

CEHR-D

Pamphlet
No. 600-1-3

28 February 2001

Personnel-General
USACE DRUG TESTING PROCEDURES
for
THE ARMY'S DRUG-FREE FEDERAL WORKPLACE (DFW)
CIVILIAN DRUG TESTING PROGRAM

1. Purpose. On 15 September 1986, Executive Order (EO) 12564 established the goal of a Drug-Free Federal Workplace (DFW) and required Federal agencies to develop a plan to achieve this goal. The Army instituted a DFW plan that includes a civilian drug testing program. This Engineer Pamphlet (EP) provides guidelines for the administration of civilian drug testing in the Corps of Engineers. It is to be used in conjunction with AR 600-85, Alcohol and Drug Abuse Prevention and Control Program, and the Department of Health and Human Services (DHHS) Mandatory Guidelines for Federal Workplace Drug Testing Programs.
2. Applicability. This pamphlet applies to all HQUSACE elements and all USACE commands.
3. Distribution. Approved for public release; distribution is unlimited.

FOR THE COMMANDER:



ROBERT L. DAVIS
Colonel, Corps of Engineers
Chief of Staff

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USACE DRUG TESTING PROCEDURES
FOR
THE ARMY'S DRUG-FREE FEDERAL WORKPLACE (DFW) CIVILIAN DRUG
TESTING PROGRAM

1. Purpose. On 15 September 1986, Executive Order (EO) 12564 established the goal of a Drug-Free Federal Workplace (DFW). This EO recognized the serious impact of illegal drug use on the national workforce and required Federal agencies to develop a plan for achieving the objective of a DFW, with due consideration to the rights of the government, the employees, and the general public. To achieve this goal, the Army implemented the DFW drug abuse testing program for DA civilian employees. The following procedures provide guidelines for administration of civilian drug testing in the Corps of Engineers. These guidelines should be used in conjunction with AR 600-85, Alcohol and Drug Abuse Prevention and Control Program, and the Department of Health and Human Services (DHHS) Mandatory Guidelines for Federal Workplace Drug Testing Programs

2. Applicability. This pamphlet applies to all HQUSACE elements and all USACE commands.

3. Distribution. Approved for public release; distribution is unlimited.

4. References.

- a. EO 12564, Drug-Free Federal Workplace, 15 September 1986.
- b. DoD Directive 1010.9, Civilian Employee Drug Abuse Testing Program, administrative re-issuance incorporating Change 1, 20 January 1992.
- c. AR 380-67, Personnel Security Program.
- d. AR 600-85, Alcohol and Drug Abuse Prevention and Control Program.
- e. AR 690-700, Chapter 751, Discipline.
- f. ER 385-1-91, Training, Testing, and Licensing of Boat Operators.

g. Memorandum, CEHR-D, 13 March 2000, subject: Drug-Free Workplace, Appendix A.

h. Mandatory Guidelines for Federal Workplace Drug Testing Programs, published by the Department of Health and Human Services, which includes Scientific and Technical Requirements and Certification of Laboratories Engaged in Urine Drug Testing, 59 FR 29908-29931; 62FR 51118-51119; 63FR 63483-63484.

5. Responsibilities. Implementation of an effective testing program requires the cooperation and involvement of the supervisor, the Alcohol and Drug Control Officer (ADCO), the Employee Assistance Program (EAP) provider, the Drug Program Administrator, the Labor Counselors, the servicing Civilian Personnel Advisory Center (CPAC), and the Division/MSC and District/FOA Drug Program Coordinators (DPCs). Commanders will appoint alternate DPCs to assist with the program. Division/MSC DPC responsibilities include: establishing and maintaining databases for random and voluntary testing; generating random lists and notifying the District/FOA DPCs of employees to be tested; and serving as POC for the Medical Review Officer. District/FOA DPC responsibilities include: scheduling collections (including applicant tests) with the contractor; notifying supervisors when their employees are selected for testing; and serving as POC for the collector when an employee fails to report for testing, refuses to provide a sample or an observed collection is required. All DPCs will be responsible for maintaining appropriate files (see paragraph 10.) and will provide training for their workforce about the program.

6. Categories of Drug Testing and Testing Procedures. To realize the objectives of EO 12564, the Army, in AR 600-85, implemented the six required categories of drug testing. These categories are: reasonable suspicion, accident or unsafe practice, voluntary, follow-up, applicant, and random testing. Specimen collection, laboratory analysis and medical review officer (MRO) services will normally be obtained under the COE-wide collection and testing contracts. Exceptions to this must be coordinated with the HQUSACE Drug Program Administrator. Testing must be conducted at a DOD/DHHS-certified forensic drug testing laboratory as specified by DA; results from other laboratories will not be accepted. Specimens will be tested for all five drugs authorized by DHHS for testing under this program. These drugs are: amphetamines, opiates, phencyclidine (PCP), cocaine and marijuana.

a. Reasonable suspicion testing.

(1) All civilian employees are subject to reasonable suspicion testing when there is a reasonable suspicion of on-duty use or on-duty impairment.

(2) Civilian employees in Testing Designated Positions (TDPs) are subject to testing when there is a reasonable suspicion that an employee uses illegal drugs, whether on or off duty.

(3) The supervisor will initiate testing when there is "reasonable suspicion" of illegal drug use (i.e., an articulable belief that an employee uses illegal drugs drawn from specific and particularized facts and reasonable inferences from those facts); mere hunches or rumors are not sufficient to initiate testing. Reasonable suspicion may be based upon:

(a) Direct observation of drug use or possession and/or physical symptoms of being under the influence of an illegal drug.

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

(c) Arrest or conviction of a drug-related offense.

(d) Observation of drug use or possession and/or physical symptoms of being under the influence of an illegal drug provided by a reliable and credible source or independent corroboration.

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

(4) When a supervisor suspects an employee is using illegal drugs, the supervisor will gather information, facts, and circumstances leading to and supporting this suspicion and consult with the next higher level supervisor, the Labor Counselor and the servicing CPAC to review the evidence. The supervisor will prepare and maintain a written report to include, at a minimum, the appropriate dates and times of reported drug-related incidents; reliable/credible sources of information, including statements from sources; rationale leading to the test, findings of the test, and the action taken. Notification to test is prepared by the supervisor and approved by the next higher level supervisor after coordination with the Labor Counselor and the CPAC. The employee may be asked to provide a urine specimen under observation if there is reason to believe the employee may alter or substitute the specimen to be provided. A decision to obtain a urine specimen under observation will be determined by the supervisor, in consultation with the Labor Counselor and the CPAC. Additional instructions dealing with observed collections are provided at paragraph 7.b.

(5) The supervisor will promptly notify the District/FOA DPC and provide the information necessary to arrange for the reasonable suspicion drug test, which will be conducted as soon as possible on the same day the test was approved.

(6) The supervisor will promptly notify the CPAC if an employee fails to report for testing, refuses to provide a specimen, or is found to use illegal drugs. The procedures in paragraph 6.f.(6) below apply when an employee fails to report for testing or refuses to provide a specimen.

b. Accident or unsafe practice testing. Any employee may be subject to testing when there is an accident examination authorized by an appropriate USACE

commander regarding an accident or unsafe practice. 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 results in a death or personal injury requiring immediate hospitalization or in damage to government property estimated in excess of \$10,000.

(1) The supervisor will gather information, facts, and circumstances leading to and supporting this suspicion and consult with the next higher level supervisor, the USACE command safety program manager, Labor Counselor and CPAC to review the evidence. The supervisor will prepare a notification to test when approved by the next higher level supervisor. Additionally, the supervisor will prepare and maintain a written report that will include the date, time, and description of reported accident/mishap(s), rationale leading to the decision to test, findings of the test, and the action taken.

(2) The supervisor will notify the District/FOA DPC promptly and provide the information necessary to arrange for the drug test. The supervisor will assure the drug test is conducted as soon as possible.

c. Voluntary testing is available for employees who choose to demonstrate their commitment to the Army's goal of a DFW and who want to set an example for other employees. Civilian employees not occupying a TDP may volunteer for unannounced random testing. The supervisor will ask the employee who volunteers to submit a written request to be included in a random drug testing program. The supervisor will advise the next higher supervisor, the CPAC, and the District/FOA DPC. The supervisor will arrange a meeting with the employee to review the program's conditions and the employee's obligations, and to obtain a signed voluntary consent to drug testing. As soon as the required administrative procedures are complete, the supervisor will notify the District/FOA DPC and provide the information necessary to include the volunteer employee in a random pool, separate from the testing pool for TDPs. The employee may withdraw from participation by submitting a written request to the supervisor, who will promptly notify the District/FOA DPC of the employee's withdrawal. (See Appendix B for a sample voluntary testing agreement.)

d. Follow-up testing. All DA civilian employees who have successfully completed rehabilitation and/or are enrolled in rehabilitation for illegal drug use may be subject to unannounced follow-up testing for 12 months. Follow-up testing is not to be confused with regular random testing and with rehabilitation testing which may be part of the employee's treatment plan. Supervisors of employees who are enrolled in a treatment program for illegal drug use, or who have successfully completed drug rehabilitation will consult with the CPAC and the Employee Assistance Program Provider (EAPP) to determine the frequency of unannounced follow-up drug testing, which is generally conducted for a period of one year. The supervisor will meet with the employee to issue a written notice of the requirement for follow-up testing. (See Appendix C for a sample follow-up testing notification.) The supervisor will promptly notify the District/FOA DPC and provide the information necessary to arrange for the follow-up testing. Only verified

positive results obtained as a result of a follow-up test may be used to support a disciplinary or adverse action.

e. Applicant testing. Applicants tentatively selected for appointment to TDPs are required to participate in applicant drug urinalysis testing, which is designed to screen out applicants who use illegal drugs.

(1) If the appointment to the TDP is for 30 days or less, or the applicant currently occupies a TDP within the Department of Defense (DOD), no applicant testing is required.

(2) The tentatively selected applicant will be required to sign a "Notice to Applicant or Current Employee of Random Drug Testing Under the Department of the Army Drug-Free Workplace Program" (Appendix D), acknowledging the Department of the Army's right to require TDP selectees to participate in applicant and random drug urinalysis testing. The CPAC will furnish this form to the applicant along with other pre-appointment forms.

(3) All applicants who refuse to be tested must be refused employment. All applicants with verified positive test results shall be refused employment. Applications from such individuals shall not be considered for employment for a period of 6 months from the date of the test results.

(4) Managers will annotate the request for personnel action to show that the vacancy is a TDP, subject to applicant and random testing. The CPAC specialist will inform the CPOC that the position vacancy announcement must specify that refraining from illegal drug use and submitting to drug testing, when directed, are conditions of employment.

f. Random testing. Employees in TDPs are subject to random testing.

(1) Random drug testing is a system of drug testing imposed without suspicion that a particular individual is using illegal drugs. A statistically random sampling of employees from each Division-level (or equivalent) testing pool will be made. Separate testing pools will be established for the Engineer Research and Development Center (ERDC) and each Division. Additionally, HQUSACE, the Humphreys Engineer Center Support Activity (HECSA), the Transatlantic Support Center (TAC), the 249th Engineer Battalion, the Water Resources Support Center (WRSC), and the Army Engineer Support Center (HNC) constitute a single pool. The HECSA DPC will perform the "Division/MSD DPC" duties for these organizations. Table 1 below summarizes the testing pools and indicates where the DPCs are assigned.

Table 1

DRUG TESTING POOLS			
ORGANIZATION	TESTING POOL	DIVISION/MSC DPC	DISTRICT/FOA DPC
HQUSACE	HECSA	HECSA	HECSA
HECSA	HECSA	HECSA	HECSA
TAC	HECSA	HECSA	TAC
249 th Engineer Battalion	HECSA	HECSA	249 th
Institute for Water Resources	HECSA	HECSA	WRSC
HNC	HECSA	HECSA	HNC
ERDC	ERDC	ERDC	ERDC
<i>Each Division & its subordinate Districts constitute a Division-level pool. Each District has its own DPC. For example:</i>			
SAD Charleston District Jacksonville District Savannah District Mobile District Wilmington District	SAD SAD SAD SAD SAD SAD	SAD SAD SAD SAD SAD SAD	SAD Charleston Jacksonville Savannah Mobile Wilmington

(2) Identification

(a) Supervisors are responsible for ensuring that all positions which meet the established criteria in paragraph 5-14.b. of Change 3, AR 600-85 (reference d.), and the additional Corps-specific categories approved under the provisions of paragraph 5-14.c. of the same reference are identified as TDPs. (See Appendix E.) Supervisors must ensure that the position descriptions for TDPs clearly document the critical safety or security responsibilities. The servicing CPAC personnel specialist is responsible for ensuring that TDPs are identified as such in the automated personnel database.

(b) The Division/MSC DPC with the assistance of the managers, District/FOA DPCs and the servicing CPAC will establish and maintain an updated TDP roster which identifies the TDPs and incumbents in those positions. The TDP roster may be in any format, but will contain at a minimum:

Position title and number.

Name, social security account number, work telephone of incumbent.

Name, work telephone of first line supervisor, and the date supervisor was trained

on the Army's DFW Civilian Drug Testing Program.

(c) Supervisors will manage the issuance of the 30 day individual notices, "Notice to Applicant or Current Employee of Random Drug Testing Under the Department of the Army Drug-Free Workplace Program" (Appendix D), to current USACE employees whose positions have been identified as TDPs. The original signed notices will be forwarded to the District/FOA DPC.

(3) Selection Process. The Division/MSC DPCs will use the Division/MSC TDP Roster to create and maintain a drug testing database of employees who occupy TDPs. This group of employees constitutes a division-level drug testing pool. A separate database and testing pool will be created for Division employees who volunteer for testing, but are not in TDPs. The Division/MSC DPC will use the "Random Record Selector" feature of "Manager +" (or other program designated by the Drug Program Administrator) to randomly select records from their database. Division/MSC DPCs will provide names of employees selected to the District/FOA DPCs. The District/FOA DPC will verify that an original signed notice is on file for each employee selected.

(4) Notification

(a) The District/FOA DPC (or other individual as designated by the District commander) will, normally within 2 hours of the scheduled testing, notify the first line supervisors of those employees selected for random drug testing. If the District/FOA DPC is on the random testing list, the Division/MSC DPC will notify the employee's supervisor. If the first level supervisor is unavailable, the next higher level supervisor will be contacted. In a Memorandum for the Record (MFR) the District/FOA DPC should record the names of employees selected, names of supervisor(s), time notified, and the time scheduled for specimen collection.

(b) The supervisor will explain privately to employees that they are under no suspicion of taking drugs, that the individuals chosen were selected randomly, and that employees are to report promptly to the testing facility point with photo identification. Supervisors should record in an MFR the names of individuals advised to report for drug testing, the time notified, and times employees were advised to report for testing.

(c) Supervisors of employees who work shift duty, are assigned special duty hours (i.e., not the normal day shift), are assigned to surface vessels or who routinely work at TDY sites will advise the District/FOA DPC. The District/FOA DPC will develop a plan to ensure those employees are tested.

(5) Deferral of test

(a) Supervisors will notify the District/FOA DPC promptly when employees selected for drug testing obtain a deferral of test. The District/FOA DPC will reschedule the employee for an unannounced test within the next 60 days.

(b) A deferral of an employee's random test may be authorized when the employee's first line and next level supervisors concur in writing that a compelling need necessitates a deferral because the employee is:

- In a status such as annual leave, sick leave, suspension, absent without leave, or continuation of pay.
- On official travel away from the work site or is about to embark on official travel that was scheduled before testing notification.
- Performing a task or project that prevents the employee from leaving the work site during the time the test is scheduled.

(c) The EAP provider may request that an employee be exempted from random drug testing for a period not to exceed 60 days while undergoing treatment. The EAP provider will consult with the supervisor, and the servicing CPAC. The EAP provider will submit a written request to the supervisor that the employee be exempted from random testing during a specific period of time. The supervisor will concur or non-concur with the request and sign the document. The supervisor has final authority to grant or not grant the deferral. The supervisor will advise the District/FOA DPC when and for how long an employee is to be exempted from the random testing program.

(6) Failure to appear for random drug test; refusal to provide a sample

(a) The collector will promptly notify the District/FOA DPC when an employee refuses to provide a sample or fails to report to the designated collection site within the designated time. The District/FOA DPC will then inform the employee's first line supervisor. The collector will prepare and sign a Memorandum for Record, documenting the employee's failure to appear for testing or refusal to provide a sample. The collector will provide a copy to the District/FOA DPC.

(b) The supervisor will notify the next higher level supervisor and the servicing CPAC. Refusal to be tested or failure to report can result in the same type of disciplinary action as a verified positive test result. The supervisor will document follow-up actions in accordance with the guidance of the higher level supervisor and the CPAC. The supervisor will furnish a copy of the documentation to the District/FOA DPC.

(7) Frequency of random testing

(a) Effective deterrence requires a random selection process which ensures that all employees subject to random testing believe that they may be required to provide a urine sample on any day they report to work.

(b) The Division/MSD DPC will ensure that the frequency of random drug testing conforms to DOD guidance requiring agencies/components and the military services

having civilian employees encumbering TDPs to conduct a minimum of 50% random tests per TDP per year. For example, if the Division testing pool includes 200 TDPs, 100 tests should be conducted during the year. The Division commander or equivalent (in consultation with the ADCO and other drug control organizations) may increase the random percentage with the approval of HQUSACE.

(c) The Division/MSD DPC will ensure that the random selection for testing is evenly distributed throughout the year. Random pulls should be done at least quarterly. Testing should occur on different days of the week

7. Specimen Collection. The collector will meet all the collection requirements prescribed by the DHHS Mandatory Guidelines for Federal Workplace Drug Testing Programs. Additional guidance designed to assist the collector can be found in the "Urine Specimen Collection Handbook for Federal Workplace Drug Testing Programs" prepared by the Division of Workplace Programs, DHHS, which is available at Web Site: [http:// www.health.org/workplace/urinebook.htm](http://www.health.org/workplace/urinebook.htm). General guidance includes:

a. Unobserved Collection. The individual subject to be tested generally will be permitted to provide a urine specimen privately in a restroom or similar enclosure so that the employee is not visually observed while providing a sample. Collection site personnel of the same gender will escort the individual into the restroom and remain outside the stall during collection.

b. Observed Collection

(1) When the collector observes behavior clearly indicating an attempt to tamper with the specimen or when the specimen temperature is outside the normal range, the collector will contact the District/FOA DPC promptly who will notify the employee's supervisor. The collector will describe the situation and request approval to observe the collection.

(2) The supervisor will consult with a higher level supervisor, Labor Counselor and the servicing CPAC; discuss the collector's request to observe; document the decision; and notify the collector of the decision.

(3) The collector will conduct the observed collection (if approved) and promptly and fully document the circumstances leading to the request. If the employee refuses to undergo an observed test, the collector will again notify the District/FOA DPC who will notify the supervisor. The collector will prepare and sign a MFR concerning the refusal.

(4) A collector of the same gender as the employee performs directly observed collections. In accordance with DHHS guidelines, if no collection site person of the same gender is available, the agency shall select an observer of the same gender.

8. Medical Review. The medical review serves as a critical safeguard in the urine drug-testing program to ensure that positive drug tests resulting from legitimate medications and foods are not misinterpreted as illegal drug use. As noted in

paragraph 7., MRO services will normally be obtained under the COE-wide collection and testing contracts.

a. All laboratory results (positives and negatives) are forwarded to the Medical Review Officer (MRO) according to DHHS Mandatory Guidelines for Federal Workplace Drug Testing Programs. The MRO should be especially familiar with the guidelines and only accept test results that fully comply with those guidelines.

b. The MRO is responsible for reviewing, evaluating, and interpreting a positive test result. The MRO will contact (face-to-face contact not required) the applicant or employee with the positive test result and provide the individual with the opportunity to document (e.g., medical records, valid prescriptions, or other pertinent data) authorized use of the identified drugs, and to discuss the test results with the MRO. Proper attention must be paid to the doctor-patient confidentiality in all phases of the medical review process.

c. When the MRO determines there is no medical justification for the positive result, such result will then be considered a verified positive test result.

d. After verifying a positive test result, the MRO will notify the Division/MSC DCP who will contact the District/FOA DPC. The District/FOA DPC will advise the employee's first line supervisor to contact the CPAC about an EAP referral and initiation of disciplinary or adverse action. The supervisor must also notify the security officer of the verified positive test if the employee is required to maintain a security clearance as a condition of employment. (See reference c., paragraph 8.101.)

e. The MRO will provide relevant documentation, including a positive drug test result form indicating that the positive result is verified along with a summary of findings, to the Division/MSC DPC who will forward it to the employee's supervisor.

f. Should any question arise as to the accuracy or validity of a positive test result, only the MRO is authorized to order a re-analysis of the original sample. Such a retest is authorized only at a DHHS-certified laboratory.

g. The MRO may also request quantitative levels from the civilian drug-testing laboratory, but the request must be made in writing.

h. If the MRO determines there is a legitimate medical explanation for the positive test result, the MRO shall determine that the result is consistent with legal drug use and take no further action.

i. The MRO will take steps necessary to ensure confidentiality of medically sensitive information obtained during the review process. The MRO is the custodian of such information and is both legally and professionally responsible for its security. The Privacy Act requirements for safeguarding these records apply fully.

9. Personnel Actions – Referral to EAP, Removal from the TDP, and Disciplinary/Adverse Action. When an employee is found to use illegal drugs, the supervisor must consult with the servicing CPAC for advice about referral of the employee to EAP, removal of the employee from the TDP, and initiation of disciplinary or adverse action. For additional information, see DODD 1010.9, 6.2 (included as Appendix F to this Pamphlet); AR 690-700, Chapter 751, Discipline (reference e.); and AR 600-85, paragraphs 5-5 and 5-14.d. (reference d.).

10. Records. Forms, records or other documents required by AR 600-85 to ensure proper and accurate operation of the drug testing program under EO 12564 will be maintained consistent with the Department of Army Privacy Act System of Records and with all applicable Federal laws, rules and regulations regarding confidentiality of records including the Privacy Act (5 U.S.C. §552a). These documents include:

- a. Signed “Notice to Applicant or Current Employee of Random Drug Testing Under the Department of the Army Drug-Free Workplace Program”
- b. Random testing lists generated by the Division/MSC DPCs
- c. Notices of verified positive results referred by the Medical Review Officer
- d. Written materials justifying reasonable suspicion testing or evidence that an individual may have altered or tampered with a specimen
- e. Anonymous statistical reports.

APPENDIX A

S: 27 Mar 00

S: 14 Apr 00

13 Mar 00

CEHR-D (600-85)

MEMORANDUM FOR COMMANDERS/DIRECTORS, USACE COMMANDS AND
STAFF PRINCIPALS, HQUSACE

SUBJECT: Drug Free Workplace

1. References:

- a. AR 600-85, 21 Oct 88, Alcohol and Drug Abuse Prevention and Control Program.
- b. Memorandum, CEHR-D, 28 Apr 97, subject: Drug Free Workplace (Encl 1).
- c. Memorandum, CEHR-D, 15 Aug 97, subject: Drug Free Workplace (Encl 2).

2. Executive Order (EO) 12564 mandates a Federal Drug Free Workplace. AR 600-85 prescribes policies and procedures to implement the objectives of the EO.

3. The Corps of Engineers, while ensuring employee assistance programs at local levels, never instituted a command-wide Alcohol and Drug Abuse Prevention and Control Program, to include random drug testing. This issue became paramount because the Corps operates vessels under the provisions of a 1969 memorandum of agreement for inspection and certification with the Coast Guard. The Coast Guard will issue Certificates of Inspection when vessels are found to comply with applicable Coast Guard statutes and vessel inspection regulations that require a random drug testing program.

4. The Office of the Deputy Chief of Staff for Human Resources, in partnership with the Office of the Deputy Commanding General for Civil Works, has analyzed the process to implement a random drug testing program within the Corps. AR 600-85, Change 3, paragraph 5-14b, identifies 12 categories of testing designated positions (TDPs) based on their critical safety or security responsibilities. Since these categories did not include many Corps-specific positions, a request was forwarded through DA and DoD to the Department of Health and Human Services (HHS) for approval of additional TDPs. (See Encls 1 and 2. The enclosures to these documents are not attached.) We anticipate approval from HHS shortly. It is now time to push forward toward implementation of our random drug testing program. Our target date is 1 Oct 00.

5. During the HR Bottom-Up Review briefing to the Chief in Mar 99, he directed that the random drug testing program not be centrally funded and that each Corps activity pay their own costs for local administration of the program and testing. Headquarters will be responsible for policy development and guidance while all operational aspects of the Federal Drug Free Workplace program, to include random drug testing, will be delegated to the field. Commanders of MSCs will administer the drug testing program within their area of responsibility. The Director of HECSA will be responsible for HQUSACE, HECSA and other support activities. An agreement will be established with the Department of the Interior (DOI) to ride their collection, medical review and laboratory analysis contracts.

6. Commanders of MSCs and the Director of HECSA must ensure the following start-up tasks are accomplished by the dates indicated. See Encl 3 for reporting requirements.

a. Identify a Drug Program Coordinator in HECSA and in each MSC and district to administer the drug testing program. This should be accomplished NLT 27 Mar 00.

b. Identify positions that meet the Army-wide TDP criteria specified in Change 3 to AR 600-85, 26 Apr 99, paragraph 5-14b (reference 1.a.) and those that meet the Corps-specific TDP criteria (Encl 4). This should be accomplished NLT 14 Apr 00.

c. Obtain funding to support drug testing beginning 1 Oct 00.

7. Enclosure 3 contains details of the 'next steps.' Additional implementing guidance on annotating position descriptions, coordination with CPOCs, and funding, as well as Corps of Engineers drug testing procedures will be provided.

8. You are reminded that this information should be shared with appropriate exclusive representatives for bargaining unit employees through Labor Management Partnership Councils or meetings with labor unions prescribed by negotiated agreements for the purpose of exchanging information that may impact bargaining units.

9. For additional information or assistance, please contact Nancy Stragand, CEHR-D, (202)761-1698, DSN 763-1698. Funding questions should be directed to Cathy Hille, CERM-F, (202)761-1926, DSN 763-1926.

FOR THE COMMANDER:

4 Encls
as

/s/
RUSSELL L. FUHRMAN
Major General, USA
Deputy Commander

CF: USACE HROS/CPAC Chiefs

APPENDIX B

Sample Voluntary Testing Agreement

I (name of employee)_____ hereby volunteer for unannounced random drug testing. I do so to demonstrate my commitment to the USACE goal of a drug-free workplace and to set an example for others. I understand that I will be subject to the same consequences for a finding of illegal drugs as an employee who occupies a Testing Designated Position (TDP). I further understand that I may withdraw from participation in voluntary testing at anytime by submitting a written request to my supervisor.

Employee's Signature

Date

PRIVACY ACT STATEMENT

Collection of this information is authorized under Executive Order 12564, "Drug-Free Federal Workplace." The information will be used to document your wish to participate in voluntary drug testing. Your name will be included in a testing pool from which names of volunteers will be randomly selected for unannounced drug testing. Completion of this form is voluntary; however, if you do not sign it, you will not be included in voluntary drug testing. IAW EO 12564 and 5 U.S.C. 7301, test results may only be disclosed to agency officials on a need-to-know basis. This may include the agency Medical Review Officer, the administrator of the Employee Assistance Program, and a supervisor with authority to take adverse personnel action. This information may also be disclosed to a court or the Department of Justice where necessary to defend against a challenge to an adverse personnel action.

APPENDIX C

Sample Follow-Up Testing Notification

TO: _____

This is to notify you that you will be subject to unannounced follow-up drug testing during the 12-month period beginning _____. You will be tested for all five drugs authorized in the Department of Health and Human Services (DHHS) Mandatory Guidelines for Federal Workplace Drug Testing Programs. The drugs are: amphetamines, opiates, phencyclidine (PDP), cocaine and marijuana. This testing is separate from regular random testing and from rehabilitation testing which may be part of your treatment plan.

ACKNOWLEDGMENT OF RECEIPT

Your signature below acknowledges that you have read this notice.

Employee's Signature Date

Note: If the employee refuses to sign the acknowledgment above, the supervisor must sign below, thereby certifying that a copy of the notice was provided to the employee.

Supervisor's Signature Date

PRIVACY ACT STATEMENT

Collection of this information is authorized under Executive Order 12564, "Drug-Free Federal Workplace." The purpose of this form is to notify you that you will be subject to unannounced follow-up drug testing in accordance with EO 12564. Completion of this form is voluntary. Failure to sign the form does not release you from the requirement to participate in follow-up drug testing. IAW EO 12564 and 5 U.S.C. 7301, test results may only be disclosed to agency officials on a need-to-know basis. This may include the agency Medical Review Officer, the administrator of the Employee Assistance Program, and a supervisor with authority to take adverse personnel action. This information may also be disclosed to a court or the Department of Justice where necessary to defend against a challenge to an adverse personnel action.

APPENDIX D

Condition of Employment for Certain Civilian Positions Identified Critical under the Department of the Army Drug-free Federal Workplace Program

From:

To: (Applicant/Employee name, title, series, and grade)

Subject: NOTICE TO APPLICANT or CURRENT EMPLOYEE OF RANDOM DRUG TESTING UNDER THE DEPARTMENT OF THE ARMY DRUG-FREE FEDERAL WORKPLACE PROGRAM

1. Your position, or the position for which you have applied, meets the criteria for random drug testing under the Department of the Army Drug-Free Federal Workplace Program. Performance of the duties of your position is sufficiently critical that screening to detect the presence of drugs is warranted as a requirement of your position. It is mandatory for your continued employment in this position that you refrain from the use of illegal drugs and submit to drug testing when directed.
2. If you are an applicant and fail to sign this notice, you will not be selected for the position. If you sign this notice and later in the selection process refuse to submit to drug testing, or if illegal drug use is detected through a verified positive applicant drug test result, you will not be selected for the position. If selected, you will be subject to random drug testing on an unannounced basis as a condition of continued employment.
3. If you are currently in a testing designated position (TDP), you will be subject to random drug testing on an unannounced basis no sooner than 30 days from receipt of this notice.
4. You will be allowed individual privacy while providing the urine specimen unless there is reason to believe the specimen will be altered. The collection, handling, and testing of the urine sample will be conducted under chain-of-custody procedures established by the Department of Health and Human Services. The procedures used to test the urine specimens are very accurate and tightly monitored to ensure reliable results. The test results will be handled with maximum respect for individual confidentiality. In the event your specimen tests positive, you will be given an opportunity to submit medical documentation to a designated medical review officer that may support legitimate use of the specific drug(s) before any administrative action is taken.
5. If you are an employee and you refuse to furnish a urine specimen or fail to report for testing as directed, you will be subject to the same range of administrative action as a verified positive test result for illegal drug use for failure to meet a condition of employment. If, by any means, illegal drug use is detected, you will be (1) immediately taken out of your TDP through reassignment, detail, or other personnel action to ensure

that you do not occupy a TDP, and (2) referred to the Employee Assistance Program (EAP). In addition, you may be reassigned, demoted, or separated from the Federal service according to applicable regulations.

6. If you believe you have a drug problem, you are encouraged to seek counseling and/or referral services by contacting the EAP (provide name, address, telephone number of point of contact). If you voluntarily identify yourself to the supervisor or other higher level management official in your chain of command as a user of illegal drugs before being identified through other means, obtain counseling or rehabilitation assistance through an employee assistance program, and thereafter refrain from using illegal drugs, you may be subject to discretionary disciplinary actions for prior drug use; however such disciplinary actions are not mandatory.

ACKNOWLEDGMENT OF RECEIPT

APPLICANT:

Your signature below acknowledges that you have read this notice.

APPLICANT'S SIGNATURE

DATE

EMPLOYEE:

Your signature below acknowledges that you have read this notice.

EMPLOYEE'S SIGNATURE

DATE

Note: If an employee refuses to sign the acknowledgment above, the supervisor must sign below, thereby certifying that a copy of the notice was provided to the employee.

SUPERVISOR'S SIGNATURE

PRIVACY ACT STATEMENT

Collection of this information is authorized under Executive Order 12564, "Drug-Free Federal Workplace." The purpose of this form is to notify you of the requirements and procedures for applicant and random drug testing under EO 12564. Completion of this form is voluntary. Applicants who fail to sign this form will not be selected for the position. Employees who fail to sign this form are still subject to random drug testing. IAW EO 12564 and 5 U.S.C. 7301, test results may only be disclosed to agency officials on a need-to-know basis. This may include the agency Medical Review Officer, the administrator of the Employee Assistance Program, and a supervisor with authority to take adverse personnel action. This information may also be disclosed to a court or the Department of Justice where necessary to defend against a challenge to an adverse personnel action.

APPENDIX E

USACE-SPECIFIC TDP CATEGORIES

CATEGORY 1. OPERATE SURFACE VESSEL - Positions that require the incumbent to operate any surface vessel*, whether powered or not, including dredging equipment, in which the duties include operating, navigating, steering, directing, or sailing the vessel, operating the engines of a vessel while underway, or operating the spud(s) [anchor(s)] on a dredge.

Use of illegal drugs could result in failure of the incumbent to make timely and crucial assessments and judgments leading to serious threats to public safety, and a high potential for excessive cost in loss of life or damage to high value marine equipment. Many vessels operate in busy commercial harbors and on the open seas 24 hours a day, seven days a week. Drug usage by an incumbent could result in loss of life or injury or environmental degradation should the vessel collide with another vessel or structure resulting in spills of oil or other toxic or hazardous substances.

Positions in this category include

- 5479 Dredging Equipment Operator
- 5782 Ship Operator
- 5784 Riverboat Operator
- 5786 Small Craft Operator
- **4742 Engine & Machinery Operation and Repair
- **5788 Vessel Deck Crew (Boatswain, Deckhand, Shipkeeper)

**Category 1 does not include USACE boats/vessels less than 26 feet in length, for which the District issues operator licenses IAW ER 385-1-91.*

***Basis for inclusion – involved in engine operation while vessel is underway.*

CATEGORY 2. OPERATE NAVIGATIONAL LOCKS - Positions that require the incumbent to operate navigational locks for passage of marine surface traffic or that involve dispatching and clearing marine surface traffic in and out of narrow ship canals, to include marine traffic controllers.

Use of illegal drugs by the incumbent could result in loss of life or serious injury and property damage to the public from improper control of vessels or improper operation of lock and dam gates.

Positions in this category include:

- 2101 Transportation Specialist
- 2150 Transportation Operations
- 5426 Lock & Dam Operator

CATEGORY 3. OPERATE FLOOD CONTROL GATES - Positions that require the incumbent to operate flood control gates to control water levels on waterways, to include dam operators.

Use of illegal drugs by the incumbent could result in loss of life or serious injury and property damage to the public from improper operation of lock and dam gates.

Positions in this category include:

- 5426 Lock & Dam Operator
- *4749 Flood Control Maintenance Worker
- *5407 Power Plant Operator

**Basis for inclusion - involved with flood control gate operation.*

CATEGORY 4. OPERATE WATER TREATMENT PLANT - Positions that require the incumbent to operate a water treatment plant to produce potable water for community and government use in which the duties include laboratory testing of water samples or the introduction of potentially hazardous chemicals and compounds into the water in the course of treatment.

Use of illegal drugs by the incumbent could result in loss of life or serious injury and property damage to the public from improper addition of chemicals or toxic substances into the potable water system.

Positions in the category include:

- 5409 Water Treatment Plant Operator (Washington Aqueduct only)

APPENDIX F

DOD Directive 1010.9 DoD Civilian Employee Drug Abuse Testing Program

6.2. Personnel Actions

6.2.1. Drug Use Determination. The determination that an applicant or employee has used illegal drugs may be made on the basis of direct observation, a criminal conviction, confirmed positive results of a test conducted under the DoD Component's drug testing program, the employee's own admission, or other applicable evidence. Actions taken against an employee, on a finding of illegal drug use under 5 U.S.C. 75, must be supported by the evidence.

6.2.2. Applicants.

6.2.2.1. Applicants who are not current employees and who refuse to be tested must be refused that employment.

6.2.2.2. All applicants with verified positive test results shall be refused employment. Applications from such individuals shall not be considered for employment for a period of 6 months from the date of the test results.

6.2.3. DoD Components, in addition to any applicable personnel actions, shall refer any employee found to have used illegal drugs to an EAP for assessment, counseling, and, if applicable, referral for treatment or rehabilitation. Employee participation in treatment or rehabilitation programs through the EAP does not prevent the DoD Component from initiating any disciplinary action authorized on a finding of illegal drug use, including removal from Federal service.

6.2.4. DoD Components shall not allow any employee to remain on duty in a sensitive position who is found to use illegal drugs before successful completion of rehabilitation through an EAP. As part of a rehabilitation or counseling program, the Secretary of Defense, or the head of each DoD Component, may allow an employee to return to duty in a sensitive position if it is determined that this action should no longer pose a danger to public health or safety or to U.S. national security.

6.2.5. DoD Components shall initiate action to discipline any employee found using illegal drugs provided that such action is not required for an employee who does the following:

6.2.5.1. Voluntarily identifies himself or herself as a user of illegal drugs or who volunteers for drug testing under paragraph 5.5.3., above, before being identified through other means.

6.2.5.2. Obtains counseling or rehabilitation through an EAP.

6.2.5.3. Thereafter, refrains from using illegal drugs.

6.2.6. Discretionary Disciplinary Actions. Upon the first findings that an

employee has used illegal drugs, a range of disciplinary actions are available to a DoD Component from a written reprimand to removal. Except for employees who voluntarily identify themselves as users of illegal drugs, obtain applicable counseling and rehabilitation, and, thereafter, refrain from illegal drug use, DoD Components are required to begin disciplinary action against employees who are found to use illegal drugs. DoD Components have discretion in deciding what disciplinary measures to initiate, consistent with the requirements of the "Civil Service Reform Act" (Public Law 95-454, October 13, 1978) and other applicable factors. Among the disciplinary measures available to the DoD Components are the following:

6.2.6.1. Reprimanding the employee in writing.

6.2.6.2. Suspending the employee for 14 days or less consistent with the procedural requirements in 5 CFR 752.203.

6.2.6.3. Suspending the employee for 15 days or more consistent with the procedural requirements in 5 CFR 752.404.

6.2.6.4. Suspending the employee, consistent with the procedural requirements in 5 CFR 752.404, until such time as he or she successfully completes counseling or rehabilitation or until the DoD Component determines that action other than suspension is more applicable to the individual situation.

6.2.6.5. Removing the employee from Federal service, consistent with the procedural requirements of 5 CFR 752.404, for confirmed illicit use of an illegal drug; refusal to take a drug test authorized by E.O. 12564; refusal to obtain or successfully complete counseling or rehabilitation as required by E.O. 12564; or once having completed counseling or rehabilitation, failing to refrain from illegal drug use.

6.2.7. Mandatory Disciplinary Action. Initiation of removal from Federal service is required after a second finding that the employee has used illegal drugs.

6.2.8. Verified positive test results and information developed by the DoD Component in the course of the drug testing of the employee, subject to the limitations of 5 U.S.C. 552a ("Privacy Act"), may be considered in processing any adverse action against the employee or for other administrative purposes. Preliminary test results may not be used in an administrative proceeding.

6.2.9. Drug testing shall not be conducted under this Directive for gathering evidence for use in criminal proceedings. DoD Components are not required to report to the Attorney General for investigation or prosecution any information, allegation, or evidence of violations of any provision of 21 U.S.C. 13 received as a result of drug testing conducted under this Directive.

6.2.10. An employee who refuses to be tested, when so required, shall be subject to the full range of disciplinary action, including dismissal.

GLOSSARY

Alcohol and Drug Control Officer (ADCO)

The person having staff responsibility for implementing, operating, and monitoring the Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) at MACOM, installation, or major tenant unit level.

Alcohol and Drug Abuse Prevention and Control Program (ADAPCP)

A manpower conservation program that includes prevention, identification, education and rehabilitation services. The ADAPCP is responsive to the chain of command and supports the morale, safety and combat readiness of the Army.

Aliquot

A fractional part of a specimen used for testing. It is taken as a sample representing the whole specimen.

Chain of Custody

Procedures to account for the integrity of each urine specimen or aliquot, by tracking, handling, and storing from point of specimen collection to the final disposition of the specimen. Documentation of this process must include the date and purpose each time a specimen or aliquot is handled or transferred and identification of each individual in the chain of custody.

Confirmation

The process of using a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy.

District/Field Operating Activity Drug Program Coordinator (District/FOA DPC)

The person responsible for administration of the drug testing program at the District or FOA level. Duties include arranging for collection of specimens and notifying supervisors when employees are selected for testing. (NOTE: The DPC at HNC, WRSC and TAC will perform these duties for their respective organizations.)

Division/Major Subordinate Command Drug Program Coordinator (Division/MSD DPC)

The person responsible for administration of the drug testing program at the Division/MSD level. Duties include maintenance of the TDP roster; random selection of employees for testing; and serving as agency point of contact for the Medical Review Officer. (NOTE: The HECSA DPC will perform these functions for the random testing pool made up of HQUSACE, HECSA, 249th Battalion, TAC, HNC, and WRSC employees.)

Drug Abuse

The illegal, wrongful, or improper use of any narcotic substance or its derivative, cannabis or its derivative, other controlled substances or dangerous drugs. This includes the improper use of drugs prescribed by a physician.

Drug Program Administrator

The individual who is responsible to the ADCO for civilian aspects of the ADAPCP.

Drug Testing Pool

All TDP employees within a particular Division/MSC (or equivalent). Names of employees from the pool are randomly selected for testing.

Employee Assistance Program (EAP) Provider

The individual who conducts diagnostic interviews and makes referrals to community resources. EAP services are provided by in-house resources, contract personnel, or through a consortium of Federal agencies.

Follow-up Testing

Unannounced testing which may be administered during or after counseling or rehabilitation. It is not to be confused with testing which is undertaken as part of rehabilitation or counseling (i.e., rehabilitation testing). Only verified results of follow-up testing may be used to support a disciplinary or adverse action.

Initial Test

A screening test to identify those specimens that are negative for the presence of drugs or their metabolites. When negative, these specimens need no further examination and need not undergo a more costly confirmation test.

Medical Evaluation

Examination of an individual by a physician to determine whether there is evidence of alcohol or other drug abuse or dependency.

Medical Review Officer (MRO)

A licensed physician responsible for receiving laboratory results generated from a drug test who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate employee/applicant confirmed positive test results together with their medical histories and any other relevant biomedical information.

Random Testing

Testing which occurs without suspicion that a particular individual is using illegal drugs. (See paragraph 6.f.)

Reasonable Suspicion

An articulable belief that an employee uses illegal drugs or misuses alcohol drawn from specific and particularized facts and reasonable inferences from those facts. (See paragraph 6.a.)

Testing Designated Position (TDP)

A position identified by the Army in AR600-85 or additional positions identified by USACE IAW AR 600-85, 5.14.c. as having critical safety or security responsibilities related to the Army mission.

Testing Designated Position (TDP) Roster

A list of TDP employees within a division or other designated organization(s).

Verified Positive Test Result

A positive test result for which the MRO determines there is no medical justification.