, the Headquarters ADPC shall maintain all records relating to reasonable suspicion testing, suspicion of tampering evidence, and any other authorized documentation necessary to implement this Plan.

Records and information of the personnel actions taken against employees with verified positive test results should be forwarded to the Chief, Organization and Labor Relations, HR. Such records and information shall remain confidential, securely locked with only authorized individuals who have a "need to know" having access to them.

D. Employee Assistance Program Records

The EAP Manager shall maintain only those records necessary to comply with this order. After an employee is referred to the EAP, the EAP will maintain all records necessary to carry out its duties. All medical and/or rehabilitation records concerning the employee's drug abuse, including EAP records of the identity, diagnosis, prognosis, or treatment, are confidential and may be disclosed only as authorized by 42 CFR Part 2, including the provision of written consent by the employee. With written consent, the employee may authorize the disclosure of those records to the management officials with a need to know for verification of treatment or for a general evaluation of treatment progress (42 CFR 2.1 et seq. (1986), revised regulations promulgated at 52 FR 21796, June 9, 1987).

E. Maintenance of Records

The NRC has established a System of Records, "Drug Testing Program Records," NRC-35, to maintain the records of the NRC's Drug Testing Program consistent with all applicable Federal laws, rules, and regulations regarding confidentiality of records, including the Privacy Act (5 U.S.C. § 552a). If necessary, records may be maintained as required by subsequent administrative or judicial proceedings, or at the discretion of the NRC. The record

keeping system should capture sufficient documents to meet the operational and statistical needs of this Plan and include:

1. Notices of verified positive test results referred by the MRO;
2. Written materials justifying reasonable suspicion testing or evidence that an individual may have altered or tampered with a specimen;
3. Anonymous statistical reports; and
4. Other documents the DPC, Headquarters ADPC, MRO, or EAP Manager deems necessary for efficient compliance with this Plan.

F. Records Maintained by Government Contractors

Any contractor hired to satisfy any part of this Plan shall comply with the confidentiality requirements of this Plan and all applicable Federal laws, rules, regulations, and guidelines.

G. Statistical Information

The DPC shall collect and compile anonymous statistical data for reporting the number of:

1. Random tests; reasonable suspicion tests; injury, illness, and unsafe or unhealthful practice tests; follow-up tests; or applicant tests administered;
2. Verified positive test results;
3. Voluntary drug counseling referrals;
4. Involuntary drug counseling referrals;
5. Removals or denials of employment offers resulting from refusal to submit to testing;
6. Removals or denials of employment offers resulting from alteration of specimens;
7. Removals or denials of employment offers resulting from failure to complete a drug abuse counseling program; and
8. Employees who successfully complete EAP.

This data, along with other pertinent information, shall be compiled for inclusion in the NRC annual report to Congress required by Section 503(f) of the Act. This data shall also be provided to HHS on an annual basis to assist in overall program evaluation and to determine whether changes to the HHS Guidelines may be required.

APPENDIX A

Criteria, Frequency, and Justification for Testing-Designated Positions

APPENDIX A

CRITERIA, JUSTIFICATION, AND FREQUENCY OF RANDOM TESTING FOR EMPLOYEES IN TESTING-DESIGNATED POSITIONS

I. CRITERIA FOR TESTING

Executive Order (EO) 12564 authorizes random drug testing of all employees in sensitive positions. Since all NRC positions are sensitive as defined by EO 12564, all NRC employees are subject to drug testing. On January 15, 1992, ONDCP provided guidance for selecting testing-designated positions. On August 2, 1999, ONDCP issued revised guidance that consolidated changes resulting from court decisions and simplified the TDP approval process by establishing a core group of TDPs as presumptively to be included in all Federal drug testing plans. NRC positions meeting the presumptive criteria include employees who carry firearms on a daily or regular basis and motor vehicle operators carrying passengers.

NRC positions that fall under the ONDCP preferred testing criteria include employees having access to truly sensitive information that is reasonable to assume may damage national interests if compromised. NRC employees with SECRET or above security clearances have access to information whereby the unauthorized disclosure could be expected to cause serious damage to the national security. TDPs meeting the preferred testing criteria are categories that represent strong government interest for drug testing.

Considering the provisions of the EO, ONDCP guidance, and post September 11, 2001 environment, the Commission determined that all NRC employees with SECRET or above clearances occupy TDPs and are subject to random testing.

II. FREQUENCY

The random drug testing pool is 100% of the population, which is 3,454 employees (FY 2007 allocation). Random drug testing will be conducted ten times per year for a testing rate of 50 percent.

APPENDIX B

Drugs for Which Individuals Are Tested

APPENDIX B

DRUGS FOR WHICH INDIVIDUALS ARE TESTED

The NRC Drug Testing Program will test for the following drugs:

- (1) marijuana
- (2) cocaine
- (3) opiates
- (4) amphetamines
- (5) phencyclidine (PCP)

If NRC desires to test for any other drug, advance written approval from the Secretary, HHS is required.

