

U.S. Department of Energy
Washington, DC

ORDER

DOE O 343.1A

Approved: 10-13-2023
Chg 1 (LtdChg): 4-23-2024

SUBJECT: FEDERAL SUBSTANCE ABUSE TESTING PROGRAM

1. PURPOSE. To establish the requirements and responsibilities for the Department of Energy (DOE) Federal Substance Abuse Testing Program.
2. CANCELS/SUPERSEDES. DOE O 343.1, Federal Substance Abuse Testing Program, date 01-30-2014.
3. APPLICABILITY.
 - a. Departmental Elements.
 - (1) With the exception of the equivalencies/exemptions listed in paragraph 3.c., this Order applies to all Departmental elements.
 - (2) The Administrator of the National Nuclear Security Administration (NNSA) must ensure that NNSA employees comply with their responsibilities under this directive. Nothing in this directive will be construed to interfere with the NNSA Administrator's authority under section 3212(d) of Public Law (P.L.) 106-65 to establish Administration-specific policies, unless disapproved by the Secretary.
 - b. DOE Contractors. This Order does not apply to contractors.
 - c. Equivalencies/Exemptions for DOE O 343.1A.
 - (1) Equivalencies and exemptions to this Order are processed in accordance with DOE O 251.1, *Departmental Directives Program*.
 - (2) Equivalency. In accordance with the responsibilities and authorities assigned by Executive Order 12344, codified at 50 USC sections 2406 and 2511 and to ensure consistency throughout the joint Navy/DOE Naval Nuclear Propulsion Program, the Deputy Administrator for Naval Reactors (Director) will implement and oversee requirements and practices pertaining to this Directive for activities under the Director's cognizance, as deemed appropriate.
4. REQUIREMENTS. The requirements in this Order do not supersede applicable laws, regulations, Executive Orders, and Substance Abuse and Mental Health Services Administration (SAMHSA) Mandatory Guidelines.

a. General.

- (1) DOE will administer a corporate drug and alcohol testing program and will identify categories of positions that are subject to drug and/or alcohol testing, herein referred to as Testing Designated Positions (TDP). TDPs will be designated based on the Department's Drug Free Workplace Program Plan, SAMHSA Mandatory Guidelines, and Department of Transportation (DOT) regulations.
- (2) Departmental Elements must designate a Local Substance Abuse Program Coordinator to cover the requirements and employee interactions for assigned organizations. The Local Substance Abuse Program Coordinator will follow the requirements of this Order and any implementing guidelines provided by the Office of the Chief Human Capital Officer (HC) as applicable.

b. Types of Drug Testing. Testing for the use of illegal drugs may occur using urine specimens, oral fluids, or other forms of testing as approved or designated by SAMHSA Mandatory Guidelines and DOT regulations.

- (1) Employees assigned to TDPs (as described in Appendix A) are subject to random testing.
- (2) New DOE applicants for TDPs are subject to pre-employment (also referred to as applicant) testing.
- (3) Employees in TDPs who fall within DOT testing regulations are subject to return-to-duty testing.
- (4) Employees who volunteer to be included in the random testing program are treated as if they are in TDPs.
- (5) All Federal employees are subject to post-accident or post-incident (also referred to as unsafe practice), reasonable suspicion, and follow-up testing. Follow-up testing is only required when an employee has either tested positive for illegal drugs, admitted to the use of illegal drugs, or had a Medical Review Officer (MRO) report of "refusal to test."

c. Types of Alcohol Testing. The following employees and applicants are also subject to alcohol testing, which is conducted by a Breath Alcohol Technician (BAT):

Employees in TDPs who are required to maintain a commercial driver's license (CDL), aviation certificate, are a member of a flight crew, or are subject to other transportation requirements per DOT regulations are subject to random; pre-employment/applicant; follow-up; post-accident or post-incident/unsafe practice; reasonable suspicion; and return-to-duty testing. This includes employees who obtain a CDL voluntarily in conjunction with their position.

- d. Random Testing. Employees in TDPs are subject to random testing using an automated method managed by the Department's Substance Abuse Program Manager, in HC. Random testing rates are outlined in Appendix A. Employees assigned to the DOE Human Reliability Program (HRP) are not included in the Department's regular TDP random testing pool population.
- (1) Employees in TDP(s) assigned to the DOE HRP are subject to pre-employment/applicant; follow-up; post-accident or post-incident/unsafe practice; reasonable suspicion; and return-to-duty testing. Accordingly, TDPs assigned to the HRP are not subject to random testing requirements since they are tested at least once annually.
 - (2) Tracking. The Department's Substance Abuse Program Manager tracks and maintains the random test database. Separate random testing reports are maintained for positions that are designated using the SAMHSA Mandatory Guidelines and for positions that follow DOT regulations. Random selections of Federal employees are made using these reports/lists by the Department's Substance Abuse Program Manager or designee.
 - (3) Random Selections. The Department's Substance Abuse Program Manager will manage the automated random testing selection pool and process. The percentage of employees selected for testing will be established by Federal regulations or by the Secretary of Energy as indicated in Appendix A. Random testing cycles will follow a formula and schedule as established by the Department's Substance Abuse Program Manager in consultation with affected program offices (see Appendix A for the percentage of testing for each TDP).
 - (4) Collection Procedures. Collections will be made in accordance with the SAMHSA Mandatory Guidelines or DOT regulations depending on the authority under which the test is being administered.
 - (5) Refusal to Test. Refusal to test includes donor interference with or refusal to participate in the random collection/testing process.
 - (a) This may include, but is not limited to, failure to cooperate in the collection process; failure to appear at the collection site within the designated timeframe or within a reasonable timeframe as determined by the reporting official's discretion; failure to remain at the collection site; failure to provide a specimen; failure to follow instructions given by the collector; failure to permit an observer to monitor the collection during an observed collection; failure to take an additional drug test when directed; and failure to undergo medical evaluations as directed by the MRO.
 - (b) The MRO will also report a refusal to test on verified adulterated or substituted tests.

- (c) For an employee, the refusal to test will result in the initiation of corrective action, up to and including removal from Federal service. For an applicant, the offer of employment will be withdrawn.
- (6) Positive Test Results. When the MRO reports a final positive random test result, the Department's Substance Abuse Program Manager will notify the Local Substance Abuse Program Coordinator, the Servicing Employee Relations Office, and the employee's supervisor. Working together they will ensure the employee:
- (a) Is officially notified in writing by the SHRO/SSC or Local Substance Abuse Program Coordinator.
 - (b) Is removed from or relieved of their sensitive duties.
 - (c) Has their Personnel Security Office or Cognizant Personnel Security Officer (CPSO) notified, as appropriate.
 - (d) Is referred to the Employee Assistance Program (EAP) or to a Substance Abuse Professional (SAP).
- If employee enters a formal rehabilitation program, the employee may be temporarily removed from the random testing pool during rehabilitation if the first line supervisor submits the request to the Local Substance Abuse Program Coordinator.
- (e) Signs a "Substance Abuse Acknowledgement" document and participates in follow up testing for a minimum of 12 months.
 - (f) Is informed that a second positive drug test may result in removal from Federal service.
 - (g) Is subject to disciplinary action, up to and including removal from Federal service.
- (7) Vacancy Announcements. Vacancy announcements for TDPs must include a statement concerning applicant and random testing requirements as a condition of Federal employment. Further, tentative job offers must explain negative drug test results are required before appointment into the Federal service.
- (8) Biennial Notice. The Department's Substance Abuse Program Manager will issue a general notice every other year to remind employees assigned to TDPs of the requirements of the Department's random testing program and the availability of assistance through EAP.
- (9) Process for Individual Notices.

- (a) Local Substance Abuse Program Coordinators are required to issue a one-time notice (also called 30-day notice) to an employee whose position is subject to random testing. This notice must be issued upon the employee's entry into a TDP and at least 30 days before initiation of random testing. At a minimum, the notice must include:
- 1 The purpose of the testing program, which is to ensure that employees in the positions listed in Appendix A can perform the tasks of their positions safely at all times.
 - 2 Why the employee is subject to unannounced random testing.
 - 3 The effective date that the employee will be subject to random testing.
 - 4 The types of tests that will be administered.
 - 5 A statement that the applicable testing procedures will comply with the SAMHSA mandatory guidelines for drug testing and/or DOT regulations.
 - 6 A statement on the role of the employee in the testing process.
 - 7 A statement that a positive test result (i.e., a test result that indicates the employee has recently used an illegal drug or alcohol), may result in disciplinary action or security clearance/access authorization revocation based on applicable laws, regulations, Executive Orders, mandatory guidelines, and/or this Order or other applicable Departmental directives.
 - 8 A statement that counseling and rehabilitative assistance are available through the EAP or SAP for an employee who tests positive or for an employee who voluntarily identifies that they are a user of an illegal drug or an abuser of alcohol and requests referral to the EAP.
 - 9 A statement that the employee may file a grievance pursuant to the provisions of DOE O 342.1, *Grievance Policy and Procedures*, current version, or the applicable collective bargaining agreement; or other appeal process(es).
- (b) An employee must acknowledge receipt of the notice in writing or the employee's supervisor must certify the notice was issued to the

employee, but the employee was unwilling to sign the acknowledgement.

- (c) Employees selected for random testing will be notified no sooner than two hours prior to their scheduled collection timeframe.
- e. Pre-Employment/Applicant Testing. All applicants who have been tentatively selected for a TDP will be drug tested prior to entering the new position. An applicant alcohol test may be conducted for applicant/employee applying for a position covered by the HRP. Applicants for DOT regulated positions may be alcohol tested in accordance with DOT regulations.
- (1) Applicants should report to the testing site within 72 hours of receiving notice to submit drug tests and confirmation that the collection kit has been delivered to the collection facility. The Servicing Human Resources Offices/Shared Service Centers is responsible for scheduling the applicant's test.
 - (2) DOE Employees Selected for a TDP.
 - (a) DOE Employees in a TDP. A current DOE employee already serving in a TDP position who is selected for a different TDP will not be required to obtain a pre-employment/applicant test before moving into the new TDP (via reassignment, promotion, transfer or otherwise).
 - (b) DOE Employees in a Non-TDP. DOE employees serving in a non-TDP must follow and satisfy pre-employment/applicant testing requirements before moving into the new TDP (via reassignment, promotion, transfer, or otherwise).
 - (c) Should a current DOE employee in a non-TDP position receive a positive test result due to applying for a TDP, the following will occur:
 - 1 The employee will not be selected for the TDP for which they applied;
 - 2 The positive test result will be shared with the current supervisor and the personnel security office, if applicable;
 - 3 The employee will be referred for counseling or rehabilitation; and
 - 4 The employee may be subject to follow-up testing and corrective action up to and including removal from Federal service.

- (3) Non-DOE Applicants. A non-DOE applicant who tests positive will not be selected.
- f. Follow-up Testing. When an employee has tested positive or admitted to illegal drug use or alcohol abuse, testing may be required during formal counseling or rehabilitation.
- (1) Follow-up testing will be required for a minimum of 12 months following the date that a "Substance Abuse Acknowledgement" document is signed or the date that a "Substance Abuse Acknowledgement" document has been executed, whichever is the later. A Substance Abuse Acknowledgement covers the primary information provided in the Individual Notice and includes the conditions for not meeting the mandatory requirements if a follow-up test returns positive.
 - (2) Testing will be conducted in accordance with either SAMHSA Mandatory Guidelines or DOT regulations, depending on the authorization under which the drug test was conducted.
 - (a) For employees tested under DOT regulations (e.g., CDL holders), the SAP will establish follow-up testing plans for employees who seek to resume their safety sensitive duties.
 - (b) All other employees will have their testing plans established by a management official above their immediate supervisor, with consultation from the EAP, supervisor, Servicing Employee Relations Specialist, and the Local Substance Abuse Program Coordinator who will carry out the follow-up testing plan.
 - (3) Follow-up testing is an observed collection and may be conducted at any time and/or with any frequency during the follow up testing timeframe. Once the collection has been scheduled, the employee must be directed to proceed immediately to the collection facility and must arrive as soon as possible without delay. The supervisor should verify any reasons for a delay.
- g. Post-Accident or Post-Incident/Unsafe Practice Testing. Employees who are involved in an accident or a reportable safety incident while on official duty may be tested even if they are not in a TDP.
- (1) Determination to conduct a post-accident test will be made by the supervisor or management official based on several factors that may include but are not limited to duty status, the use of a government vehicle, the direct cause of the accident, and/or the type and severity of injuries and property damage.
 - (2) A post-accident test must be completed as soon as practical in cases of human fatality, bodily injury with immediate medical treatment away from

the scene of the accident, or damage to property more than \$8,000. DOT regulations will be used for employees performing safety sensitive duties under DOT rules.

- (3) Once the collection has been scheduled, the Local Substance Abuse Program Coordinator must direct the employee to the collection facility immediately. The time frames for conducting testing are:
 - (a) Within 32 hours for a drug test; and
 - (b) Within eight hours for an alcohol test for employees who are also subject to being tested under DOT regulations.
 - (4) The Department will not attempt to administer a post-accident test if it has not been conducted within the assigned timeframes. The Local Substance Abuse Program Coordinator must prepare and maintain a record stating the reason the test was not administered.
- h. Reasonable Suspicion Testing. Any DOE employee (including those not assigned to a TDP) may be tested when there is a reasonable suspicion the employee may have engaged in illegal drug use or appears impaired by drugs. Only employees in the HRP or who are subject to DOT regulations may be tested for alcohol impairment under reasonable suspicion. The supervisor must provide the employee with a reasonable suspicion notice as described in the Department's Federal Substance Abuse Drug Testing Desk Reference.
- (1) Reasonable suspicion testing is an observed collection. The fact that an employee has tested positive or has undergone a period of rehabilitation will not be used solely as grounds for reasonable suspicion testing. The reasonable belief criteria include, but are not limited to:
 - (a) Observed phenomena, such as observation of illegal drug use, physical symptoms of being under the influence of an illegal drug, or the smell of an illegal drug or for HRP employees, the smell of alcohol.
 - (b) A pattern of abnormal conduct or erratic behavior.
 - (c) Arrest or conviction for a drug-related offense or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking.
 - (d) Information either provided or independently corroborated by reliable and credible sources about illegal drug use or alcohol abuse.
 - (e) Possession of an illegal drug or drugs while entering any DOE facility or site.

- (f) Newly discovered evidence that the employee has tampered with a previous drug test.
- (2) Level of Approval. The designated management official and the SHRO/SSC Director must concur/non concur on the first-line supervisor's request for reasonable suspicion testing.
- (3) Notice. A supervisor must provide a written notice to the employee that explains the basis for the reasonable suspicion and the required testing procedures including the location of the collection facility.
 - (a) When the employee and management official/first-line supervisor are physically co-located at a DOE worksite, the employee must be escorted to and from the collection facility by the management official/first-line supervisor immediately after receiving notice.
 - (b) When employees are not physically co-located at a DOE worksite with a senior management official or first-line supervisor, assigned to remote positions or are teleworking from an alternate worksite, special arrangements are required.
 - 1 When an employee is not physically co-located with a senior management or first-line supervisor, encumbers a remote work position, or is teleworking from an alternate worksite, the management official/first-line supervisor is responsible for coordinating the employee's transportation to and from a collection facility closest to the employee's work site (e.g., home address). The employee must proceed to the collection facility immediately after receiving notice.
 - 2 Paying for transportation (e.g., taxi, Lyft, Uber) for the employee to travel to and from the collection facility is a reimbursable expense to the employee or management official/first-line supervisor in accordance with DOE's Official Travel requirements.
- (4) Return-To-Duty Testing. An employee in a TDP tested under DOT regulations who has been removed from their sensitive duties due to a positive test result is subject to being tested for illegal drugs and alcohol before being returned to their sensitive duties. When an employee has completed a rehabilitation program, the return-to-duty test may be regarded as the initial follow-up test. A return-to-duty test is an observed collection.
 - i. Return to Sensitive Duties.
 - (1) If an employee is in a TDP and has undergone rehabilitation, the rehabilitation facility must provide the local EAP counselor or SAP and

Local Substance Abuse Program Coordinator with certification that the employee has successfully completed the rehabilitation program and tested negative for drug use.

- (2) The determination as to when the employee may return to sensitive duties will be made by the employee's supervisor after consultation with the Local Substance Abuse Program Coordinator and EAP counselor or SAP and after concurrence by the second line or higher supervisor, with concurrence by the Employee Relations Specialist and the Office of the General Counsel. The return to sensitive duties that involves a security clearance/access authorization is not covered by this Order. Eligibility for continued access will be a decision made by the Cognizant Personnel Security Office.

j. Test Results.

- (1) All drug test results will be reported by the MRO, using the criteria set forth in the SAMHSA mandatory guidelines or DOT regulations. The results will be reported electronically to the Department's Substance Abuse Program Manager(s). Results may be accessed by the Department's Substance Abuse Program staff and the cognizant Local Substance Abuse Program Coordinator. Alcohol test results conducted under DOT regulations and HRP requirements will be reported by the BAT to the cognizant Local Substance Abuse Program Coordinator or appropriate office.
- (2) A centralized, secure electronic file of the results of all drug tests performed for DOE will be available to the Department's Substance Abuse Program Manager. Local Substance Abuse Program Coordinators, and Personnel Security and Human Capital personnel, required to coordinate applicant drug testing, and other designated personnel will have access to the drug test results for employees and applicants in their designated access area or organizations.
- (3) The MRO, in accordance with SAMHSA Mandatory Guidelines or DOT regulations, will review all laboratory results, including, associated paperwork, when received. When the laboratory reports a positive test result, the MRO is required to contact the donor and conduct an investigation. As part of the investigation, the donor will be given the opportunity to provide an explanation of the laboratory test results and any associated documentation. The MRO will make the determination as to what test result will be reported to the Department. The employee will be notified in writing when a positive test result is reported.
- (4) When the certified laboratory reports a negative-dilute test result, the MRO will report the result using normal reporting procedures to the

Department's Substance Abuse Program Manager and direct the Department to collect another specimen from the donor immediately.

- (5) The Local Substance Abuse Program Coordinator will arrange for another collection in accordance with the SAMHSA mandatory guidelines or DOT regulations procedures that were used for the previous test. If the second specimen is also reported as negative-dilute by the MRO, there will be no additional test required.
 - (6) The employee may request a copy of the MRO results of their drug test through the Local Substance Abuse Program Coordinator.
 - (7) To ensure proper safeguarding within DOE, confidential test results information in any form (e.g., verbal, hard copy, records in a databases) must be identified and protected in accordance with the requirements for Controlled Unclassified Information found in DOE O 471.7, *Controlled Unclassified Information*, current version.
 - (8) Cancelled Test. The results are reported by the MRO to the Department when:
 - (a) A specimen has been reported to the MRO by the laboratory as an invalid test result when the donor has no legitimate explanation for the invalid result or when a split specimen (bottle B) fails to reconfirm (bottle A), or
 - (b) The MRO determines a fatal flaw or unrecovered correctable error exists in the forensic records.
- k. Records. All records, including laboratory test results, MRO interview notes, MRO results as reported, tracking history, and other testing documentation will be retained by the MRO and/or the drug testing laboratory or alcohol testing company in a secure manner that allows for the retrieval of all information pertaining to the employees tested for a minimum of two years after the date of notification of the test results to the Department. The Department must identify and protect all records produced or received in accordance with DOE O 471.7, current version.
- l. Training Requirements.
- (1) The Department's Substance Abuse Program Manager must be certified every five years to administer the Department's Substance Abuse Program.
 - (2) Supervisors and Local Substance Abuse Program Coordinators must be trained on reasonable suspicion, unsafe practices, post-incident and post-accident testing annually.

- (3) The Department's Substance Abuse Program Manager will ensure training is available using the Department's online training system. Training may also be available during the Supervisory Essentials Training Program.

5. RESPONSIBILITIES.

a. Office of the Secretary.

- (1) Approve or disapprove requests to include or exempt certain positions or groups of positions as TDPs.
- (2) Approve the percentage of random testing of TDPs not covered by laws or regulations.
- (3) Determine whether to allow deviations from the drug testing procedures outlined in Executive Order 12564, *Drug-Free Federal Workplace*, dated September 15, 1986.
- (4) Approve or disapprove requests to suspend random and applicant drug testing during national emergencies such as a pandemic or a Continuity of Operations (COOP) event, or other times when doing so may be in the best interest of the Department.

b. Chief Human Capital Officer (HC).

- (1) Implement and administer the Department's Substance Abuse Testing Program.
- (2) Identify the Department's Substance Abuse Program Manager(s).
- (3) Coordinate with the Director, Office of Human Capital Management, NNSA, for NNSA elements.
- (4) Submit and recommend approval of requests for suspension of random and applicant drug testing to the Secretary for approval or disapproval during national emergencies such as pandemic or a COOP event or other times when doing so may be in the best interest of the Department.
- (5) Establish an online training program for the Department's Substance Abuse Program.

c. Department Substance Abuse Program Manager(s).

- (1) Provide advice and guidance on policies, standards, and procedures concerning the DOE substance abuse testing program consistent with applicable laws, regulations, Executive Orders, DOT regulations, SAMHSA mandatory guidelines, and DOE Directives or Orders.

- (2) Maintain a report of all TDPs and testing activities. Ensure database remains updated and compliant with Federal regulations and recommends approval or disapproval of requests to exempt certain positions or groups of positions from the substance abuse testing program.
- (3) Maintain training certification every five years as required by SAMHSA Mandatory Guidelines.
- (4) Maintain the Department's Drug Testing Plan in accordance with SAMHSA Mandatory Guidelines, the HRP and DOT regulations.
- (5) Continually review the TDP designations to ensure compliance with this Order and the Department's Drug Testing Plan.
- (6) Make the random selections for the Department's Federal random drug and alcohol testing of employees and distribute the random lists to Local Substance Abuse Program Coordinators. The Department's Substance Abuse Program Manager or designee is the only individual within DOE authorized to perform this function.
- (7) Ensure adequate funds are allocated for conducting testing programs from the Working Capital fund.
- (8) Provide for laboratory and collection services, including the MRO, and supplies needed for the testing program.
- (9) Provide annual reports to SAMHSA on the substance abuse testing program and provide periodic internal reports.
- (10) Maintain liaison with the U.S. Office of Personnel Management (OPM), SAMHSA, and DOT, on drug and alcohol testing policy and other pertinent matters.
- (11) Evaluate the effectiveness of the DOE Substance Abuse Testing Program.
- (12) Conduct quarterly meetings and/or updates with Local Substance Abuse Program Coordinators.
- (13) Maintain training certification as required by Federal regulations.
- (14) Ensure Local Substance Abuse Program Coordinators and supervisors are trained on the drug and alcohol testing program to include post-accident or post-incident, unsafe practice, and reasonable suspicion testing, as well as maintaining confidentiality regarding testing and test results.
- (15) Maintain supplemental guidance supporting the Department's Substance Abuse Program for Administering Federal Substance Abuse Testing at DOE.

d. Heads of Departmental Elements.

- (1) Identify TDP positions in the Departmental Element.
- (2) Designate a management official the responsibility to authorize a reasonable suspicion test. This authority may not be delegated further than the deputy manager for a site office or principal deputy level for a staff office.
- (3) Designate a Local Substance Abuse Program Coordinator(s). There are no restrictions on the number of Local Substance Abuse Program Coordinators a Departmental Element may have.

e. Local Substance Abuse Program Coordinator(s).

- (1) Establish and maintain appropriate file(s) to record all activities related to the Department's Substance Abuse Testing Program including, but not limited to, issuance/acknowledgement of TDP notices, testing notices, results, corrective actions, etc.
- (2) Once notified by the Department's Substance Abuse Testing Program Manager, coordinate the scheduling of testing for their offices or sites.
- (3) Coordinate quarterly random testing within 60 days of receiving the quarterly notice from the Department's Substance Abuse Program Manager and/or coordinate monthly HRP testing within 30 days of receiving notice from the Department's Substance Abuse Program Manager.
- (4) Report the results and completion to the Department's Substance Abuse Program Manager no later than the last workday of the last month in the quarter for the quarterly and the last day of the month for the HRP testing.
- (5) Submit quarterly reports to the Department's Substance Abuse Program Manager on testing related activities using the pre-determined format.
- (6) Receive drug test results from the MRO and alcohol test results from the BAT.
- (7) Provide written notification of positive test results from the MRO to the applicable supervisor and, as necessary, to the employee/applicant, other management officials, the EAP counselor, and the SAP and send a copy of the written notification to the Department's Substance Abuse Program Manager.
- (8) Report positive drug and alcohol test results for DOE employees to the appropriate Servicing Human Resources Office (SHRO) or Shared Service

Center (SSC) and personnel security official if the applicant has or is under consideration for security clearance/access authorization.

- (9) Maintain a list of TDPs, employees in those positions, supervisors of those employees, and recent test results.
- (10) Provide quarterly updates to the Departmental Substance Abuse Program Manager of status changes for employees assigned to TDPs. Assist supervisors in administering the execution of a "Substance Abuse Acknowledgement" document.
- (11) Provide assistance and guidance to supervisors and management officials when determinations are required for reasonable suspicion and post-accident or post-incident testing.
- (12) Ensure supervisors and managers take the secure training for supervisors and managers about the drug and alcohol testing program, to include post-accident or post-incident, unsafe practice, and reasonable suspicion testing, as well as maintaining confidentiality regarding testing and test results.
- (13) Coordinate with the EAP service provider to obtain information regarding an employee's participation in a rehabilitation program and/or test results when applicable.
- (14) These duties may be delegated as necessary to cover multiple sites.

f. Managers and Supervisors.

- (1) Ensure employees are available and direct them to report for scheduled testing.
- (2) Issue the actual notice directing the employee to report for random testing in coordination with the Local Substance Abuse Program Coordinator.
- (3) Ensure employees who have tested positive are offered the opportunity to participate in the EAP.
- (4) Identify, justify, and recommend employees for reasonable suspicion testing in accordance with this Order.
- (5) Identify employees who should be tested following accidents, incidents, or unsafe practice, and provide information to the Local Substance Abuse Program Coordinator.
- (6) Coordinate challenges or grievances related to the Department's Substance Abuse Testing Program, or non-compliance with this Order with the

appropriate Servicing Employee Relations Specialist and Local Substance Abuse Program Coordinator.

- (7) Consult with the appropriate Servicing Employee Relations Specialist before taking action following the determination of an employee's use of illegal drug or alcohol abuse including:
 - (a) Timely initiate discipline/corrective action for employees who have tested positive for illegal drugs or alcohol use; and
 - (b) Recommend and/or implement decisions on removal from sensitive duties, leave, and other corrective action because of an employee's positive test results or request for EAP counseling or rehabilitation due to substance abuse.
- (8) Maintain the confidentiality of test results and related information only with those who have a need to know.

g. Employee or Applicant (Donor).

- (1) Comply with the instructions provided by the supervisor, Local Substance Abuse Program Coordinator(s), or the SHRO/Shared Service Center when notified of a testing requirement.
- (2) Report to the clinic or collection location at the appropriate time with photo identification and the least number of personal items as possible, in accordance with SAMHSA Mandatory Guidelines.
- (3) Follow the instructions of the drug test collector or the BAT to ensure the collection process is conducted in accordance with SAMHSA Mandatory Guidelines or DOT regulations.
- (4) If contacted by the MRO as part of the review of a laboratory drug test result, respond to the MRO in a timely manner and provide information and documentation that may assist in determining the test result to be reported.

h. Substance Abuse Professional (for DOT-regulated testing).

- (1) Provide a comprehensive assessment and clinical evaluation to determine the level of assistance the employee needs in resolving problems associated with alcohol use or prohibited drug use.
- (2) Serve as a referral source to assist the employee's entry into an acceptable program that best provides the recommended assistance.

- (3) Complete an evaluation with the employee to determine if they have successfully complied with DOT requirements and report that determination to the Local Substance Abuse Coordinator.
 - (4) Establish a written follow-up testing plan and provide a copy to the Local Substance Abuse Program Coordinator.
 - (5) Provide the EAP counselor and the Local Substance Abuse Program Coordinator(s) with updates, as needed.
 - i. Medical Review Officer.
 - (1) Comply with the requirements of the SAMHSA Mandatory Guidelines and DOT regulations.
 - (2) Review all drug test results reported by the certified laboratory and report the results to the Department's Substance Abuse Program Manager as applicable using the existing reporting system.
 - (3) Report summaries of all activities and findings to the Department's Substance Abuse Program Manager.
 - j. Breath Alcohol Technicians (BAT).
 - (1) Comply with the DOT alcohol testing regulations.
 - (2) Report test results to the designated Local Substance Abuse Program Coordinator(s).
6. INVOKED STANDARDS. This Order does not invoke any DOE technical standards or industry standards as required methods. Note: DOE O 251.1, current version, provides a definition for "invoked technical standard."
7. DEFINITIONS.
 - a. Adulterated Specimen. A specimen that has been altered, as evidenced by the test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.
 - b. Breath Alcohol Technician (BAT). A person who instructs and assists employees in the collection process and operates an evidential breath testing device for alcohol testing.
 - c. Cancelled Test. The results reported by the MRO to the Department 1) when a specimen has been reported to the MRO by the laboratory as an invalid test result when the donor has no legitimate explanation or when a split specimen (bottle B) fails to reconfirm (bottle A); or 2) when the MRO determines that a fatal flaw or unrecovered correctable error exists in the forensic records.

- d. Certified Laboratory. An approved laboratory where initial and confirmatory testing, reporting of results, and recordkeeping is performed. The laboratory must be certified by a team of inspectors from Health and Human Services (HHS) showing they meet the SAMHSA Mandatory Guidelines to perform Federal drug testing.
- e. Collection Site. The location where specimens are collected.
- f. Donor. The individual from whom a specimen is collected.
- g. Illegal Drugs. A controlled substance included in Schedule I or II, 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. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by Federal law. Note: Applicants and employees (donors) are not exempt under state laws that permit medical or recreational use of marijuana; Federal drug testing will continue to operate in accordance with Federal law, which identifies marijuana as a Schedule I drug under the Controlled Substance Act. As such, Federal civilian employees within the Executive Branch will continue to be tested for marijuana at the established cut off levels as defined in the SAMHSA Mandatory Guidelines.
- h. Local Substance Abuse Coordinators. Employees that administer the drug-free workplace program for their local organization and serve as the intermediary of the employee and the SHRO/SSC and the Department's Substance Abuse Program Manager.
- i. Negative-Dilute Drug Test. A negative test result, as reported by the MRO, with weight and creatinine values lower than expected, but still within the physiologically producible range of human urine, saliva, etc., that causes another specimen to be collected immediately.
- j. Observed Collection. Uses the same collection procedure as that of a routine drug collection, except an observer or collector will watch the donor urinate into the collection container.
- k. Positive Drug Test Results. As reported by the MRO, in accordance with the cutoff levels as established by SAMHSA mandatory guidelines or DOT regulations for a positive drug test.
- l. Random Testing. Unannounced testing of employees in TDPs who have been selected using a random sampling technique.
- m. Reasonable Suspicion. An articulated belief drawn from specific and particularized facts and reasonable inferences from those facts that an employee used illegal drugs or abused alcohol.

- n. Testing Designated Positions. Specific categories of positions in the Department that are subject to drug and/or alcohol testing according to SAMHSA Mandatory Guidelines, the Department's Drug Testing Plan and DOT regulations.

8. REFERENCES.

- a. Title V of P.L. 102-143, Omnibus Transportation Employee Testing Act of 1991, discusses the substance abuse testing for the safety and welfare of the Nation in the transportation industry.
- b. 5 United States Code (U.S.C.) 552a. *Records maintained on individuals*, describes the protection of employee records under the Privacy Act.
- c. 5 U.S.C. 7301. *Presidential Regulations: Historical and Revision*, Notes, established appropriations to support the Federal Drug-Free Workplace Program; Public Law (P.L.) 100-71, as amended by P.L. 102-54 (b)(1)(B) provided funding for DOE employees who handle nuclear weapons or nuclear materials.
- d. 10 Code of Federal Regulations (CFR) 712, *Human Reliability Program*, established the DOE HRP and the substance abuse testing requirements for the employees in the HRP.
- e. 49 CFR Part 40, *Procedures for Transportation Workplace Drug Testing Programs*, established testing program requirements for the substance abuse testing of transportation workers.
- f. 49 CFR 382, *Controlled Substances and Alcohol Use and Testing*, established programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles, i.e., CDL holders.
- g. Executive Order 12564, *Drug-Free Federal Workplace*, September 15, 1986, required agencies to establish a drug-free workplace program.
- h. Mandatory Guidelines for Federal Workplace Drug Testing Programs. Mandatory Guidelines for Federal Workplace Drug Testing Programs for establishing technical collection procedures for drug testing laboratories.
- i. Medical Review Officer Manual for Federal Workplace Drug Testing Programs. DHHS, CSAP; October 1, 2017, which established the role and responsibilities for Medical Review Officers.
- j. SAMHSA 2013 Guidance for Selection of Testing Designated Positions (TDP).
- k. DOE O 206.1, Department of Energy Privacy Program, current version, which provides the Department's and statutory and regulatory requirements for privacy, specifically those provided in the Privacy Act of 1974, as amended.

- l. [DOE O 342.1, *Grievance Policy and Procedures*](#), current version, addresses requirements and responsibilities for processing grievances associated with the substance abuse testing program.
 - m. [DOE O 333.1, *Administering Work Force Discipline, Adverse and Performance Based Actions*](#), current version, addresses taking corrective (disciplinary) action because of failed substance abuse testing.
 - n. [DOE O 550.1, *Official Travel*](#), current version, addresses the Department's Official Travel Guidance.
 - o. [DOE O 471.7, *Controlled Unclassified Information*](#), current version.
 - p. [DOE Federal Substance Abuse Testing Desk Reference](#), which provides supplemental guidelines for administering the Department's Federal Substance Abuse Program.
9. **CONTACT.** Questions concerning this Order should be addressed to the Office of the Chief Human Capital Officer, Human Capital Policy Division, at DOEDrugTestingProgram@hq.doe.gov.

BY ORDER OF THE SECRETARY OF ENERGY:



DAVID M. TURK
Deputy Secretary

APPENDIX A
TESTING DESIGNATED POSITIONS (TDPs)
EMPLOYEE CATEGORIES, SENSITIVITY CODES, AND ANNUAL TESTING RATES

1. Positions Involving National Security. This category includes positions where the employee has a security clearance. These positions include those employees with a secret, top secret, or "L" or "Q" security clearance. These positions involve access to sensitive information or facilities; therefore, it is reasonable to assume employees in such positions may damage the country's national interests if compromised. This category is divided into subcategories, called sensitivity codes, of employees as described below. Employees in sensitivity codes A and C are subject to the 30 percent annual testing rate, while employees in sensitivity code D are subject to the 100 percent annual testing rate. Employees in sensitivity code D are also subject to alcohol testing as part of the substance abuse testing program due to Human Reliability Program (HRP) requirements.

<u>Sensitivity Code</u>	<u>Description</u>
A	Employees who have a Secret, Top Secret, or "L" or "Q" clearance. This code takes precedence over all codes except for D or U.
B	(Reserved)
C	Employees who have unescorted or unrestricted access to Category A nuclear reactor control rooms and/or access to Category I quantities of special nuclear material.
D	Employees who are in the HRP. This code is to take precedence over code A or C for an employee in the HRP.
E	(Reserved)

2. Positions Involving Public Health or Public Safety. This category includes positions filled by employees having health and safety responsibilities, usually involving a potentially dangerous instrument or machine that could cause immediate, substantial physical injury to the public if carried out under the influence of drugs. Medical positions that provide direct patient care and positions that involve work where mistakes are life threatening and in which instant judgments are required with little opportunity for review are also included. This category is divided into sensitivity codes as described below. Employees in all sensitivity codes in this group are subject to the 30 percent annual testing rate. However, employees in subcategories H and I may be subject to a higher annual test rate as required by DOT Regulations.

<u>Sensitivity Code</u>	<u>Description</u>
F	Employees who are authorized to carry a firearm.
G	Employees who have access to a firearm as part of their official duties.

H	Employees who serve as members of aviation flight crews.
I	Aviation personnel, including flight attendants, flight instructors, ground instructors, flight testing personnel, aircraft dispatchers, maintenance personnel, and aviation security and screening personnel.
J	Medical doctors and allied medical personnel who are responsible for direct patient care and who prescribe or administer drugs.
K	Employees who serve as a direct service staff of alcohol and drug counseling programs.
L	Firefighters.

3. Positions filled by Presidential Appointees. This category is divided into sensitivity codes as described below. All employees in this category are subject to the 30 percent annual testing rate.

<u>Sensitivity Code</u>	<u>Description</u>
M	Employees who are appointed by the President and confirmed by the Senate
N	(Reserved)

4. Positions Involving Law Enforcement. This category includes law enforcement personnel with proximity to criminals or individuals suspected of criminal activity. In DOE, only one sensitivity code is included in this category. An employee in this category is subject to the 30 percent annual testing rate.

<u>Sensitivity Code</u>	<u>Description</u>
O	Criminal Investigators

5. Positions Involving the Construction, Operation, and Maintenance of Transportation or Major Electrical Equipment. This category includes all employees who are required to maintain commercial driver's licenses (CDLs) and/or employees who work in some field of high voltage electricity (construction, maintenance, dispatch, operations or control of electrical equipment or facilities). This category is divided into sensitivity codes as described below. Employees in sensitivity codes P and Q are subject to the annual testing rate as required by DOT regulations, which will be established on an annual basis contingent on the positive test rate from previous years. Employees in sensitivity codes R and S are subject to the 30 percent annual testing rate, while employees in sensitivity code U are subject to the 100 percent annual testing rate, as they are also included in the HRP. All CDL holders are subject to alcohol testing under DOT regulations. The testing percent for those employees who are tested under DOT regulations (except for HRP

employees) is determined by the DOT annually and will be used for testing unless it is less than the Department's level.

<u>Sensitivity Code</u>	<u>Description</u>
P	Employees who operate a motor vehicle carrying passengers under 5 CFR 930.102.
Q	Employees who operate commercial motor vehicles and who work in some field of high voltage electricity are required to maintain a CDL under 49 CFR 391.11. This code is to take precedence over all other codes that could be assigned to an employee, except those covered by subcategory U.
R	Employees who maintain or construct high voltage (600 volts or higher) electrical equipment or facilities.
S	Employees who are involved in dispatching, controlling, or operating high voltage (600 volts or higher) electrical equipment or facilities.
T	Unassigned
U	Employees who are in the HRP, who operate commercial motor vehicles, and are required to maintain a CDL under 49 CFR 391.11 and have a security clearance. This code is to take precedence over all other codes that could be assigned to an employee in the HRP.

6. Other Sensitive Positions. Only one sensitivity code is included in this category. All employees in this category are subject to the 30 percent annual testing rate.

<u>Sensitivity Code</u>	<u>Description</u>
V	Employees who are not in TDPs but who request to participate in random drug testing. Such employee-initiated requests do not need Secretarial approval.