FAA
Site Coordinators Handbook

Drug Testing Program

PURPOSE

This handbook is intended to serve as a training tool for Supervisors/Site Coordinators (SC), in support of the objectives of the Random Drug Testing Program. It unifies program guidance, and reflects an effort to provide support to our SC, who are key elements in successfully administering the agency's drug program. All SC must follow the procedures as set out in this handbook; and no SC may deviate from the provisions of these guidelines without approval of the regional Drug Program Coordinator (DPC).

ACKNOWLEDGEMENTS

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The workgroup extends their "thanks" to Harnetta R. Williams, Substance Abuse Program Manager, ALR-200, who gave her support, and the opportunity to utilize field input to this project.

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SECTION I

GENERAL PROGRAM GUIDANCE

SECTION I. GENERAL PROGRAM GUIDANCE

A. FAA Policy on Substance Abuse

Note: This policy is published in FAA Order 3750.4A, Chapter 2, Paragraph 213 dated November 16, 1989.

213. Policy on Substance Abuse

a. As an employer, the Federal Aviation Administration (FAA) is concerned with the private decision of any employee to use illicit drugs or abuse alcohol or other substances in a way that could affect the employee's work performance. As an employer with responsibility for aviation safety, the FAA is especially concerned when this private decision can affect the safety of the flying public. The confidence of the flying public depends upon absolute trust in the integrity of the air transportation system. Employees directly involved in aviation safety who use illicit drugs or abuse alcohol or other substances place their jobs in jeopardy. No one known to do so will be permitted to perform any aviation-safety-related duties until the FAA is satisfied that such a person is no longer a risk to public safety.

b. When there is credible evidence that any employee is involved in the growing, processing, manufacturing, selling, disposition, transportation, or importation of narcotic drugs, marijuana, or depressant or stimulant drugs or substances, that employee shall be separated from the Federal service. Use, possession, purchase, or being under the influence of drugs on duty by employees who have direct aviation-safety-related duties or by other employees whose duties could affect the safety of people or property, will also result in separation.

c. The following procedures will apply to the off-duty conduct of those employees who have direct aviation-safety-related duties:

(1) When there is credible evidence of off-duty illicit drug use or alcohol abuse or other substance abuse by an employee, the employee will be relieved immediately from his/her aviation-safety-related duties and assigned other responsibilities.

(2) Each employee will be offered an opportunity to enter into an appropriate drug use abatement program or alcohol abuse treatment program.

(3) Refusal to enter into an appropriate program will result in removal.

(4) Once enrolled in an appropriate program, return to safety duties will be contingent upon FAA medical clearance. After successful completion of the rehabilitation program, the employee will be subject to random screening tests for a 1-year period.

(5) At the end of the 1-year period, if the employee has ceased the use of illicit drugs or the abuse of alcohol or other substances, no further random screening will be required.

(6) Any recurrence of illicit drug use or abuse of alcohol or other substance will result in immediate removal by the FAA.

d. The following procedures will apply to all other employees:

(1) When there is any credible evidence that an employee in another occupation is involved in the use of illicit drugs or the abuse of alcohol or other substance, he/she will be offered an opportunity to enter into a drug use abatement program or an alcohol abuse treatment program.

(2) If the employee refuses to enter an appropriate program, he/she will be subject to appropriate discipline.

(3) Should there be subsequent instances of the use of illicit drugs or the abuse of alcohol or other substance abuse, no opportunity need be offered to enter into a program, and the employee will be subject to discipline or removal.

e. Employees using physician-prescribed drugs that could affect performance must immediately make this fact known to their supervisor so that appropriate action can be taken to eliminate the real or potential danger. As appropriate, an employee may be placed on leave or assigned other duties.

B. Requesting Guidance from the regional Drug Program Coordinator (DPC)

(1) Bashful Bladder. The employee has two hours from the time of the last person on the list is notified, in which to provide a sample. In the event an employee is having difficulty or is unable to provide a sample at the end of the waiting period, immediately advise the DPC you have a bashful bladder and give the employee's name. The DPC will verify if the employee is a certified bashful bladder, or coordinate with the collectors for a reschedule date.

(2) On the reschedule date, the employee will have up to a maximum of four hours in which to provide a sample. If at the end of four hours the employee is still unable to provide a complete sample (the required amount is 60 milliliters; 30 milliliters is acceptable), call and advise the DPC. The DPC will coordinate with the Medical Review Officer (in the Regional Flight Surgeon's Office) who will conduct a review to determine possible medical causes.

(3) Uncooperative behavior/refusal. In the event an employee is uncooperative or refuses to provide a sample, the SC should assure that the employee is fully aware of the possible consequences. Immediately call your DPC for further guidance.

(4) AWOL/leaving facility after notification for testing. If an employee leaves the facility without permission after being notified for testing, but prior to providing sample AND/OR returns voluntarily for testing, advise the DPC immediately.

(5) Refusal to drink liquids. When the employee refuses to drink fluids, encourage the employee to facilitate the process by drinking assorted liquids. The recommended amount is at least 8 ounces of liquids every 30 minutes, i.e., water, juice, carbonated beverage, tea, etc.

(6) Inability to complete collection. When the contracted collectors are unable to make the collection due to unforeseen difficulties in arriving (e.g., weather, travel arrangements, etc.), call the DPC to advise. When the collection is unable to be completed, for example, due to outage, accident, operational need, call the DPC to advise.

(7) Annotating test lists. When there is any question as to how to annotate the test lists, call the DPC for further clarification.

(8) Unusual circumstances/events during any collections. When there is anything unusual about the collections, e.g., behavior of the employee or collectors, temperature of sample outside of range, employee takes longer than usual time in collection area, etc., call the DPC.

(9) Temporary loss of medical certificates. When covered employee's have temporarily lost their medical certificate, they are not eligible for random drug testing during the time they are medically disqualified.

(10) Changes to or from covered positions. When you are in doubt as to whether or not an employee is assigned to a covered position or subject to random drug testing call the DPC to advise.

(11) Requests for leave to obtain independent drug test. When an employee requests leave in order to obtain a second drug test from an outside source, every reasonable effort shall be made to accommodate the employee's request. The DPC may be contacted to obtain a current listing of Health and Human Services certified laboratories.

ORDER

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

3910.6A

3/5/90

SUBJ: DRUG-FREE DEPARTMENTAL WORKPLACE

1. PURPOSE. This order implements and transmits as Appendix 1, Order DOT 3910.1A, Drug-Free Departmental Workplace dated September 6, 1989, which contains updated procedures for the Department's drug testing program.

2. DISTRIBUTION. This order is distributed to the branch level in Washington, regions, centers, and a maximum distribution to all field offices and facilities.

3. CANCELLATION. Order 3910.6, Drug-Free Departmental Workplace, dated September 23, 1987, is canceled.

4. BACKGROUND. On June 29, 1987, the Secretary of Transportation announced a Departmental drug testing program which includes FAA employees in safety/security critical positions. These positions are:

a.	Computer Operators (in Airway Facilities in ARTCCs)	GS-332
b.	Engineering Technicians (in Airway Facilities)	GS-802 1/
c.	Electronics/Systems Engineers (in Airway Facilities)	GS-855 1/
d.	Electronics Technicians (in Airway Facilities and Aviation Standards National Field Office)	GS-856 1/
e.	Civil Aviation Security Specialists	GS-1801 2/
f.	Aviation Safety Inspectors	GS-1825 2/
g.	Air Traffic Control Specialists	GS-2152 2/
h.	Air Traffic Assistants	GS-2154
i.	Inspection/Flight Test Pilots	GS-2181
j.	Maintenance Mechanics (in Airway Facilities)	WG-4749 1/
k.	Transportation Equipment Operation Family	WG-57XX
l.	Aircraft Mechanics	WG-8852

1/ Only those individuals assigned certification responsibilities and their first level supervisor.

2/ Only GS-1801 (including Federal Air Marshals), GS-1825, and GS-2152 employees who are required to take periodic physical exams to retain medical clearances are covered by this program.

NOTE: Air Traffic Control Specialists (GS-2152) includes developmental and operational controllers, first-line supervisors, and other GS-2152 personnel who are required to maintain operational currency. This includes Air Traffic Managers in facilities where there are no subordinate supervisors.

5. EXPLANATION OF CHANGES.

a. The overall administration and evaluation of the Drug Testing Program was transferred from the Office of Aviation Medicine to the Associate Administrator for Human Resource Management.

b. Letter of Promulgation, paragraph 4, additional references included.

c. Chapter III, Drug Testing.

(1) Paragraph 4b is deleted. The Federal Aviation Administration (FAA) discontinued the Periodic Testing Program effective January 31, 1989.

(2) Paragraph 4b(2)(f) is added to show specimen temperature outside the normal range is an indication of possible adulteration/substitution.

(3) Paragraph 4d is revised to include conditions under which decision to conduct post-accident testing will be made.

(4) Paragraph 4f adds statements to clarify that follow-up testing procedures apply only to employees idenified as users of illegal drugs and that Category II employees are also subject to follow-up testing for 1 year after completion of rehabilitation/abatement program.

(5) Paragraph 7d is deleted. Reference to applicant travel to collection site is deleted to avoid overlapping guidance in areas where other Departmental policies govern.

(6) Paragraph 8c is deleted. Collection procedures have been deleted to avoid necessity for changing this order as day-to-day operating procedures are revised. Procedures are described in the Drug Testing Guide.

(7) Paragraph 10b is revised, and 10c is added to clarify procedures for reporting test results.

d. Chapter V, Confidentiality, paragraph 2a, adds guidance regarding protection of confidentiality.

e. Chapter VI, Disciplinary Action, paragraph 1, clarifies circumstances under which disciplinary action may be taken.

f. Appendix A. FAA and the Research and Special Programs Administration have amended inclusions for Category I.

g. Appendix B. List of Schedule I & II Controlled Substances has been deleted because of the five drugs DOT tests for are mentioned elsewhere in the order. The other substances on the list change frequently, and any circumstances triggering a determination to test for drugs other than the five would require reference to the most current listing.

6. RESPONSIBILITIES.

a. The Associate Administrator for Human Resource Management, Office of Labor and Employee Relations, Employee Relations Division, will have responsibilities for overall administration and evaluation of the Drug Testing Program within the Federal Aviation Administration (FAA) for random, reasonable suspicion, accident or unsafe practice, follow-up, and voluntary testing.

b. FAA Regional Drug Program Coordinators (DPC), located in the Human Resource Management Division, will have responsibilities for coordinating and/or scheduling of tests under the Departmental program.

c. FAA Regional Flight Surgeons will serve as Medical Review Officers (MRO) under the Departmental program.

d. The Office of Aviation Medicine, Drug Abatement Branch, will have responsibilities for coordinating and/or scheduling of tests for Pre-Employment/Pre-Appointment drug screening.

e. The Office of the Secretary of Transportaion is responsible for the overall administration of the Departmental drug testing program.

7. TYPES OF TESTING.

a. Random testing.
b. Reasonable suspicion testing.
c. Accident or unsafe practice testing.
d. Follow-up testing.
e. Pre-employment/Pre-appointment testing.
f. Voluntary testing.

8. COVERAGE.

a. Employees in FAA positions designated as Category I under the DOT program are subject to random testing, reasonable suspicion testing, accident or unsafe practice testing, and follow-up testing. Category I includes positions associated with the safety and integrity of the National Airspace System and all positions which require employees to have a "Top Secret" or higher security clearance.

b. All applicants for Category I positions are subject to pre-employment/pre-appointment testing. All other FAA employees (Category II) are subject to reasonable suspicion testing, accident or unsafe practice testing and follow-up testing. Employees in Category I or II positions may volunteer for drug testing.

Herbert R. McLure
Associate Administrator for
Human Resource Management

U.S. Department of Transportation
Office of the Secretary of Transportation

Order 3910.6A
Appendix 1

ORDER

DOT 3910.1A

9-6-89

DRUG-FREE DEPARTMENTAL WORKPLACE

U.S. DEPARTMENT OF TRANSPORTATION

U.S. Department of Transportation
Office of the Secretary of Transportation

ORDER

DOT 3910.1A

9-6-89

Subject: DRUG-FREE DEPARTMENTAL WORKPLACE

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1. **PURPOSE**. This directive prescribes the Department of Transportation (DOT) policy and procedures for implementing Executive Order 12564, Drug-Free Federal Workplace.

2. **CANCELLATION**. DOT 3910.1, Drug-Free Departmental Workplace, dated June 29, 1987, is hereby cancelled.

3. **POLICY**.

   a. It is the policy of DOT to ensure the establishment and maintenance of a drug-free workplace as intended by Executive Order 12564 and as directed by the President in his memorandum of October 4, 1986, to the Heads of Executive Departments and Agencies. In carrying out this requirement, emphasis will be placed on the transportation mission of the Department and the necessity for a drug-free transportation system.

   b. It is DOT policy that the workplace be free from the illegal use, possession, distribution, or trafficking of controlled substances, (as specified in Schedules I through V, as defined in Title 21 U.S.C. 802(6) and listed in Part B, Subchapter 13) by all employees of DOT. The possession and distribution of controlled substances will be dealt with promptly in accordance with legal and administrative disciplinary procedures. However, the policy's primary goal is to ensure that illegal drug use is eliminated and that the DOT workplace be safe, healthful, productive, and secure.

   c. Communication to all employees of the goals and objectives of a drug-free workplace is the essence of a successful program, especially communication of the hazards of drug use, and the availability of aid and assistance for employees to enable them to understand and deal with potential drug problems. Equally important is the assurance to employees that their dignity and privacy will be respected as fully as possible in reaching the Department's goal of a drug-free workplace.

DISTRIBUTION: ALL SECRETARIAL OFFICES
ALL OPERATING ADMINISTRATIONS

OPI: OFFICE OF PERSONNEL OST

4. REFERENCES.

a. Authorities.

(1) Executive Order 12564, Drug-Free Federal Workplace, September 15, 1986.

(2) Section 503 of the Supplemental Appropriations Act of 1987, Public Law (P.L.) 100-71, 101 Stat. 391, 468-471, codified at 5 U.S.C. §7301 note (1987).

(3) Section 628 of the Treasury, Postal Service, and General Government Appropriations Act of 1989, P.L. 100-440, as amended.

(4) Mandatory Guidelines for Federal Workplace Drug Testing Programs, effective April 11, 1988, and published at 53 Fed. Reg. 11970, issued by the Alcohol, Drug Abuse and Mental Health Administration, U.S. Department of Health and Human Services (HHS), establishing mandatory scientific and technical guidelines for Federal civilian drug testing programs pursuant to Executive Order 12564.

(5) Drug Abuse Prevention, Treatment and Rehabilitation Act of 1972, as amended (42 U.S.C. §290ee-1 et seq.), establishing requirements for prevention, treatment, and rehabilitation programs and services for drug abuse among Federal civilian employees.

(6) Federal Employee Substance Abuse Education and Treatment Act of 1986, P.L. 99-570, Title VI, requiring agency programs to provide prevention, treatment, rehabilitation, and education services to Federal civilian employees with respect to drug and alcohol abuse.

(7) Civil Service Reform Act of 1978, P.L. 95-454.

(8) Title 5 CFR Part 792, establishing regulatory requirements for alcoholism and drug abuse programs and services for Federal civilian employees.

(9) Title 42 CFR Part 2, establishing requirements for ensuring the confidentiality of alcohol and drug-abuse patient records.

(10) Privacy Act of 1974 (5 U.S.C. §552a), prescribing requirements governing the maintenance of records by agencies pertaining to the individuals and access to these records by the individual(s) to whom they pertain.

(11) Title 49 CFR Part 10, implementing the Privacy Act of 1974, within DOT.

b. **Guidance**.

(1) FPM Chapter 792, Federal Health and Counseling Programs, providing guidance to Federal agencies in establishing alcoholism and drug abuse programs (subchapter 5) and employee counseling services programs (subchapter 6) for Federal employees with alcohol or drug problems.

(2) Office of Personnel Management (OPM) FPM Letter 792-18, December 30, 1988, setting forth guidelines to agencies, departments, and instrumentalities in establishing a drug-free workplace pursuant to P.L. 100-440.

(3) FPM Supplement, Chapter 792-2, providing guidance for developing and maintaining appropriate prevention, treatment and rehabilitation programs and services for alcoholism and drug abuse among Federal employees.

(4) FPM Supplement 293-31, Basic Personnel Records and File System.

(5) Departmental Personnel Manual (DPM), Chapter 792, implementing FPM Chapter 792 and FPM Supplement, Chapter 792-2, within DOT.

(6) DPM Letter 300-16, Policies and Procedures on Pre-Employment/Pre-Appointment Drug Testing.

(7) DOT Drug-Free Departmental Workplace Drug Testing Guide.

5. **BACKGROUND**. As Executive Order 12564 sets forth, illegal drug use is having serious adverse effects on the national work force. As a major Federal employer, DOT is concerned with the well-being of its employees; the successful accomplishment of agency missions, including ensuring complete safety in the transportation system; and the need to maintain employee productivity. Most importantly, it is clear that nowhere does the private choice to use drugs have more devastating public consequences than in the transportation sector. The maintenance of a safe and effective transportation system demands, in particular, that those DOT employees whose jobs involve significant responsibilities

affecting public safety and security remain drug-free. In order to ensure the establishment and maintenance of a drug-free Federal workplace, the Executive Order mandates that: (1) Federal employees refrain from the use of illegal drugs; (2) the use of illegal drugs by Federal employees, whether on or off-duty, is contrary to the efficiency of the service; and (3) persons who use illegal drugs are not suitable for Federal employment. The Head of each Executive Agency is responsible for developing a plan for achieving the objective of a drug-free workplace with due consideration of the rights of the Government, the employee, and the general public.

FOR THE SECRETARY OF TRANSPORTATION:

Melissa J. Allen
For the Assistant Secretary
for Administration

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APPENDIX A - CATEGORIZATION OF EMPLOYEES FOR DRUG TESTING

CHAPTER I

GENERAL PROVISIONS

1. **RESPONSIBILITIES.**

   a. **The Assistant Secretary for Administration** is responsible for the following:

      (1) ensuring the consistent implementation of this directive throughout the Department;

      (2) establishing any further procedures which may be necessary to carry out this directive; and

      (3) designating the Department's Medical Review Officers (MRO).

   b. **Secretarial Officers and Heads of Operating Administrations** are responsible for ensuring the implementation of this directive within their organizations, appointing Drug Program Coordinators (DPC) and Employee Assistance Program (EAP) Coordinators.

2. **MEDICAL REVIEW OFFICER (MRO).**

   a. In accordance with HHS criteria, the MRO will be a licensed physician with knowledge of substance abuse disorders. This officer is responsible for the receipt, review, and interpretation of all confirmed positive test results submitted to DOT from the drug testing laboratory. His or her review will be performed prior to the transmission of any positive test results to Drug Program Coordinators or any management officials.

   b. A positive test result does not automatically identify an employee/applicant as an illegal drug user. The MRO shall undertake the examination of alternative medical explanations for a positive test result. This action could include the conduct of employee medical interviews, review of the employee's medical history, or the review of any other relevant biomedical factors. The MRO shall review all medical records made available by the tested individual when a confirmed positive test could have resulted from legally prescribed medication.

   c. If the MRO determines there is a legitimate medical explanation for the positive test result, the MRO may deem that the result is consistent with legal drug use and take no further action other than reporting the test result as negative. In addition, the MRO, based on

review of inspection reports, quality control data, multiple samples, and other pertinent information may determine that the result is scientifically insufficient for further action and declare the individual's test result as negative.

3. **DRUG PROGRAM COORDINATORS (DPCs)**

a. Secretarial Officers and Heads of Operating Administrations shall have DPCs assigned to carry out the purpose of this directive. These coordinators shall be responsible for implementing directing, administering, and managing the drug program within their respective organizations.

b. DPCs shall serve as the principal contact with the collection contractor in ensuring the effective operation of the collection portion of the drug program within their respective organizations. In carrying out this responsibility, the coordinators will perform all of the following duties:

(1) ensure that supervisors and employees are notified of tests to be conducted on a random basis;

(2) ensure that applicants for Category I positions are tested prior to employment or appointment;

(3) arrange reasonable suspicion testing when directed;

(4) arrange for post-accident testing resulting from an on-duty incident where directed;

(5) arrange for follow-up testing, when required;

(6) arrange for voluntary testing, when appropriate;

(7) receive notification from the MRO of verified positive results consistent with confidentiality procedures set forth in Chapter V;

(8) notify appropriate management officials and employees of verified positive test results consistent with confidentiality procedures set forth in Chapter V; and

(9) maintain appropriate statistical records, including numbers of employees and applicants tested and test results. Personal identifying information in these statistical records is strictly prohibited.

CHAPTER II

DRUG AWARENESS

1. **DRUG AWARENESS**. A major tool in the battle against illegal drug use is ensuring that employees are aware of all the ramifications of such illegal use. The Department will institute a program to inform all employees of:

   a. the Department's policy prohibiting illegal drug use by Departmental employees;

   b. the adverse health, family, and community implications inherent in illegal drug usage;

   c. the impact of illegal drug usage in the workplace, including the relationship between drug use and performance, safety, productivity, and public confidence;

   d. the Department's intention to assist, not punish employees, through the availability of the EAP and rehabilitation/abatement resources;

   e. the circumstances where disciplinary action will be required for involvement with illegal drugs;

   f. the reliability of drug testing;

   g. applicable requirements to ensure confidentiality of patient records for the protection of the employee's physician-patient relationship and employee's medical history; and

   h. the Privacy Act and Supplemental Appropriations Act, 1987, protections afforded test results to ensure that DOT will not improperly disseminate information derived from drug tests.

CHAPTER III

DRUG TESTING

1. **POLICY**. All collection and drug testing conducted by the Department shall be done in strict accordance with the policies and procedures contained in the HHS "Mandatory Guidelines for Federal Workplace Drug Testing Programs."

2. **GENERAL PROVISIONS**. The Executive Order mandates that the extent to which employees are tested and the criteria for testing are to be determined by the head of each agency. This determination shall be based upon the nature of the agency's mission and its employees' duties, the efficient use of agency resources, and the danger to the public health and safety or national security that could result from the failure of an employee to adequately discharge the duties of his or her position. The Departmental program provides for six types of testing: (1) random, (2) reasonable suspicion, (3) pre-employment/pre-appointment, (4) post-accident, (5) voluntary, and (6) follow-up. The type of testing requirements an employee will be subject to is dependent on the safety and security criticalness of the employee's position.

3. **CATEGORIES OF EMPLOYEES**. Two categories of safety/security critical, as specified below, have been established for the purpose of determining which positions will be subject to specific types of testing. Appendix A sets forth which positions within the Department are in each category.

   a. **Category I - Safety/Security Critical**. These are positions characterized by critical safety or security responsibilities as related to the mission of the Department. The job functions associated with these positions have a direct and immediate impact on public health and safety, the protection of life and property, law enforcement, or national security. These positions require the highest degree of trust and confidence. Category I employees are subject to rigorous testing requirements. Appendix A also sets forth procedures for establishing written justification for inclusion of a position in Category I, specifically the adverse consequences that would likely occur if an incumbent in that position were to use illegal drugs. All employees in Category I are subject to: (1) random testing, (2) reasonable suspicion testing, (3) post-accident testing, and (4) follow-up testing. All applicants for Category I positions are subject to pre-employment/pre-appointment testing.

b. **Category II - All Positions Not Included in Category I.** All employees in this category are subject to: (1) reasonable suspicion testing; (2) post-accident testing; and (3) follow-up testing.

4. **TYPES OF TESTING.**

a. **Random Testing.** Under this type of testing, all covered employees will have an equal statistical chance of being selected for testing within a specified time frame. This type of testing is unannounced and could occur on any scheduled workday.

b. **Reasonable Suspicion Testing.**

(1) This type of testing is authorized when management believes that an employee is using illegal drugs. This belief must be based on specific objective facts and reasonable inferences drawn from these facts in the light of experience. Reasonable suspicion does not require certainty; however, mere "hunches" are not sufficient to meet this standard. Reasonable suspicion testing will be ordered only by a management official.

(2) For purposes of this type of testing, reasonable suspicion that an employee uses illegal drugs may be based upon, among other things:

(a) observable phenomena, such as direct observation of drug use and/or the physical symptoms of being under the influence of a drug;

(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, distribution, or trafficking;

(d) information provided either by reliable and credible sources or independently corroborated; or

(e) newly discovered evidence that the employee has tampered with a previous drug test; and/or

(f) the temperature measurement of the specimen, following the actual collection, indicates possible adulteration/substitution.

(3) Each incidence of reasonable suspicion testing must be concurred with by appropriate legal counsel in the Departmental element prior to testing.

(4) Documentation shall be developed describing the circumstances which formed the basis that reasonable suspicion exists to authorize such testing. This documentation will be retained in the adverse action file maintained in the Departmental element, or other system of records if appropriate.

c. **Pre-Employment/Pre-Appointment Testing**. All applicants for Category I positions are subject to pre-employment/ pre-appointment testing for illegal drug use. All applicants with confirmed positive test results shall be refused employment.

d. **Post-accident Testing**. Testing for the presence of drugs will be conducted following an accident or other occurrence that involves one or more of the following covered events: a fatality; a serious injury; substantial damage to vehicles; and/or substantial damage to other property.

(1) Only employees whose job performance at or about the time of an accident provides reason to believe that such performance may have contributed to the accident shall be determined to be subject to drug testing. Said determination shall be made in the following manner:

(a) First, the appropriate Departmental element will determine whether the accident is a covered event as listed above. This determination shall be based on review of all available facts.

(b) Second, following a determination that the accident qualifies as a covered event, the Departmental element shall take all practical steps to identify each employee whose work performance may have been a contributing factor to the accident.

(c) Third, after identification of each employee as specified in paragraph (b), the Departmental element shall exclude from testing any employee so identified when specific and objective information collected in the course of review of the known facts surrounding the accident shows that the employee's work performance at or about the time of the accident could not have been a contributing factor.

(d) No employee shall be subject to testing until the procedures specified in paragraphs (a), (b), and (c) above are satisfied.

(e) The process of determination, specified in paragraphs (a), (b), and (c) above, must be completed, the proper notification must be given to the employee, pursuant to paragraph 5 below, and procedures for scheduling urine collection must begin within 8 hours of receipt of notice by the Departmental element of an accident that qualifies as a covered event.

e. **Voluntary Testing**. Testing provided at an employee's request.

f. **Follow-up Testing**. All employees who have been determined to have used illegal drugs and who have accepted the opportunity to enter a drug rehabilitation/abatement program will be subject to unannounced follow-up drug testing. Category I employees will be subject to follow-up testing for a one-year period after return to safety or security duties or completion of the rehabilitation/abatement program, whichever is later. Category II employees will be subject to follow-up testing for a one-year period after completion of the rehabilitation/abatement program.

5. **NOTIFICATION TO EMPLOYEES SUBJECT TO CERTAIN TYPES OF TESTING**. Employees subject to reasonable suspicion testing, post-accident testing, or follow-up testing shall receive notice prior to testing that includes all of the following information:

a. the specific reasons for the urinalysis test;

b. assurance that the quality of testing procedures is tightly controlled, that the test used to confirm use of illegal drugs is highly reliable, and that test results will be handled with maximum respect for individual privacy, consistent with safety and security;

c. notice of the opportunity and procedures for submitting supplemental medical documentation that may support a legitimate use for a specific drug;

d. the consequences of a confirmed positive test result or refusal to be tested, including disciplinary action; and

e. the availability of drug abuse counseling and referral services, including the name and telephone number of the local EAP Coordinator.

6. **NOTIFICATION TO APPLICANTS FOR POSITIONS SUBJECT TO TESTING.**

a. Vacancy announcements for Category I positions shall contain information that the applicant will be tested for illegal drug use prior to appointment.

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

7. **COLLECTION SITES.**

a. The designated collection site is the place where employees and applicants present themselves for the purpose of providing urine specimens to be analyzed for illegal drug use. The site must possess all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and transportation (shipping) of urine specimens to a drug testing laboratory required by HHS guidelines.

b. Procedures must provide for the collection site to be secure. A collection site facility dedicated solely to urine collection shall be secure at all times. In cases where a facility cannot be dedicated solely for the purpose of drug testing, the portion of the facility being used for testing shall be secured during drug testing operations. Drug Testing Control Forms (known as chain of custody forms) must be properly executed by authorized collection site personnel upon receipt of specimens. The handling and transportation of urine specimens from one authorized individual or place to another must always be accomplished through the use of chain of custody procedures. No unauthorized personnel shall be permitted in any part of the collection site where urine specimens are collected or stored.

c. Employees will be asked by an appropriate management official to report to a collection site. Convenience to the employee, as well as the facilitation of the collection process, will be considered in determining the collection site.

8. **SPECIMEN COLLECTION PROCESS**. The procedures contained in this directive were designed to provide consideration for individual privacy in conjunction with a controlled drug testing program. The procedures set out below apply to all six types of testing, i.e., random, reasonable suspicion, pre-employment/pre-appointment, post-accident, voluntary, and follow-up.

a. **Chain of Custody**.

(1) To ensure the urine sample taken from an individual is properly identified and not accidently confused with any other sample, strict procedures shall be used when collecting and transferring the sample. The total of the procedures, i.e., the official transfers from the individual providing the sample to the drug testing laboratory, including storage of confirmed positive samples at the laboratory, is known as the chain of custody.

(2) While performing the collection part of the chain of custody procedures, it is essential that the urine specimen and chain of custody documents be under the control of the collector. The collector shall not leave his or her work station, even momentarily, without securing the specimen and chain of custody form. The specimen should be packaged for mailing before the collector leaves the site.

(3) The collector and the individual providing the specimen shall always have the container or specimen bottle within sight before and after the individual has urinated. The container shall be tightly capped, properly sealed, and labeled. The chain of custody form shall be utilized for maintaining control and accountability from point of collection to final disposition of specimens. With each transfer of possession, the chain of custody form shall be dated, signed by the individual releasing the specimen, signed by the individual accepting the specimen, and the purpose for transferring possession noted. Every effort shall be made to minimize the number of persons handling the specimens.

(4) After collection of urine specimens, collectors shall arrange to ship the specimens to the drug testing laboratory. The specimen containers shall be securely sealed to eliminate the possibility of tampering. The collector shall sign and date across the tape label sealing the container and ensure that the chain of custody documentation is completed and attached to each sealed container. In preparing the specimen container for shipment to the laboratory, an outer mailing wrapper or box is placed around each sealed container and sealed again with an outer custody label.

b. **Balance of Individual Privacy and Specimen Control**. Collection of urine specimens must allow individual privacy unless there is reason to believe that a particular individual may alter or substitute the specimen to be provided. Precautions shall be taken to ensure that a urine specimen has not been adulterated or diluted during the collection procedure and that all information on the urine bottle and the chain of custody form can be identified as belonging to a given individual. Collection of urine specimens shall not be made under observation except in those unusual circumstances allowed in Executive Order 12564.

c. **Collection Procedures**. To ensure that strict chain of custody is maintained, all collections of urine specimens will be made in accordance with the procedures stated in the Drug-Free Departmental Workplace Drug Testing Guide.

9. **LABORATORY ANALYSIS PROCEDURES**.

a. **Policy**.

(1) All laboratory testing and laboratory chain of custody procedures will be done in strict accordance with the HHS "Mandatory Guidelines for Federal Workplace Drug Testing Programs."

(2) The test for drugs will consist of initial screening to detect the presence of drugs and confirmation testing of samples where an initial screen is positive.

(3) The laboratory will ensure the chain of custody procedures are adhered to from the time of receipt of urine samples until testing is completed and results reported. The same chain of custody procedures shall be adhered to during the storage period.

b. **Reporting Test Results to the MRO**. Test results shall be reported to a designated MRO within an average of five working days of receipt of specimens at the laboratory. The report should contain the assigned specimen number, the drug testing laboratory number, and results of the drug tests. All specimens negative on initial test or negative on the confirmatory test shall be reported as negative. Only specimens confirmed positive shall be reported as positive to the MRO. Results shall be transmitted to the MRO in a manner designed to ensure confidentiality of the information. It is not permitted to provide results verbally by telephone. A certified copy of the original chain of custody form, signed by the laboratory certifying official, shall be sent to the MRO. Copies of all analytical results shall be available from the laboratory when requested.

c. **Specimen Storage**. Negative samples will be discarded by the laboratory. Only samples testing positive after both the screening and confirmation tests will be considered positive for purposes of retaining the specimen. Positive samples will be retained at the laboratory in a frozen state for at least 365 days. Within this 365-day period, the DPC may request the laboratory to retain the specimen for an additional period of time. This ensures that the urine samples will be available for possible retest during any administrative or judicial proceeding. If the laboratory does not receive a request to retain the specimen during the initial 365-day period, the specimen may be discarded.

d. **Internal/External Quality Assurance Program**. In accordance with the HHS procedures, blind samples will be randomly intermingled by DOT and the testing laboratory with individual specimen samples and analyzed in the same manner to ensure the accuracy of the laboratory testing program.

e. **Independent Testing**. An employee who tests positive may request a second analysis of the original sample. That test will be conducted at the same laboratory used by the Department at DOT expense. The employee can also request a separate retest at another HHS certified laboratory. In such instances, the laboratory used by the Department will send a portion of the original sample to a laboratory designated by the employee. The cost of this test shall be paid by the employee. The MRO will not consider the results of urine samples that are not obtained and processed in accordance with the HHS guidelines.

10. **REPORTING TEST RESULTS.**

a. **Notification to Employees.** Employees will receive written notification of drug test results.

b. **Disclosure of Results.** The results of a drug test of a DOT employee shall not be disclosed without the prior written consent of the employee, unless the disclosure would be:

(1) to the employee's MRO;

(2) to the administrator of any EAP in which the employee is receiving counseling or treatment or is otherwise participating;

(3) to the supervisory or management official having authority to take adverse personnel action against such employee; and/or

(4) pursuant to an order of a court of competent jurisdiction where required by the United States to defend an adverse personnel action.

c. **Notification to Management.** Notification concerning test results will ordinarily be made by the DPC to appropriate management officials, EAP administrator, employing personnel office (in the case of applicants), and the employee.

11. **RANGE OF DRUGS.**

a. **Drugs Covered.** Tests will be conducted for the illegal use of the following drugs considered to be 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.

(1) Marijuana.

(2) Cocaine.

(3) Opiates.

(4) Amphetamines.

(5) Phencyclidine (PCP).

b. **Inclusion of Other Drugs**. Before including any additional drugs (or classes of drugs), listed in Schedule I or II of the Controlled Substance Act in its testing program, the Department will petition the Secretary of HHS for written approval. When conducting reasonable suspicion testing, follow-up testing or post-accident testing in accordance with Chapter III, Section 4.b. or Section 4.d., respectively, the Department may test for any drug identified in Schedule I or II of the Controlled Substance Act.

CHAPTER IV

REHABILITATION

1. **GENERAL**. When it has been determined that an employee has used illegal drugs off-duty, it is the responsibility of management to direct an employee to the EAP (see Chapter VII). The employee shall be given an opportunity following the initial counseling to enter a drug rehabilitation/abatement program as may be appropriate under the circumstances. (Abatement is defined as the elimination of the use of, or dependence on, a substance through the exercise of individual initiative or through the encouragement and/or support of others.) A Category I employee will, in addition to the program determined to be appropriate, be subject to follow-up drug testing for a one-year period after return to safety or security duties or completion of the rehabilitation/abatement program, whichever is later. A Category II employee will be subject to follow-up testing for one-year after completion of the rehabilitation/abatement program. An employee who successfully completes such a program will not be subject to disciplinary action for the first determination of illegal drug usage.

2. **EMPLOYEE ASSISTANCE PROGRAM**. An employee directed to an EAP will receive short-term diagnostic counseling and referral to a rehabilitation/abatement program. Information will be provided to management in accordance with the confidentiality requirements of Chapter V.

3. **REHABILITATION/ABATEMENT SELECTED**. The determination of the type of rehabilitation/abatement assistance required by an employee will be made by the EAP Counselor, in consultation as appropriate, with supervisory and medical personnel.

4. **COST**. The services provided under existing EAPs are provided at no cost to the employee. However, the cost of further rehabilitative services or treatment is the responsibility of the employee.

5. **SELF-REFERRAL**. An employee who voluntarily identifies himself or herself as an off-duty drug user or volunteers for drug testing prior to being identified through other means, will not be disciplined if he or she meets all of the following criteria:

   a. obtains counseling through an approved employee assistance program and completes rehabilitation.

   b. in the case of an employee in Category I, agrees to follow-up testing for a one-year period after return to safety or security duties or completion of the

rehabilitation/abatement program, whichever is later; in the case of an employee in Category II, agrees to follow-up testing for a one-year period after completion of the rehabilitation/abatement program.

c. thereafter refrains from using illegal drugs.

6. **REASSIGNMENT TO OTHER DUTIES**. Employees in Category I will be assigned non-safety or non-security duties when they are identified as having used illegal drugs. This policy will also apply during any rehabilitation program. The employee may be removed from Federal service if there are no non-sensitive positions to which the employee may be transferred. An employee assigned to non-safety or non-security duties may be returned to safety or security duties when an appropriate authority determines such action would not pose a danger to public health or safety or the national security. Employees returned to safety or security duties are subject to follow-up testing for a one-year period. This period begins upon return to safety or security duties or completion of the rehabilitation/abatement program, whichever is later.

CHAPTER V

CONFIDENTIALITY

1. **POLICY**. Employees and the drug testing laboratory involved in any aspect of the Departmental drug program are required to maintain strict standards of confidentiality in carrying out their responsibilities. This includes:

   a. maintaining maximum respect for individual privacy consistent with safety and security issues,

   b. the handling of test results, and

   c. all contacts with medical and health personnel, counselors, DPCs, and EAP Coordinators and Administrators.

2. **PROCEDURES TO PROTECT CONFIDENTIALITY**. The following procedures to protect the confidentiality of negative and confirmed positive test results and related medical and rehabilitation records shall be observed.

   a. **Test Results**. In order to comply with section 503(e) of the Supplemental Appropriations Act of 1987, the results of a drug test of a DOT employee shall not be disclosed without the prior written consent of such employee unless the disclosure would be:

      (1) to the employee's MRO;

      (2) to the administrator of any employee assistance program in which the employee is receiving counseling or treatment or is otherwise participating;

      (3) to the supervisory or management official having authority to take adverse personnel action against such employee; or

      (4) pursuant to an order of a court of competent jurisdiction where required by the United States to defend an adverse personnel action.

   b. **Employee Treatment Records**. Records of the identity, diagnosis, prognosis, or treatment of any employee who enters a rehabilitation/abatement program which are maintained in connection with this program are patient records that must be kept confidential and shall be disclosed only by consent of the patient or

under limited circumstances and specific purposes established by 42 CFR section 2.1 *et seq*.

(1) Drug abuse treatment records may be disclosed without the consent of the employee only:

(a) to medical personnel to the extent necessary to meet a genuine medical emergency,

(b) to qualified personnel for conducting scientific research, management audits, financial audits, or program evaluation but such personnel may not identify any individual employee in any report of such research, audit, or evaluation, or otherwise disclose employee identities in any manner,

(c) when authorized by an appropriate court order granted after application showing good cause.

(2) Any other disclosure may be made only with the written consent of the employee. Any disclosure without such consent is strictly prohibited. Such consensual disclosure may be made for verification of treatment or a general evaluation of treatment progress.

CHAPTER VI

DISCIPLINARY ACTION

1. **GENERAL**. Disciplinary action as set forth below will be taken under each of the described circumstances.

   a. **Refusal to Enter or Successfully Complete a Rehabilitation/Abatement Program**. The agency shall initiate action to remove a Category I employee or initiate appropriate disciplinary action against a Category II employee who refuses to enter or successfully complete counseling or a rehabilitation/abatement program under the EAP.

   b. **Repeat Usage**. In all cases of illegal off-duty drug use, the agency shall initiate action to remove an employee who tests positive a second time or for whom a second determination of illegal drug use has been made.

   c. **Refusal to Comply with Procedures during Collection**. The agency shall initiate action to remove an employee in Category I or initiate appropriate disciplinary action against a Category II employee who fails to report to the designated collection site, refuses or fails to provide a specimen, or attempts to alter, adulterate, or substitute the specimen provided.

   d. **On-duty Use or Possession of Illegal Drugs**. The agency shall initiate action to remove a Category I employee or initiate appropriate disciplinary action against a Category II employee in the case of on-duty use or possession of illegal drugs.

   e. **Drug Trafficking**. The agency shall initiate action to remove a Category I employee or initiate appropriate disciplinary action against a Category II employee where it has been determined that the employee has engaged in illegal drug trafficking, e.g., sale, manufacture, growing, distribution, or transportation.

2. **DISCIPLINARY PROCEDURES**. Any disciplinary action under this Chapter will be taken in accordance with the requirements of the Civil Service Reform Act and other governing regulations which may apply.

CHAPTER VII

EMPLOYEE ASSISTANCE PROGRAM

1. **ASSESSMENT AND REFERRAL.** EAP, also known as Employee Counseling Services Programs, established in accordance with law, Office of Personnel Management regulations, and Departmental regulations (DPM-792-13) play a vital role in the assessment and referral of employees. To assist in meeting this role, EAP Counselors and/or Coordinators must maintain or have readily available a list of rehabilitation/ abatement organizations which provide counseling and rehabilitative programs for illegal substance abuse. The following information must be included on each rehabilitation/ abatement organization: (a) name, address, and telephone number; (b) the type of services provided; (c) hours of operation, including emergency hours; (d) name and telephone number of a contact person; (e) fee structure, including insurance coverage; (f) client specialization; and (g) other pertinent information.

2. **ASSESSING REHABILITATIVE/ABATEMENT ORGANIZATIONS AND THE QUALITY OF SERVICES.**

   a. EAP Coordinators and/or Counselors periodically shall visit rehabilitative/abatement organizations to: (a) meet administrative and staff members; (b) tour the site and observe the physical setting; and (c) ascertain the experience, certification, and educational level of staff.

   b. EAP Coordinators and/or Counselors shall verify licensing and accreditation of organizations.

   c. EAP Coordinators and/or Counselors shall ascertain each organization's policy concerning progress reports on clients and post-treatment follow-up.

3. **TRAINING.** Supervisors have a key role in establishing and maintaining a drug-free workplace, therefore EAPs shall have a training component to assist supervisors and managers in identifying and addressing illegal drug use by employees. Where appropriate union representatives will also be provided with comparable training. Such supervisory training shall meet the following goals and objectives:

   a. To understand Departmental policies relevant to illegal drug use and the EAP.

b. To understand the responsibilities of offering EAP services to employees.

c. To recognize and document employee performance and behavioral changes related to illegal drug use.

d. To understand the roles of the medical review officer, supervisors, the personnel office, and EAP personnel.

e. To understand the process of reintegrating employees into the work force.

CATEGORIZATION OF EMPLOYEES FOR DRUG TESTING

DEFINITIONS.

Category I - Safety/Security Critical - These are positions characterized by their critical safety or security responsibilities as they relate to the mission of the Department. The job functions associated with these positions have a direct and immediate impact on public health and safety, the protection of life and property, law enforcement, or national security. These positions require the highest degree of trust and confidence.

Category II - These are positions not included in Category I. Positions are identified for inclusion within the above categories by their organizational location, occupational series, job title, security clearance, or combinations of these characteristics.

POSITION COVERAGE BY SECURITY CLEARANCE. All positions occupied by individuals which require the possession of a security clearance of "TOP-SECRET" are included in Category I regardless of their organization or occupation.

POSITION COVERAGE BY OCCUPATION. The categorization of all other Department of Transportation positions is accomplished within the context of their Departmental element and their job duties within that organization. To ensure overall consistency, category determinations for including or excluding positions from either Category I or Category II will be made by the Assistant Secretary for Administration in consultation with the Departmental element. References to a given job, occupation series or family include all supervisors and employees in the occupation regardless of pay plan unless otherwise noted.

JUSTIFICATION STATEMENTS FOR CATEGORY I POSITIONS. Each determination by the Departmental element to include a particular job occupation in Category I shall be supported by a justification statement clearly describing why the job is safety/security critical and specifying the adverse consequences that would likely occur if an incumbent in that position were to use illegal drugs. A current justification statement for each job occupation included in Category I shall remain on file with the Assistant Secretary for Administration, who reserves the right to review each justification statement to ensure overall consistency with the DOT drug program and among varying occupations throughout the Department and make appropriate recommendations.

Office of the Secretary

Category I

Motor Vehicle Operators	WG-57XX

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United States Coast Guard

Category I

Firefighters	GS- 81
Nurses	GS- 610
Criminal Investigators	GS-1811
Vessel Traffic Controllers	GS-2150
Marine Traffic Controllers (Pilot)	GS-2150
Electronics Mechanics	WG-2604*
Aircraft Electricians	WG-2892*
Instrument Mechanics	WG-3359*
Metals Inspectors	WG-3801*
Shipwright Foremen	WS-5220
Transportation Equipment Operation Family	WG-57XX
Aircraft Oxygen Equipment Mechanics	WG-8201*
Aircraft Engine Mechanics	WG-8602*
Aircraft Mechanics	WG-8852*
Master Pilots, Ferryboat	WM-9902
Chief, Engineers, & Ferryboat	WM-9931
Oiler, Ferryboat, & Diesel	WM-9961

All individuals with "competent person" collateral duties at the Coast Guard Yard, Curtis Bay, Maryland are included in Category I. These individuals have responsibility for certifying areas as "safe" for performing work (such as certifying fuel tanks safe for welding).

*Only those individuals located at the Aircraft Repair and Supply Center.

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Federal Aviation Administration

Category I

Computer Operators (in Airway Facilities in ARTCCs)	GS-332
Engineering Technicians (in Airway Facilities)	GS-802*
Electronics/Systems Engineers (in Airway Facilities)	GS-855*
Electronics Technicians (in Airway Facilities and Aviation Standards National Field Office)	GS-856*
Civil Aviation Security Specialists	GS-1801**
Aviation Safety Inspectors	GS-1825**
Air Traffic Control Specialists	GS-2152**
Air Traffic Assistants	GS-2154
Inspection/Flight Test Pilots	GS-2181
Maintenance Mechanics (in Airway Facilities)	WG-4749*
Transportation Equipment Operation Family	WG-57XX
Aircraft Mechanics	WG-8852

* Only those individuals assigned certification responsibilities and their first level supervisor.

** Only GS-1801 (including Federal Air Marshals), GS-1825, and GS-2152 employees who are required to take periodic physical exams to retain medical clearances are covered by this program.

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Federal Highway Administration

Category I

Highway Safety Specialists	GS-2125*
Motor Carrier Safety Specialists	GS-2123*
Transportation Equipment Operation Family	WG-57XX

* Includes only those GS-2123 and GS-2125 positions with day-to-day responsibilities for field operations of inspection and enforcement.

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Federal Railroad Administration

Category I

Industrial Hygienists (Headquarters)	GS-690
General Engineers (Field & Headquarters)	GS-801
Civil Engineers (Field & Headquarters)	GS-810*
Railroad Safety Series (Field & Headquarters)	GS-2121*
Motor Vehicle Operators	WG-57XX
Safety Engineers (Headquarters)	GS-803
Mechanical Engineers (Headquarters)	GS-830
Electrical Engineers (Headquarters)	GS-855
Chemical Engineers (Headquarters)	GS-893
Transportation Specialists (Headquarters)	GS-2101**

* For field positions, includes Railroad Safety Inspectors and Specialists, Supervisory Inspectors and Specialists, managerial level Railroad Safety Specialists, and Civil Engineers actively engaged in the inspection of railroad equipment and services.

** Includes only those positions which involve two or more specialized transportation functions actively engaged in the development, implementation, and monitoring of railroad safety programs.

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Saint Lawrence Seaway Development Corporation

Category I

Lock and Dam Operators	WG-5426*
Vessel Traffic Controllers	GS-2150*
Transportation Equipment Operation Family	WG-57XX*

* Employees in other series who periodically perform the duties of Vessel Traffic Controller, Lock and Dam Operators or Heavy Equipment Operators are also included in Category I.

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Urban Mass Transportation Administration

Category I

Motor Vehicle Operators	WG-57XX

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National Highway Traffic Safety Administration

Category I

Motor Vehicle Operators	WG-57XX
Auto Enforcement Investigators	GS-1801
Criminal Investigators	GS-1811

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Research and Special Programs Administration

Category I

General Engineers (Pipeline)	GS-801*
Engineering Technicians	GS-802*
Petroleum Engineers	GS-881*
Transportation Specialists	GS-2101*
Motor Vehicle Operators	WG-57XX*

*Includes only those GS-801, GS-802, GS-881, GS-2101, and WG-57XX positions with responsibilities for field operations of inspection and enforcement.

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Office of Inspector General

Category I

Criminal Investigators	GS-1811

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Maritime Administration

Category I

Transportation Equipment Operation Family	WG-57XX
Engineers (Watchstander)	WM-5352
Marine General Utility Maintenance Mechanics (Deck/Engine)	WM-5352

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U.S. Department of Transportation
Office of the Secretary of Transportation

Drug-Free Departmental Workplace

DRUG TESTING GUIDE

DEPARTMENT OF TRANSPORTATION

DRUG-FREE DEPARTMENTAL WORKPLACE

DRUG TESTING GUIDE

Office of Personnel
Drug Awareness and Education Division
Departmental Drug Office

DATE: March 31, 1988

March 31, 1988

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CHAPTER I. GENERAL PROVISIONS

A. Departmental Drug Office

The Departmental Office of Personnel, Drug Awareness and Education Division is responsible for ensuring the procedures contained in this guide are uniformly implemented throughout the Department of Transportation (DOT). Hereafter, this office shall be referred to as the Departmental Drug Office (DDO).

B. Drug Program Coordinators (DPC)

1. The DPCs referenced throughout this guide refer to the Headquarters DPC designated as having primary responsibility for coordination of all drug program activities for an operating administration (OA).

2. The responsibilities of the DPC may be delegated to Field DPCs in those OAs with large numbers of employees. In these cases, the OA shall assure all of the DPC responsibilities outlined in this guide are clearly distinguished as belonging either to the Headquarters or the Field.

3. Each OA shall designate a second and third alternate DPC who shall be fully trained in and ready to assume all the responsibilities and duties of the DPC in his/her absence. Alternate DPCs shall be designated for all Field DPCs, as well as for the Headquarters DPCs.

C. Site Coordinators (SC)

For those locations where testing is scheduled to be conducted and where the DPC is not physically present, an appropriate management official shall designate a SC to assist the collector on the actual day of collection. The responsibilities of the SC shall include the following:

1. coordinating the scheduling of employees selected for testing with the collector, appropriate supervisor, and/or DPC;

2. ensuring employees are selected from the test list, in accordance with the procedures outlined in this manual; and,

3. assisting the collector with logistical arrangements.

D. Safeguarding of Records Related to Drug Test Results

Test results will be protected under the provisions of the Privacy Act, 5 U.S.C. §552a and the Supplemental Appropriations Act, 1987 (Public Law 100-71, section 503(e)), and may not be released in violation of these statutes. Disclosure of drug test results under the "routine use" exception to the Privacy Act's disclosure prohibition is strictly limited.

E. Transmission of Test Results

1. Test results shall be transmitted electronically by the contract laboratory to the Medical Review Officer (MRO) in a manner consistent with the Privacy Act.

2. Test results shall not be communicated orally by the contract laboratory.

F. Release of Positive Test Results

1. All tested employees will receive written notification of their test results.

2. Confirmed positive laboratory test results shall be disclosed by the laboratory only to the MRO.

3. After the MRO has completed all responsibilities necessary to interpret and evaluate positive test results, the MRO in coordination with the DPC shall disclose a verified positive test result only to the employee, appropriate Employee Assistance Program (EAP) Coordinator, and any supervisory management official having authority to take adverse personnel action against the employee. At this time the DPC shall advise the employee that he/she may request a second test of the specimen, and will arrange contact with the MRO, if desired. The second test will be conducted at the same DOT laboratory, at DOT expense. The employee can also request a second test at another HHS certified laboratory. In such instances, the laboratory used by DOT will send a portion of the original sample to the laboratory designated by the employee. The cost of this test shall be paid by the employee. For

applicants, the MRO in coordination with the DPC shall disclose a verified positive test result only to the appropriate employing personnel office.

4. A verified positive test result shall be mailed only to the employee's home address.

G. Release of Negative Test Results

1. Employees whose drug test results are negative <u>will</u> routinely receive notification of the results without the need to submit a prior written request for such information. Such notification will be

provided by the MRO through the DPC.

2. For reasonable suspicion, post-accident, and follow-up testing, the appropriate DPC will be notified of the results by the MRO. The DPC will then notify the appropriate management official, who will in turn inform the employee.

3. In the case of applicants, the appropriate employing personnel office will be notified of the results by the MRO through the DPC.

H. Records Maintenance and Retention

1. All random test lists generated by the DDO for each OA (see Chapter II, Random Testing, Section I.A., "Employee Identification") shall be clearly annotated, dated, signed, and forwarded through the DPC to the DDO. The official list, the list on which every name has been clearly annotated in order to ensure a complete record of all actions, shall be signed and dated by the DPC and returned to the DDO as soon as possible. The DDO shall maintain all donor lists in such a manner as to prevent unauthorized access to information contained therein. No test lists will be maintained other than by the DDO.

2. Records resulting from the testing of employees for use of illegal drugs (e.g., chain of custody forms, negative test results, confirmed positive test results, medical records made available to the MRO by the tested individual, and MRO verification statement (see Chapter IX, Medical Review Officer,

Section II. B. 10., "Review")) shall be retained and filed in Office of Personnel Management (OPM) Government-wide (GOVT) system of records under the Privacy Act entitled "Employee-Medical File System Records" (OPM/GOVT-10). (The OPM notice amending OPM/GOVT-10 to include records resulting from drug testing of employees in the system was published in the Federal Register on June 12, 1987 (52 FR 22564)). Further instructions concerning the maintenance and retention of employee drug testing records is included in Federal Personnel Management (FPM) Supplement 293-31 ("Basic Personnel Records and Files System"), Subchapter S6 ("Employee Medical File System"), dated September 2, 1987.

3. Records resulting from the testing for illegal drugs of persons, where appropriate, who have applied to OPM or DOT for Federal employment and current and former DOT employees submitting applications for other positions in DOT for which testing for illegal drugs is required shall be retained and filed in OPM Government-wide system of records under the Privacy Act entitled "Recruiting, Examining, and Placement Records" (OPM/GOVT-5). (The OPM notice amending OPM/GOVT-5 to include records resulting from drug testing of applicants in the system was published in the Federal Register on June 12, 1987 (52 FR 22564)). Further instructions concerning the maintenance and retention of applicant drug testing records is included in Federal Personnel Management (FPM) Supplement 293-31 ("Basic Personnel Records and Files System"), Subchapter S6 ("Employee Medical File System"), dated September 2, 1987.

CHAPTER II. RANDOM TESTING

I. PROCEDURES PRIOR TO ACTUAL COLLECTION

A. Employee Identification

1. The DDO shall generate random test lists for each OA identifying all employees selected for random drug testing. Under no circumstances will an employee not on the list be tested. The lists will contain the following information for each employee selected.

   - Name of employee.
   - Occupational series and title.
   - Social security number.
   - Gender.
   - Organization code/routing symbol.
   - Duty location/facility address.

2. The lists shall be subdivided by OA region and contain the name and phone number of the appropriate DPC. Each list shall also provide the name and mailing address for the appropriate MRO.

B. Contractor Notification and Collection Scheduling

1. The DDO shall notify the collection contractor as to the locations and number of employees to be tested.

2. The contractor shall submit to the DDO a proposed collection schedule.

3. The DDO shall approve or otherwise modify the collector's proposed schedule.

4. Approximately 72 hours prior to each collection, the DDO shall provide the collector and the DPC with a list of employees selected for testing. When a SC is designated and used, the collector shall provide a copy of the list to that SC upon arrival on the actual day of testing.

C. Operating Administration Notification

1. The DDO shall provide each OA DPC general information as to the projected testing schedule on a monthly basis.

2. Prior to arrival on-site, the DPC shall confirm with the contractor the specific site(s) where testing is to be conducted and that all necessary arrangements have been made.

D. Facility/Site Notification

1. On the actual date that drug testing is scheduled to be conducted, the DPC shall notify the appropriate management official located at the specific site.

2. When the DPC is not physically located at the collection site, he/she shall request that a SC assist the collector.

E. Supervisor Notification

1. The DPC/SC shall notify the selected employee's first level supervisor approximately 1 hour prior to the actual collection. All scheduling shall be arranged in close coordination with the collector.

2. In situations where the first level supervisor is unavailable, the next higher management official shall be contacted.

3. The DPC/SC shall provide the supervisor with any information to be conveyed to the employee. (See Section I.F., "Employee Notification.")

4. The DPC/SC shall annotate the test list when a supervisor has been contacted by entering the date and time of notification.

F. Employee Notification

1. Approximately 15-30 minutes prior to the actual collection, the supervisor shall verbally and privately inform the employee that he/she has

been identified through a random selection process for drug testing by urinalysis. The employee shall be clearly informed as to the time and exact location to report for testing and instructed to take appropriate photo identification. Acceptable identification includes DOT employee identification with photo or, if DOT identification is unavailable, a driver's license with photo.

2. Every effort shall be made by the supervisor to personally provide the above information to the employee to avoid any misunderstandings. In addition, a copy of "Random Drug Testing Program Checklist for Employees" (see page II-20) will be given to each employee designated for random testing.

3. The supervisor shall be knowledgeable about the drug testing program and able to provide information in response to employee questions that may extend beyond the information provided in written notices.

4. The supervisor shall immediately report to the DPC/SC any problem encountered during employee notification. These problems shall be recorded on the test list by the DPC/SC. The DPC/SC shall assume the employee has received proper notification in the absence of any such call from the supervisor.

G. Unavailability of Employee

When an employee selected for random testing is unavailable for legitimate reasons (e.g., working different shift, travel, leave), the DPC/SC shall annotate the list indicating the specific reason and the name of the supervisor who provided the information.

H. Test Lists

The official test list shall be annotated, signed, dated, and returned by the DPC to the DDO. All other copies of the list will also be returned to the DDO by the DPC. The collector shall be responsible for retrieving the official list and any copies from the SC and forwarding all lists back to the appropriate DPC.

II. PROCEDURES DURING COLLECTION

A. Standard Collection Procedures (Unobserved)

To ensure that chain of custody and specimen control are maintained, the collection contractor shall follow the procedures as specified below.

1. The collection contractor shall adhere strictly to the schedule. Inability to adhere to the schedule shall be reported immediately to the appropriate DPC/SC.

2. Upon employee's arrival at the collection site, the collector shall request the individual to present photo identification. If the individual does not have proper identification, this shall be noted on the Drug Testing Control Form (NOTE: The Drug Testing Control Form is also referred to as the CHAIN OF CUSTODY form. These terms are synonymous). The collector shall notify the DPC/SC to obtain guidance on action to be taken. The DPC/SC shall then contact the employee's supervisor to confirm identification of the individual.

3. The collector shall ask the individual to complete a pre-test information form which serves as an identification document for the urine sample collected. This form will also request information regarding prescription and non-prescription drugs an employee uses which may affect the outcome of the test.

4. The collector shall require the individual to remove any unnecessary outer garments (e.g., coat, jacket) that might conceal items or substances that could be used to tamper with or adulterate the urine specimen. Also, all personal belongings (e.g., purse, briefcase) must remain with outer garments; the individual may, however, retain his/her wallet. The collector shall note any unusual behavior or appearance on the chain of custody form.

5. The individual shall be instructed to wash and dry his/her hands prior to urination. After washing hands, he/she shall remain in the presence of the collector and not have access to water fountains, faucets, soap dispensers, cleaning agents, or any other materials which could be used to adulterate the specimen.

6. To deter the dilution of specimens at the collection site, toilet bluing agents shall be placed in the toilet bowl for each collection, so the water in the toilet bowl always remains blue. There should not be any other source of water (e.g., shower, sink, etc.) in the enclosure where urination occurs.

7. The specimen shall be provided in the privacy of a stall or otherwise partitioned area that allows for individual privacy. The collector actually involved in the taking of the urine specimen shall, in all cases, be of the same gender as the individual providing the specimen. The collector shall note on the chain of custody form any unusual behavior.

8. The individual shall be asked to void into a disposable specimen container and not flush the toilet until the specimen has been handed over to the collector. The individual may then flush the toilet and observe the collector complete the chain of custody procedure. A collection container with a wider mouth may be used to collect the specimen. The specimen is then transferred by the collector to the specimen container. Any transfer from the collection container to the specimen bottle will be observed by the donor.

9. If the collection site is a public restroom, the contractor shall provide a collector of the same gender as the individual to accompany the individual into the public restroom. The restroom must be secured during the collection procedure and toilet bluing agents should be placed into the toilet bowl by the collector. The collector shall remain in the restroom but outside the stall until the specimen is collected.

10. After the specimen has been provided and submitted to the collector, the individual should be allowed to wash his/her hands.

11. Upon receiving the specimen from the individual, the collector shall determine that it contains at least 60 milliliters of urine. If there is not sufficient urine in the container, it shall be discarded and another sample collected. The individual shall be asked to drink fluids to facilitate urination. (See Section II.E., "Failure of Employee to Provide Specimen.")

12. Immediately after collection, the collector shall measure the temperature of the specimen (avoiding cross contamination of specimens) and conduct an inspection to determine the color and signs of contaminants. Any unusual findings resulting from the inspection shall be noted on the chain of custody form. The time from urination to delivery of the sample for temperature measurement is critical and in no case shall exceed 4 minutes. The individual giving the specimen will be asked to observe the reading of the temperature and the recording of that reading on the control form. He/she will then be asked to initial in the proper block on the form. If the temperature of the specimen is outside the range of 32.5-37.7 degrees C/90.5-99.8 degrees F, this gives reason to believe the specimen has been tampered with. After consultation with and approval by the DPC, another specimen shall be collected under direct observation and both specimens forwarded to the laboratory. Any specimen suspected to be adulterated should always be forwarded for testing. (See Section II.B., "Direct Observation Collection Procedures.")

13. Both the individual being tested and the collector should keep the specimen in view at all times until it has been packaged and sealed for shipment. If the specimen is transferred to a second container, the collector shall request the individual to observe the transfer

of the specimen and the placement of the tamperproof seal over the bottle cap and down the sides of the bottle.

14. The identification label should contain the date of collection, name of collection official, and required identifying information. The individual shall initial the label on the specimen bottle, using initials corresponding with the name on the chain of custody form.

15. The individual shall be asked to read and sign a certification statement certifying that the urine in the bottle came from his/her body at the time of collection. Refusal to sign this statement shall be noted on the control form by the collector.

16. The collector shall complete the chain of custody form for the collection process.

17. The specimen and chain of custody form with certification statement are now ready for shipment to the DOT contractor laboratory. The pink copy of the chain of custody form shall be forwarded to the appropriate MRO and the blue copy to the DDO. All specimens should be shipped as soon as possible after collections for that day are completed.

Note: While any part of the chain of custody

procedures are being performed, it is essential that the urine specimen and custody documents be under the control of the involved collection site person. If that person must leave his/her work station, the specimen and custody form shall be taken along or secured in a manner to preclude any break in the chain of custody.

B. Direct Observation Collection Procedures

1. Collection under direct observation shall not be made by the collector except with proper DOT authorization.

2. Collection of urine specimens shall not be made under direct observation except in those unusual circumstances allowed in Executive Order 12564 and Office of Personnel Management FPM Letters 792-16 and 792-17. These

exceptions may occur when facts and circumstances provide a reasonable basis to conclude that the person to be tested:

a. is an illegal drug user;

b. is under the influence of drugs at the time of the test;

c. has previously been confirmed by the agency to be an illegal drug user;

d. is seen to have equipment or implements used to tamper with urine samples;

e. has recently been determined to have tampered with a sample; and/or

f. has just given a specimen, and the temperature measurement indicates possible adulteration/substitution.

3. Procedures

Except as follows, the collector shall follow "Standard Collection Procedures (Unobserved)," outlined in Section II.A.

a. The collector shall inform the employee that collection will be done under direct observation.

b. Only the employee and collector shall be in the toilet area when the collection is made.

c. The collector, who shall be of the same gender as the employee, will serve as the observer.

d. The collector/observer shall position himself/herself in such a manner during collection so that he/she can be certain that the specimen passed directly from the employee's body into the specimen container.

e. The direct observation of the collection of a urine specimen is highly confidential, and no information shall be released concerning the observation other than the fact that it was performed.

f. The collector shall document the chain of custody form to indicate the sample was collected under direct observation.

g. All procedures shall be conducted in a detached objective manner.

C. Failure of Employee to Report to Collection Site

1. If the employee fails to appear for a scheduled collection, the collector shall immediately notify the DPC/SC who in turn shall immediately contact the employee's supervisor.

2. The supervisor shall initiate appropriate action in accordance with Chapter X, Disciplinary Action, Section III.A., "Failure of Employee to Report to Designated Collection Site."

D. Employee Refusal to Provide Specimen at the Collection Site

In the event an employee refuses to provide a specimen, the following procedures shall apply.

1. The employee shall be informed by the collector that:

a. the DPC/SC will be contacted; and

b. he/she is to report back to the work site supervisor and await further instructions.

2. The collector shall immediately notify the DPC/SC and document the refusal in writing on the chain of custody form.

3. The DPC/SC shall contact the employee's supervisor. The supervisor shall initiate action in accordance with Chapter X, Disciplinary Action, Section III.B., "Refusal of Employee to Provide Specimen at the Collection Site."

E. Failure of Employee to Provide Specimen

If the employee fails to provide a sufficient quantity of urine, at least 60 milliliters, the following procedures shall apply.

1. Employees will be given a reasonable period of time to provide a specimen. As a general rule the employee will be allowed a minimum of 2 hours from time of notification to provide the specimen.

2. Employees shall be asked to drink fluids to facilitate urination.

3. If at the end of the waiting period the individual still cannot provide a specimen of sufficient quantity, this inability shall be recorded by the collector on the chain of custody form as failure to provide a specimen and the DPC shall be notified. The DPC will then take action to reschedule the employee fo testing. Another chain of custody form will b completed for this second collection. If the employee still fails to provide a specimen, th chain of custody will be documented accordingly.

4. The MRO, upon receipt of his/her copy of the chain of custody form, shall contact the employee for any medical justification that ma exist to explain why the employee failed to provide a specimen. If the MRO believes the employee's justification is medically acceptable, no further action shall be taken against the employee. If the MRO believes there is no medical basis for the failure to provide a specimen, he/she shall notify the DPC.

5. The DPC shall contact the employee's supervisor. The supervisor shall initiate appropriate action in accordance with Chapter X, Disciplinary Action, Section III.C., "Failure of Employee to Provide Specimen."

F. Tampering/Adulteration/Substitution of Urine Samples

1. Should the collector, in his/her professional judgment, believe the employee has tampered/adulterated/substituted his/her sample, the collector shall:

   a. request the employee to remain at the collection site, preferably in the presence of a second collector;

   b. immediately contact the DPC/SC to detail the reasons for this belief; and then,

   c. document these reasons in writing before proceeding further.

2. The DPC, after consultation with appropriate OA legal staff, shall take the following action.

   a. Authorize the collection under direct observation if the circumstances establish a reasonable suspicion. In questionable cases, the DPC shall consult with the DDO.

   b. Document the collector's phone call, reasons for requesting observation, and final decision, including rationale for this decision.

   c. When appropriate, the DPC shall contact the employee's supervisor. The supervisor shall initiate action in accordance with Chapter X, Disciplinary Action, Section III.D., "Tampering/Adulteration/Substitution of Urine Samples by Employee."

REVISED
March 1, 1989

RANDOM DRUG TESTING PROGRAM

CHECKLIST FOR DRUG PROGRAM COORDINATORS

To ensure confidentiality of the random test list, the Departmental Drug Office (DDO) provides the list to the Drug Program Coordinator and the collection contractor normally only a few days before testing is scheduled. On this test list you will find the names of employees eligible for testing, the chosen day(s) for testing, and the predetermined number to be tested on each day. The process by which employees are selected uses a two-step computer program. First, a random selection of DOT work sites at which drug testing will be conducted is made. Second, all eligible employees in that site are listed in a random order and, on the day chosen for testing, a preset percentage are notified to report for testing. The number of sites and the number of employees selected for drug testing in these sites are both predetermined by percentage. If an employee is unavailable for testing, the next employee on the list will be notified to report for testing. This process continues until the predetermined number of tests for that day are done or the list for that day is exhausted, whichever comes first. All information relating to the test list must be kept confidential.

- [ ] Upon receipt of the test list, identify the exact locations, addresses and facility managers of the selected testing sites.

- [ ] After determining the number of employees on the list at each testing location, ensure that the testing can be accomplished within the test day. Any potential problems should be immediately reported to the DDO. The maximum number of random tests that will be done on any single day in any single location is approximately 24. Lists will be broken down by work discipline and location.

- [ ] Several days before testing is scheduled at a facility, contact the collection contractor to coordinate testing. You should provide the collector with the address and specific directions to the testing facility and discuss any special security or other potential building obstacles.

- [ ] Provide collector with name and phone number of contact at the facility.

- [ ] Establish time of arrival, number of tests targeted, and projected length of collection with the contractor.

- [ ] Inform the collector of your availability, location, and a telephone number where you can be reached during the specific testing period.

RANDOM DRUG TESTING PROGRAM
CHECKLIST FOR DRUG PROGRAM COORDINATORS (CONTINUED)

- [ ] On the day when testing is scheduled, contact the facility manager approximately 2 hours before the collector is scheduled to arrive.

- [ ] Instruct the Facility Manager to review his/her program checklist packet and to alert the Site Coordinator.

- [ ] Referring to the Checklist for Site Coordinators, discuss the procedures directly with the Site Coordinator.

- [ ] Remind the Facility Manager/Site Coordinator that tests must be conducted under circumstances that ensure the employee's privacy and dignity.

- [ ] Immediately report any problems encountered during the collection process to the DDO.

- [ ] Upon receipt of the official test list from the collector, verify that every name on the list has been clearly and properly annotated. Sign, date, and immediately return the list to the DDO. No test lists will be maintained other than by the DDO.

REVISED
March 1, 1989

RANDOM DRUG TESTING PROGRAM

CHECKLIST FOR FACILITY MANAGERS

Some employees located in your facility have been identified for random drug testing by urinalysis. Please be assured that the selection of these employees in no way reflects that the agency has cause to suspect usage of illegal drugs in your facility. The process by which employees are selected uses a two-step computer program. First, a random selection of DOT worksites at which drug testing will be conducted is made. Second, all eligible employees in that site are listed in random order and, on the day chosen for testing, a preset percentage are notified to report for testing. The number of sites and the number of employees selected for drug testing in these sites are both predetermined by percentage. If an employee is unavailable for testing, the next employee on the list will be notified to report for testing. This process continues until the predetermined number of tests for that day are done or the list for that day is exhausted, whichever comes first. Please read the information provided to familiarize yourself with the collection process. If you have previously experienced testing at your facility and are already familiar with the process, review the information so that you might provide advice to others who need assistance.

|_| When random drug testing is scheduled to be conducted, the Drug Program Coordinator (DPC) will notify you approximately 2 hours before the collector is scheduled to arrive.

|_| You or your management level designee should serve as Site Coordinator (read attached Checklist for Site Coordinators).

|_| Upon arrival at the facility, the collector, who is a contract employee, will provide the official test list to the Site Coordinator. Under no circumstances will any employee not identified on this list be tested. NOTE: The test list contains all employees in your facility who are eligible for random testing today. From that list, a predetermined number will be tested. It is unlikely that everyone on the list will be available for testing today. Some employees will not be available for legitimate reasons such as shift work, training, leave, etc. Tests are scheduled over a period of time, so that no more than two or three employees should be absent from the worksite at any given time. If a situation should occur where your work operations would be seriously affected by testing, the Site Coordinator should alert you. The maximum number of random tests that will be done on any single day is approximately 24.

RANDOM DRUG TESTING PROGRAM
CHECKLIST FOR FACILITY MANAGERS (CONTINUED)

- [ ] The attached checklists for supervisors and for employees should be provided to the appropriate individuals.

- [ ] All tests must be conducted under circumstances that ensure the employee's privacy and dignity. Information relating to the test lists; e.g., names of employees, number of employees tested, must be kept confidential and will not be shared with anyone.

- [ ] Immediately report any problems encountered during the collection process to the attention of the DPC. If you have any questions, call the DPC or the Departmental Drug Office on FTS 366-6000.

2 Attachments

REVISED
March 1, 1989

RANDOM DRUG TESTING PROGRAM

CHECKLIST FOR SITE COORDINATORS

Some employees located in your facility have been identified for random drug testing by urinalysis. Please be assured that the selection of these employees in no way reflects that the agency has cause to suspect usage of illegal drugs in your facility. The process by which employees are selected uses a two-step computer program. First, a random selection of DOT worksites at which drug testing will be conducted is made. Second, all eligible employees in that site are listed in random order and, on the day chosen for testing, a predetermined percentage are notified to report for testing. The number of sites and the number of employees selected for drug testing in these sites are both determined by a preset percentage. If an employee is unavailable for testing, the next employee on the list will be notified to report for testing. This process continues until the predetermined number of tests for that day are done or the list is exhausted, whichever comes first. You have been selected to serve as the Site Coordinator (SC) for your facility for today's testing.

|_| Upon arrival at the facility, the collector, who is a contract employee, will provide the official test list to you. Under no circumstances will any employee not identified on this list be tested. NOTE: The test list contains all employees in your facility who are eligible for random testing today. From that list, a predetermined number will be tested. It is unlikely that everyone on the list will be available for testing today. Some employees will not be available for legitimate reasons such as shift work, training, leave, etc. Tests are scheduled over a period of time, so that no more than two or three employees should be absent from the worksite at any given time. If a situation should occur where work operations would be seriously affected by testing, you should alert the Drug Program Coordinator (DPC) and the Facility Manager immediately. The maximum number of random tests that will be done on any single day is approximately 24.

|_| Identify and secure the "best possible" site for collection and employee waiting areas, in consultation with the collection contractor.

|_| Contact employee's supervisor approximately 1 hour prior to the actual collection. Annotate test list to include: name of supervisor, reason for any legitimate deletions from the list (e.g.; working different shift, travel, leave, taking special care to note the supervisory official who provided deletion information), and collection date.

Advise the supervisor to notify the employee 15-30 minutes prior to the actual collection. The supervisor must clearly inform employee of exact time and location to report and to take a photo identification.

|_| Employees should normally be scheduled to report to the collection site at 10-minute intervals.

|_| If an employee who is notified to report for testing is unable to provide a sufficient quantity of urine, you will be notified by the collector. The employee will be given a reasonable period of time to provide a specimen. As a general rule, the employee will be allowed a minimum of 2 hours to provide a specimen. During this time, the employee should remain at the collection site and be instructed to drink at least 8 ounces of liquid each half hour. If you determine that the employee is essential to work operations, you may allow the employee to return to the worksite while waiting to provide a specimen. The employee's supervisor should be alerted to the fact that the employee has not yet provided a specimen, and the employee should be directed to continue to drink liquid. If at the end of the waiting period the employee still cannot provide a specimen, the collector will notify the SC and the DPC, who will reschedule the employee for testing.

|_| Sign and date annotated test list and give to the collector for forwarding to the DPC.

|_| Keep all information relating to the test list, e.g., names of employees, number of employees tested, confidential and do not share with anyone.

|_| Immediately report any problems encountered during the collection process to the attention of the DPC and Facility Manager. Any problem encountered during the employee notification process shall be recorded on the official test list.

REVISED
March 1, 1989

RANDOM DRUG TESTING PROGRAM

CHECKLIST FOR SUPERVISORS

Some of your employees have been identified for random drug testing by urinalysis. Please be assured that the selection of these employees in no way reflects that the agency has cause to suspect usage of illegal drugs in your facility. The process by which employees are selected uses a two-step computer program. First, a random selection of DOT worksites at which drug testing will be conducted is made. Second, all eligible employees in that site are listed in random order and, on the day chosen for testing, a predetermined percentage are notified to report for testing. The number of sites and the number of employees selected for drug testing in these sites are both determined by a preset percentage. If an employee is unavailable for testing, the next employee on the list will be notified to report for testing. This process continues until the predetermined number of tests for that day are done or the list is exhausted, whichever comes first. Please read this entire Checklist to familiarize yourself with the collection process. If you have previously experienced testing at your facility and are already familiar with the process, review the information so that you might provide advice to others who need assistance.

On the actual date that random drug testing is scheduled to be conducted, your Drug Program Coordinator (DPC) or Site Coordinator (SC) will notify you which of your employees have been selected for drug testing and the proposed schedule. This information is confidential. The following procedures should be followed in notifying employees of the collection process.

- [ ] Approximately 15-30 minutes prior to the actual collection, inform the employee verbally, and privately, that he/she has been identified through a random selection process for drug testing by urinalysis. Clearly inform the employee as to the time and exact location to report for testing and instruct him/her to take photo identification.

- [ ] Employees normally will be scheduled to report to the collection site at 10-minute intervals. Coordinate any scheduling changes necessary to maintain work operations with the DPC/SC. Do not make any unilateral changes.

- [ ] In no instance will an employee not identified on the official test list, which is maintained by the Site Coordinator during collection, be tested.

- [ ] The collection will be performed by a Government contractor, who will ensure the process is properly administered. Advise employees to be prepared to provide a urine specimen at the scheduled collection time.

- [ ] Give the attached Checklist for Employees, which provides helpful information about the collection process, to scheduled employees.

- [ ] When an employee selected for random testing is unavailable for legitimate reasons (e.g., working different shift, travel, leave), you must inform the Site Coordinator, who will annotate the random test list to indicate the reason for that employee not being tested. Once a facility has been notified of testing, any leave requests submitted by employees for the testing day should be carefully scrutinized.

- [ ] Immediately report any problems encountered during employee notification to the SC. Employees who fail to cooperate with the collection procedures will be subject to disciplinary actions consistent with Departmental regulations. You must obtain guidance from your servicing personnel or labor and employee relations offices in these instances.

- [ ] If an employee who is notified to report for testing is unable to provide a sufficient quantity of urine, you will be notified by the SC. The employee will be given a reasonable period of time to provide a specimen. As a general rule, the employee will be allowed a minimum of 2 hours to provide a specimen. During this time, the employee should remain at the collection site and be instructed to drink at least 8 ounces of liquid each half hour. If the Site Coordinator determines that the employee is essential to work operations, he/she may allow the employee to return to the worksite while waiting to provide a specimen. The Site Coordinator will alert you to the fact that the employee has not yet provided a specimen, and you should direct him/her to continue to drink liquid. If at the end of the waiting period the employee still cannot provide a specimen, the collector will notify the SC and the DPC, who will reschedule the employee for testing.

- [ ] If you have any questions or concerns, you should share them with your DPC.

Attachment

REVISED
October 1, 1990

RANDOM DRUG TESTING PROGRAM

CHECKLIST FOR EMPLOYEES

You have been identified through a process of random selection for drug testing by urinalysis. Please be assured that your selection and the selection of other employees in your facility for such drug testing in no way reflects that the agency has any specific cause to suspect the usage of illegal drugs. The process by which you have been selected uses a two-step computer program. First, a random selection of DOT worksites at which drug testing will be conducted is made. Second, all eligible employees in that site are listed in a random order and, on the day chosen for testing, a preset percentage are notified to report for testing. The number of sites and the number of employees selected for drug testing in these sites are both determined by a preset percentage. If an employee is unavailable for testing, the next employee on the list will be notified to report for testing. This process continues until the predetermined number of tests for that day are done or the list is exhausted, whichever comes first. Please take a few minutes to read the following information, which describes your role in the collection process.

|_| Present required photo identification to the collector.

|_| Remove any unnecessary outer garments, e.g., coat, jacket. All personal belongings (e.g., purse, briefcase) must remain with outer garment(s). You may retain your wallet.

|_| When instructed by collector, wash and dry your hands.

|_| You may provide the specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy. If you are unable to provide a sufficient quantity, you will be given a reasonable period of time to provide an adequate specimen. As a general rule, you will be allowed a minimum of 2 hours in which to provide your specimen. If at the end of the waiting period you still cannot provide a specimen, drug testing will be rescheduled by your Drug Program Coordinator.

RANDOM DRUG TESTING PROGRAM
CHECKLIST FOR EMPLOYEES (CONTINUED)

|_| You should observe the entire collection procedure.

|_| Note the temperature reading on the bottle and verify that the temperature was correctly recorded by the collector in the proper space on the form.

|_| When instructed by the collector, complete the Drug Testing Custody and Control Form. Lastly, read, fill in the information requested, sign, and date the certification statement certifying that the specimen in the bottle is yours, and came from your body at the time of collection.

|_| Should the results of the laboratory test for the specimen you give be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications being taken at this time as a "memory jogger." THIS LIST IS NOT NECESSARY AND I SOLELY FOR YOUR PERSONAL USE. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 4--Donor) of the Drug Test Custody and Control Form--DO NOT LIST ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE YOUR COPY WITH YOU.

|_| If you have any questions or concerns, share them with the Site Coordinator, your supervisor, or your Drug Program Coordinator.

CHAPTER III. PERIODIC TESTING

- Reserved -

CHAPTER IV. REASONABLE SUSPICION TESTING

I. PROCEDURES PRIOR TO ACTUAL COLLECTION

A. Management Determination of Reasonable Suspicion

1. Reasonable suspicion testing is authorized when management believes an employee is using illegal drugs. This belief must be based on specific objective facts and reasonable inferences drawn from these facts in the light of experience. Reasonable suspicion does not require certainty; however, mere "hunches" are not sufficient to meet this standard. Reasonable suspicion testing will be ordered only by a management official after concurrence by legal counsel.

2. For purposes of this type of testing, reasonable suspicion that an employee uses illegal drugs may be based upon, among other things:

   a. observable phenomena, such as direct observation of drug use and/or the physical symptoms of being under the influence of a drug;

   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 provided either by reliable and credible sources or independently corroborated;

   e. newly discovered evidence that the employee has tampered with a previous drug test; and/or

   f. has just given a specimen, and the temperature measurement indicates possible adulteration/substitution.

3. Each incidence of reasonable suspicion testing must be concurred with by appropriate legal counsel in the OA prior to testing.

B. Documentation

Documentation shall be developed describing the circumstances which formed the basis that reasonable suspicion exists to authorize such testing. This documentation will be retained in the adverse action file maintained in the OA, or other system of records, if appropriate.

C. Contractor Notification

1. The DPC shall notify the contractor immediately when a determination is made by management to conduct reasonable suspicion testing. The notification shall include the following data.

   - Name of employee.
   - Occupational series and title.
   - Social security number.
   - Gender.
   - Organizational code/routing symbol.
   - Duty location/facility address.

2. The contractor shall respond as expeditiously as possible after notification by the DPC and in accordance with contractual agreements. Requests for reasonable suspicion testing may occur at any time or day of the week and at any location. An approximate time of arrival at the agreed upon collection site shall be given to the DPC.

3. The contractor shall contact the DPC/SC or appropriate management official immediately upon arrival to confirm the place and time of collection.

D. Departmental Drug Office Notification

1. Concurrent with contractor notification, the DPC shall verbally notify the DDO that reasonable suspicion testing procedures have been implemented. If such procedures are

implemented outside of the DDO's normal business hours, this notification shall be made within 4 hours of the first normal workday for the DDO.

E. Supervisor Notification

1. The DPC shall notify by telephone the employee's immediate supervisor or, in his/her absence, the next higher management official that emergency collection procedures have been initiated.

2. The DPC shall provide the supervisor with the estimated time and location of collection and any necessary information to be conveyed to the employee.

F. Employee Notification

1. The supervisor or management official shall provide the employee with specific written notice that he/she is being tested for reasonable suspicion and instruct the employee to take appropriate photo identification. Acceptable identification includes a DOT employee photo identification, or, if unavailable, a driver's license with photo. A sample letter is provided at the end of this chapter. The specific written notice shall include the following information:

   a. a precise and detailed statement describing all relevant circumstances which formed the basis for the decision to conduct reasonable suspicion drug testing;

   b. assurance that the quality of testing procedures is tightly controlled, that the test used to confirm use of illegal drugs is highly reliable, and that test results will be handled with maximum respect for individual confidentiality, consistent with safety and security;

   c. notice of the opportunity and procedures for submitting supplemental medical documentation that may support a legitimate use for a specific drug;

d. the consequences of a confirmed positive result or refusal to be tested, including disciplinary action;

e. the availability of professional drug abuse counseling by certified addictions counselors and referral services, including the name and telephone number of the local EAP coordinator;

f. the exact date, time and location for the test; and

g. that the sample will be collected under direct observation.

2. The supervisor shall be knowledgeable about the drug testing program and able to provide information in response to employee questions that may extend beyond the information provided in written notices.

3. The supervisor shall immediately report to the DPC, by telephone, any problem encountered during employee notification that would preclude testing. The DPC shall assume the employee has received proper written notification in the absence of any such call from the supervisor.

II. PROCEDURES DURING COLLECTION

A. Direct Observation Collection Procedures

To ensure the chain of custody and specimen control are maintained, the collection contractor shall follow "Direct Observation Collection Procedures" as follows.

1. Upon employee's arrival at the collection site, the collector shall request the individual to present photo identification. If the individual does not have proper identification, this shall be noted on the chain of custody form. The collector shall notify the DPC immediately to obtain guidance on action to be

taken. The DPC/SC shall then contact the employee's immediate supervisor to confirm identification of the individual.

2. The collector shall ask the individual to complete a pre-test information form which serves as an identification document for the urine sample collected. This form will also request information regarding prescription and non-prescription drugs the employee uses which may affect the outcome of the test.

3. The collector shall inform the employee that collection will be done under direct observation.

4. Only the employee and collector shall be in the toilet area when the collection is made.

5. The collector, who shall be of the same gender as the employee, will serve as the observer.

6. The collector shall require the individual to remove any unnecessary outer garments (e.g., coat, jacket) that might conceal items or substances that could be used to tamper with or adulterate his/her urine specimen. Also, all personal belongings (e.g., purse, briefcase) must remain with outer garments; the individual may, however, retain his/her wallet. The collector shall note any unusual behavior or appearance on the chain of custody form.

7. The individual shall be instructed to wash and dry his/her hands prior to urination. After washing hands, the donor shall remain in the presence of the collector and not have access to water fountains, faucets, soap dispensers, cleaning agents or any other materials which could be used to adulterate the specimen.

8. To deter the dilution of specimens at the collection site, toilet bluing agents shall be placed in the toilet bowl. There should not be any other source of water (e.g., shower, sink, etc.) in the enclosure where urination occurs.

9. The collector/observer shall position himself/herself in such a manner during collection so that he/she can be certain that the specimen passed directly from the employee's body into the specimen container.

10. The individual shall be asked to void into a disposable specimen container and not flush the toilet until the specimen has been handed over to the collector. The individual may then flush the toilet and observe the collector complete the chain of custody procedure. A disposable collection container with a wider mouth may be used to collect the specimen. The specimen is then transferred by the collector to the specimen container. Any transfer of urine from the collection container to the specimen bottles will be observed by the donor.

11. The direct observation of the collection of a urine specimen is highly confidential, and no information shall be released concerning the observation other than the fact that it was performed.

12. Upon receiving the specimen from the individual, the collector shall determine that it contains at least 60 milliliters of urine. If there is not sufficient urine in the container, it shall be discarded and another sample should be collected. The individual shall be asked to drink fluids to facilitate urination. (See Section II.D., "Failure of Employee to Provide Specimen.")

13. After the specimen has been submitted to the collector, the individual should be allowed to wash his/her hands.

14. Immediately after collection, the collector shall measure the temperature of the specimen (avoiding cross contamination of specimens) and conduct an inspection to determine the color and signs of contaminants. Any unusual findings resulting from the inspection shall be noted on the chain of custody form. The time from urination to delivery of the sample for

temperature measurement is critical and in no case shall exceed 4 minutes. The individual giving the specimen will be asked to observe the reading of the temperature and the recording of that reading on the control form. He/she will then be asked to initial in the proper block on the form. If the temperature of the specimen is outside the range of 32.5-37.7 degrees C/90.5-99.8 degrees F, this gives reason to believe the specimen has been tampered with. Another specimen shall be collected, again under direct observation, and both specimens forwarded to the laboratory. Any specimen suspected to be adulterated should always be forwarded for testing.

15. Both the individual being tested and the collector should keep the specimen in view at all times until it has been packaged and sealed for shipment. If the specimen is transferred to a second container, the collector shall request the individual to observe the transfer of the specimen and the placement of the tamperproof seal over the bottle cap and down the sides of the bottle.

16. The identification label should contain the date of collection, name of collection official, and required identifying information. The individual shall initial the label on the specimen bottle, using initials corresponding with the name on the chain of custody form.

17. The individual shall be asked to read and sign a certification statement certifying that the urine in the bottle came from his/her body at the time of collection. Refusal to sign this statement shall be noted on the certification statement form by the collector.

18. The collector shall complete the chain of custody form for the collection process; taking care to ensure the form is annotated to indicate "reasonable suspicion" testing conducted under direct observation.

19. All procedures shall be conducted in a detached objective manner.

20. The specimen and chain of custody form with certification statement are now ready for shipment to the DOT contractor laboratory. The pink copy of the chain of custody form shall be forwarded to the appropriate MRO and the blue copy to the DDO. The specimen shall be immediately prepared for shipment. Reasonable suspicion specimens shall be shipped, in all cases, to the testing laboratory the same day of collection.

B. Failure of Employee to Report to Collection Site

1. If the employee fails to appear for a scheduled collection, the collector shall immediately notify the DPC by telephone who in turn shall immediately contact the employee's supervisor.

2. The supervisor shall initiate appropriate disciplinary action in accordance with Chapter X, Disciplinary Action, Section III.A., "Failure of Employee to Report to Designated Collection Site."

C. Employee Refusal to Provide Specimen at the Collection Site

In the event an employee refuses to provide a specimen, the following procedures shall apply.

1. The employee shall be informed by the collector that:

a. the DPC/SC will be contacted; and

b. he/she is to report back to the work site supervisor and await further instructions.

2. The collector shall immediately notify the DPC.

3. The DPC shall contact the employee's supervisor. The supervisor shall initiate appropriate action in accordance with Chapter X, Disciplinary Action, Section III.B., "Refusal of Employee to Provide Specimen at the Collection Site."

D. Failure of Employee to Provide Specimen

If the employee fails to provide a sufficient quantity of urine, at least 60 milliliters, the following procedures shall apply.

1. Employees will be given a reasonable period of time to provide a specimen.

2. Employees shall be asked to drink fluids to facilitate urination.

3. If at the end of the waiting period the individual still cannot provide a specimen of sufficient quantity, this inability shall be recorded by the collector on the chain of custody form as failure to provide a specimen.

4. The MRO, upon receipt of his/her copy of the chain of custody form, shall contact the employee for any medical justification that may exist to explain why the employee failed to provide a specimen. If the MRO believes the employee's justification is medically acceptable, no further action shall be taken against the employee. If the MRO believes there is no medical basis for the failure to provide a specimen, he/she shall notify the DPC.

5. The DPC shall contact the employee's supervisor. The supervisor shall initiate appropriate disciplinary action in accordance with Chapter X, Disciplinary Action, Section III.C., "Failure of Employee to Provide Specimen."

E. Tampering/Adulteration/Substitution of Urine Samples

1. Should the collector, in his/her professional judgment, believe the employee has tampered/adulterated/substituted his/her sample, the collector shall:

   a. continue with the collection under direct observation; and

   b. contact the DPC to explain the details concerning the incident.

2. The DPC shall take the following action.

   a. Authorize a second collection, again under direct observation, if the circumstances clearly warrant; and instruct the collector to forward both samples to the testing laboratory. In questionable cases, the DPC shall consult the DDO.

   b. If the employee has been released, contact the employee's supervisor and request that the employee be instructed to return to the collection site.

   c. Document the collector's phone call, reasons for requesting observation, and final decision, including rationale for this decision.

   d. When appropriate, the DPC shall contact the employee's supervisor. The supervisor shall initiate disciplinary action in accordance with Chapter X, Disciplinary Action, Section III.D., "Tampering/Adulteration/Substitution of Urine Sample by Employee."

March 31, 1988

SAMPLE LETTER

NOTICE TO EMPLOYEE SUBJECT TO REASONABLE SUSPICION DRUG TESTING

[Date]

Subject: INFORMATION: Notice of Reasonable Suspicion Testing for Illegal Drugs

From: (Supervisor or Management Official)

To: (Employee)

Pursuant to Executive Order 12564 ("Drug-Free Federal Workplace"), the Department of Transportation (DOT) has initiated a comprehensive program to achieve the goal of a drug-free workplace in DOT. This program is set forth in DOT Order 3910.1 ("Drug-Free Departmental Workplace").

It has been determined by agency officials that sufficient grounds exist to authorize collection of a urine specimen from you on the basis of reasonable suspicion. This drug test is sought to be performed since management has formed a reasonable belief that you are using illegal drugs. Collection procedures under reasonable suspicion testing will require you to provide a specimen under direct observation.

[NOTE: The supervisor or management official must provide a separate statement describing all relevant circumstances which formed the basis for the decision to conduct reasonable suspicion drug testing.]

Drug testing for the Department is performed through urinalysis by an independent contract laboratory certified by the Department of Defense (DOD). The testing methodology reflects the scientific and technical procedures necessary to assure the results are highly reliable and accurate. DOD certification provides for strict quality control procedures. These procedures will include an initial screen of the urine sample you provide for drugs and confirmation by gas chromatography/mass spectrometry.

To assure that the sample collected from you is not accidently confused with any other sample, strict procedures will be used when collecting and transferring the specimen. The total of these procedures is known as the chain of custody. The test results from your sample will be handled

with maximum respect for individual confidentiality consistent with safety and security. A confirmed positive test result reported by the laboratory will be reviewed by a DOT Medical Review Officer before a determination is made that an employee has used illegal drugs. You will be given an opportunity to list all prescription and over-the-counter drugs that could affect the outcome of the drug test and which may be identified through the confirmation procedure.

If it has been determined that you are using illegal drugs off duty by means of this drug test or any other means, you will be provided the opportunity to use the services of the Department's Employee Assistance Program (EAP). Through this program, you will receive counseling and learn about the availability of rehabilitation. Information concerning the EAP may be obtained from your immediate supervisor or by contacting _____, your local EAP coordinator, at _____.

If you are an employee in a critical safety/security position within the meaning of DOT Order 3910.1, and it is determined that you are using illegal drugs off duty, you will be assigned to non-safety or non-security duties. You may be returned to safety or security duties when a determination is made that such action would not pose a danger to public health or safety or the national security. In addition, if a determination is made that you are using illegal drugs off duty, you will be subject to unannounced follow-up testing for a period of 1 year after your return to safety or security duties or completion of a rehabilitation/abatement program, whichever is later. Refusal to enter or successfully complete a rehabilitation/abatement program will be grounds for removal from the Federal service. If you test positive a second time as a result of any subsequent drug test or a second determination of illegal drug use by you is made, you also will be subject to removal.

Refusal to submit to testing or failure to cooperate with the collection procedures will be grounds for disciplinary action, including, in appropriate cases, removal from the Federal service.

If you have other questions after providing a urine specimen, please contact your servicing personnel office or Drug Program Coordinator.

CHAPTER V. PRE-EMPLOYMENT/PRE-APPOINTMENT TESTING

I. INDIVIDUALS SUBJECT TO PRE-EMPLOYMENT/PRE-APPOINTMENT TESTING

A. Coverage

All applicants for category I, safety/security critical positions (DOT Order 3910.1, Chapter III, Section 3) will be tested prior to employment/ appointment. This includes current employees in non-covered positions who are applying for covered positions and all external applicants for covered positions.

B. Details

In the instance of details or temporary assignments to Category I covered positions, pre-employment/ pre-appointment testing will be done if the term of such employment/appointment is expected to exceed 90 days. For all details or temporary assignments to covered positions, regardless of the position duration, the individual occupying the position will be subject to other types of drug testing, including random testing.

C. FAA Exemption

The FAA will continue to utilize Aviation Medical Examiners (AME) for pre-employment/pre-appointment testing, and is exempt from the procedures described below for the contract collector. The AME's will be required to follow HHS Guidelines as described in DOT procedures for the contract collector.

II. PROCEDURES PRIOR TO ACTUAL COLLECTION

A. Drug Program Coordinator Notification

The operating personnel office shall notify the DPC as soon as possible when it has been determined that an applicant/employee is to be scheduled for drug testing. Testing should be restricted to individuals tentatively selected for covered

positions. The drug test should be the last action taken prior to the offer of employment. This notification to the DPC shall include the following information.

- Name of applicant/employee.
- Occupational series and title.
- Social security number.
- Gender.
- Organization codes/routing symbol.
- Recommended date and location for testing (most often the home area of the applicant/ employee).

B. Contractor Notification

The DPC shall notify the contractor of the above requirements. This notification may be verbal, followed up by a written confirmation. The DPC will then provide the appropriate information concerning the contract collector to the operating personnel office so they may inform the applicant/employee.

C. Test Scheduling/Applicant Notification

1. The operating personnel office shall provide to the applicant/employee the name of the local contractor point of contact, the proper phone number, and a time frame for completing the pre-employment/pre-appointment test.

2. The applicant/employee will then contact the contractor to arrange a date, time, and place for the pre-employment/pre-appointment test. This must be accomplished within the time frame provided by the operating personnel office.

III. PROCEDURES DURING COLLECTION

A. Standard Collection Procedures (Unobserved)

To ensure the chain of custody and specimen control are maintained, the collection contractor shall follow the procedures as specified below.

1. The collection contractor shall adhere strictly to the agreed upon schedule. Inability to adhere to the schedule shall be reported immediately to the DPC.

2. Upon the applicant's/employee's arrival at the collection site, the collector shall request the individual to present photo identification. If the individual does not have proper identification, this shall be noted on the chain of custody form. The collector shall notify the DPC immediately to obtain guidance on action to be taken.

3. The collector shall ask the individual to complete a pre-test information form which serves as an identification document for the urine sample collected. This form will also request information regarding prescription and non-prescription drugs an applicant/employee uses which may affect the outcome of the test.

4. The collector shall require the individual to remove any unnecessary outer garments (e.g., coat, jacket) that might conceal items or substances that could be used to tamper with or adulterate the urine specimen. Also, all personal belongings (e.g., purse, briefcase) must remain with outer garment; the individual may, however, retain his/her wallet. The collector shall note any unusual behavior or appearance on the chain of custody form.

5. The individual shall be instructed to wash and dry his/her hands prior to urination. After washing hands, the donor shall remain in the presence of the collector and not have access to water fountains, faucets, soap dispensers, cleaning agents, or any other materials which could be used to adulterate the specimen.

6. To deter the dilution of specimens at the collection site, toilet bluing agents shall be placed in the toilet bowl. There should not be any other source of water (e.g., shower, sink, etc.) in the enclosure where urination occurs.

7. The specimen shall be provided in the privacy of a stall or otherwise partitioned area that allows for individual privacy. The collector actually involved in the taking of the urine specimen shall, in all cases, be of the same gender as the individual providing the specimen. The collector shall note on the chain of custody form any unusual behavior.

8. The individual shall be asked to void into a disposable specimen container and not flush the toilet until the specimen has been handed over to the collector. The individual may then flush the toilet and observe the collector complete the chain of custody procedure. A collection container with a wider mouth may be used to collect the specimen. The specimen is then transferred by the collector to the specimen container. Any transfer from the collection container to the specimen bottle will be observed by the donor.

9. If the collection site is a public restroom, the contractor shall provide a collector of the same gender as the individual to accompany the individual into the public restroom. The restroom must be secured during the collection procedure, and toilet bluing agents should be placed into the toilet bowl. The collector shall remain in the restroom but outside the stall until the specimen is collected.

10. After the specimen has been provided and submitted to the collector, the individual should be allowed to wash his/her hands.

11. Upon receiving the specimen from the individual, the collector shall determine that it contains at least 60 milliliters of urine. If there is not sufficient urine in the container, it shall be discarded and another sample should be collected. The individual shall be asked to drink fluids to facilitate urination. (See Section III.E., "Failure of Employee to Provide Specimen.")

12. Immediately after collection, the collector shall measure the temperature of the specimen (avoiding cross contamination of specimens) and conduct an inspection to determine the color and signs of contaminants. Any unusual findings resulting from the inspection shall be noted on the chain of custody form. The time from urination to delivery of the sample for temperature measurement is critical and in no case shall exceed 4 minutes. The individual giving the specimen will be asked to observe the reading of the temperature and the recording of that reading on the control form. He/she will then be asked to initial in the proper block on the form. If the temperature of the specimen is outside the range of 32.5-37.7 degrees C/90.5-99.8 degrees F, this gives reason to believe the specimen has been tampered with. After consultation with and approval by the DPC, another specimen shall be collected under direct observation and both specimens forwarded to the laboratory. Any specimen suspected to be adulterated should always be forwarded for testing. (See Section III.B., "Direct Observation Collection Procedures.")

13. Both the individual being tested and the collector should keep the specimen in view at all times until it has been packaged and sealed for shipment. If the specimen is transferred to a second container, the collector shall request the individual to observe the transfer of the specimen and the placement of the tamperproof seal over the bottle cap and down the sides of the bottle.

14. The identification label should contain the date of collection, name of collection official, and required identifying information. The individual shall initial the label on the specimen bottle, using initials corresponding with the name on the chain of custody form.

15. The individual shall be asked to read and sign a certification statement certifying that the urine in the bottle came from his/her body at the time of collection. Refusal to sign this statement shall be noted on the control form by the collector.

16. The collector shall complete the chain of custody form for the collection process, noting in the proper block on the form the reason for the test.

17. The specimen and chain of custody form with certification statement are now ready for shipment to the DOT contractor laboratory. The pink copy of the chain of custody form shall be forwarded to the appropriate MRO and the blue copy to the DDO. All specimens should be shipped as soon as possible after collections for that day are completed.

Note: While any part of the chain of custody

procedures are being performed, it is essential that the urine specimen and custody documents be under the control of the involved collection site person. If that person must leave his/her work station, the specimen and custody form shall be taken along or secured in a manner to preclude any break in the chain of custody.

B. Direct Observation Collection Procedures

1. Collection under direct observation shall not be made by the collector except with proper DOT authorization.

2. Collection of urine specimens shall not be made under direct observation except in those unusual circumstances allowed in Executive Order 12564 and Office of Personnel Management FPM Letters 792-16 and 792-17. These exceptions may occur when facts and circumstances provide a reasonable basis to conclude that the person to be tested:

   a. is an illegal drug user;

   b. is under the influence of drugs at the time of the test;

c. has previously been confirmed by the agency to be an illegal drug user;

d. is seen to have equipment or implements used to tamper with urine samples;

e. has recently been determined to have tampered with a sample; and/or

f. has just given a specimen, and the temperature measurement indicates possible adulteration/substitution.

3. Procedures

Except as follows, the collector shall follow "Standard Collection Procedures (Unobserved)," outlined in Chapter II, Section II.A.

a. The collector shall inform the employee that collection will be done under direct observation.

b. Only the employee and collector shall be in the toilet area when the collection is made.

c. The collector, who shall be of the same gender as the employee, will serve as the observer.

d. The collector/observer shall position himself/herself in such a manner during collection so that he/she can be certain that the specimen passed directly from the employee's body into the specimen container.

e. The direct observation of the collection of a urine specimen is highly confidential and no information shall be released concerning the observation other than the fact that it was performed.

f. The collector shall document the chain of custody form to indicate the sample was collected under direct observation.

g. All procedures shall be conducted in a detached objective manner.

C. Failure of Employee/Applicant to Report to Collection Site

1. If the employee/applicant fails to appear for a scheduled collection, the collector shall immediately notify the DPC by telephone, who in turn shall immediately contact the operating personnel office.

2. The operating personnel office will contact the employee/applicant to determine the reason for the failure to report to the collection site. If appropriate, testing can then be rescheduled. No final offer of employment shall be made until a verified negative test result has been received.

D. Employee/Applicant Refusal to Provide Specimen at the Collection Site

In the event an employee refuses to provide a specimen, the following procedures shall apply.

1. The employee shall be informed by the collector that:

   a. the DPC will be contacted; and

   b. he/she is to report back to the work site supervisor and await further instructions.

2. The collector shall immediately notify the DPC, who will inform the operating personnel office.

3. No final offer of employment will be made until a verified negative test result has been rendered.

4. The DPC shall contact the operating personnel office when an applicant refuses to provide a specimen. Applicants who are not current employees and who refuse to be tested shall be refused employment. No final offer of employment in a Category I covered position will be made until a verified negative test result

CHAPTER VI. POST-ACCIDENT DRUG TESTING

I. POST-ACCIDENT TESTING (GENERAL)

A. Covered Events

Testing for the presence of drugs will be conducted following an accident or other occurrence that involves one or more of the following:

1. a fatality;
2. a serious injury; (further detailed in Section II A.1.b.);
3. substantial damage to vehicles; and/or
4. substantial damage to other property.

B. Determination That Drug Testing Will Be Conducted

Only employees whose job performance at or about the time of an accident provides reason to believe that such performance may have contributed to the accident shall be determined to be subject to drug testing. Said determination shall be made in the following manner:

1. First, the appropriate OA will determine whether the accident is a covered event under section I.A.1. through 4. This determination shall be based on review of all available facts.

2. Second, following a determination that the accident qualifies as a covered event, the OA shall take all practical steps to identify each employee whose work performance may have been a contributing factor to the accident.

3. Third, after identification of each employee as specified in paragraph 2, the OA shall exclude from testing any employee so identified when specific and objective information collected in the course of review of the known facts surrounding the accident shows that the employee's work performance at or about the time of the accident could not have been a contributing factor.

4. No employee shall be subject to testing until the procedures specified in paragraphs 1, 2, and 3, are satisfied.

5. The process of determination, specified in paragraphs 1, 2, and 3, must be completed, the proper notification must be given the employee, and procedures for scheduling urine collection must be begun within 8 hours of receipt of notice by the OA of an accident that qualifies as a covered event.

II. POST-ACCIDENT TESTING (AIRCRAFT)

A. Covered Events

Post-accident testing shall be conducted after any of the following events:

1. Aviation accidents defined as any accidents (air to air, ground to ground, or air to ground) that involve one or more of the following.

   a. A fatality;
   b. A serious injury; defined as any injury which;

      (1) requires immediate hospitalization;
      (2) results in a fracture of any bone (except simple fractures of fingers, toes, nose);
      (3) causes severe hemorrhages, nerve, muscle or tendon damage;
      (4) involves any internal organ; or
      (5) involves second or third degree burns, or any burns affecting more than 5 percent of the body surface.

   c. Substantial damage to aircraft, defined as damage or failure which adversely affects the structural strength, performance or air flight characteristics of the aircraft, and which would normally require major repair or replacement of the affected component; engine failure or damage limited to an engine if only one engine fails or is damaged, bent

fairings or cowling, dented skin, small punctured holes in the skin or fabric, ground damage to rotor or propeller blades; and damage to landing gear, wheels, tires, flaps, engine accessories, brakes, or wingtips are not considered substantial damage.

d. Substantial damage to other property.

2. A request by the National Transportation Safety Board (NTSB) for post-accident testing following an accident as defined in Section II.A.1. (aviation accidents).

At the request of the NTSB, the Regional Division Manager, or other appropriate management official, will evaluate the event to determine if it qualifies for post-accident or reasonable suspicion testing, as specified by respective chapters of this Guide. If the Regional Division Manager determines that testing is required, the FAA will direct the employee to submit to urinalysis under the DOT drug testing program. If the Regional Division Manager determines that testing is not required pursuant to provisions of this Guide, FAA will make the NTSB request known to the employee, who may volunteer to provide a urine sample to NTSB. No employee will be directed to submit to testing in response to NTSB request if such testing would not otherwise be required by provisions of this Guide.

3. Operational Errors

a. Operational errors, including but not limited to, near mid-air collisions will not result in drug testing <u>unless</u> the error(s) qualifies under the definitions of Section II.A.1. (aviation accidents). If operational errors qualify under Section II.A.1., the procedures of Chapter VI of this Guide shall apply.

b. Provided, however, that testing of employees following operational errors that are not defined in Section II.A.1 (aviation accidents) shall be conducted if the Regional Division Manager, or appropriate management official determines that credible evidence exists which creates a reasonable suspicion that substance abuse by the employee may be involved. Drug testing will be conducted in conformity with the guidelines of "Reasonable Suspicion Testing," Chapter IV, of this Guide.

B. FAA Employees for Whom Testing Is Required

Following each event described above, the FAA shall take all practical steps to identify each employee(s) whose performance at or about the time of the event may have been a contributing factor to the event. Identification shall include consideration of the following personnel, including management, supervisory, and non-supervisory employees:

1. Air Traffic Control Specialists, GS-2152.

2. Air Traffic Assistants, GS-2154.

3. Electronic Technicians, GS-802/856.

4. Systems Engineers, GS-855.

5. Civil Aviation Security Specialists, GS-1801.

6. Aviation Safety Inspectors, GS-1825.

7. Inspection/Flight Test Pilots, GS-2181.

8. Maintenance Mechanics, WG-4749.

9. Aircraft Mechanics, WG-8852.

10. Computer Operators, GS-332.

11. Military personnel assigned to FAA.

C. Determination That Testing Will Be Conducted

Only employees whose job performance at or about the time of the event provides reason to believe that said performance may have contributed to the accident shall be determined to be subject to drug testing. Said determination shall be made in the following manner:

1. First, the Regional Division Manager, or appropriate management official, will determine whether an event qualifies under Section II.A.1.a. through d. This determination shall be based on examination of all available facts.

2. Second, following determination that an event qualifies under Section II.A.1.a. through d., the Regional Division Manager shall take all practical steps to identify each employee whose work performance may have been a contributing factor to the event.

3. Third, after identification of each employee as specified in paragraph 2, the Regional Division Manager shall exclude from testing any employee so identified when specific and objective information collected in the course of a review of the known facts surrounding the event shows that the employee's work performance at or about the time of the event could not have been a contributing factor in the event.

4. No employee shall be subject to testing until all procedures specified in paragraphs 1, 2, and 3, above, are satisfied.

5. The determination, specified in paragraphs 1, 2, and 3, above, must be completed, the proper notification must be given the employee, and procedures for scheduling urine collection must be begun within 8 hours of receipt of notice by the FAA of a covered event.

III. Post-accident Notification Procedures

A. Contractor Notification

1. In coordination with the DDO, the DPC shall notify the contractor immediately after a determination

is made by management to conduct post-accident testing. The notification shall include the following data.

a. Name of employee.
b. Occupational series and title.
c. Social security number.
d. Gender.
e. Organizational code/routing symbol.
f. Duty location/facility address.
g. Designated collection site (restroom) location.

2. The contractor shall respond as expeditiously as possible after notification by the DPC and in accordance with contractual agreements. Requests for post-accident testing may occur at any time or day of the week and at any location. An approximate time of arrival at the agreed upon collection site shall be given to the DPC.

3. The contractor shall contact the DPC or appropriate management official upon arrival to confirm the time and site of collection.

B. Departmental Drug Office Notification

Concurrent with contractor notification, the DPC shall verbally notify the DDO that post-accident procedures have been initiated. If such procedures are implemented outside of the DDO's normal business hours, this notification shall be made within 4 hours of the first normal workday for the DDO.

C. Supervisor Notification

1. The DPC shall notify by telephone the employee's immediate supervisor or, in his/her absence, the next higher management official that post-accident collection procedures have been initiated.

2. The DPC shall provide the supervisor with the estimated time and location of collection and any other information needed to be conveyed to the employee.

D. Documentation

Documentation shall be developed describing the circumstances which formed the basis for conducting post-accident testing. This documentation shall be retained in the adverse action file maintained by the OA or other system of records, or will be destroyed, if appropriate.

E. Employee Notification

1. After the determination that an accident or other occurrence qualifies as a covered event, the identification of each employee whose work performance may have been a contributing factor, and the decision by the proper management official that identified employee(s) can not be excluded, the employee(s) shall be provided written notification that testing is required. The procedures for making these determinations are set forth in Section I.B., above.

2. The supervisor or management official will further instruct the employee to take appropriate photo identification when called for testing. Acceptable identification includes a DOT employee photo identification, or, if unavailable, a driver's license with photo.

3. A sample notice letter is provided at the end of the chapter. The written notice shall include the following information:

   a. the reasons for the urinalysis test, consistent with DOT policy;

   b. assurance that the quality of testing procedures is tightly controlled, that the test used to confirm use of illegal drugs is highly reliable, and that test results will be handled with maximum respect for individual confidentiality, consistent with safety and security;

c. notice of the opportunity and procedures for submitting supplemental medical documentation that may support a legitimate use for a specific drug;

d. the consequences of a confirmed positive test result or refusal to be tested, including disciplinary action;

e. the availability of drug abuse counseling and referral services including the name and telephone number of the local EAP counselor; and

f. the exact date, time and location for the test.

4. The supervisor shall be knowledgeable about the drug testing program and should be able to provide information in response to employee questions that may extend beyond the information provided in written notices.

5. The supervisor shall immediately report to the DPC by telephone any problem encountered during employee notification that would prevent testing. The DPC shall assume the employee has received proper notification in the absence of any such call from the supervisor.

IV. PROCEDURES DURING COLLECTION

Procedures will be followed for standard (non-observed) collection in accordance with Random Testing, Chapter II, Section II, of this Guide. If sufficient justification for testing under the category of "Reasonable Suspicion," exists, the procedures in Chapter IV of this Guide should be followed, i.e., direct observation. The chain of custody form shall be annotated in the proper block as to the type of test.

July 1, 1988

SAMPLE LETTER

NOTICE TO EMPLOYEE SUBJECT TO POST-ACCIDENT DRUG TESTING

[Date]

Subject: INFORMATION: Notice of Post-Accident Drug Testing

From: (Supervisor or Management Official)

To: (Employee)

Pursuant to Executive Order 12564 ("Drug-Free Federal Workplace"), the Department of Transportation (DOT) initiated a comprehensive program to achieve the goal of a drug-free workplace in DOT. This program is set forth in DOT Order 3910.1 ("Drug-Free Departmental Workplace"), effective June 29, 1987.

In conformity with Section VI, B. of DOT's "Drug Testing Guide," agency management has determined that sufficient grounds exist to authorize collection of a urine specimen from you based on possible contribution of your performance to an accident or occurence which qualifies as a covered event, as defined by Section II.A.1.a. through d. of the Guide.

Your specimen will be subjected to drug testing performed through urinalysis by an independent contract laboratory certified by the Department of Defense (DOD). The testing methodology reflects the scientific and technical procedures necessary to assure that results are highly reliable and accurate. DOD certification provides for strict quality control procedures. These procedures include an initial screen of the urine sample for drugs and confirmation by gas chromatography/mass spectrometry.

Strict chain of control procedures will be used when collecting and transferring the specimen. The test results from your sample will be handled with maximum respect for individual confidentiality consistent with safety and security. If a confirmed positive test result is reported by the laboratory, it will be reviewed by a DOT Medical Review Officer before any determination is made regarding your use of illegal drugs. You will be given an opportunity to list all prescription and over-the-counter drugs that could affect the outcome of the drug test.

If a confirmed, positive test result shows that you are using illegal drugs, you will be provided the opportunity to use the services of the Department's Employee Assistance Program (EAP). Through this program, you will receive counseling and learn about the availability of rehabilitation. Information concerning the EAP may be obtained from your immediate supervisor or by contacting _____, your local EAP coordinator, at _____.

If you are an employee in a critical safety/security position within the meaning of DOT Order 3910.1, and a confirmed, positive test shows that you are using illegal drugs, you will be assigned to non-safety or non-security duties. You may be returned to safety or security duties after a determination is made that your return to those duties would not pose a danger to public health or safety or the national security. In addition, if a determination is made that you are using illegal drugs, you will be subject to unannounced follow-up testing for a period of 1 year after your return to safety or security duties or completion of a rehabilitation/ abatement program, whichever occurs later. Refusal to enter or successfully complete a rehabilitation/abatement program will be grounds for removal from the Federal service. If you test positive a second time as a result of any subsequent drug test, or if a second determination of illegal drug use by you is made, you also will be subject to removal.

Refusal to submit to testing or failure to cooperate with the collection procedures will be grounds for disciplinary action, including, in appropriate cases, removal from the Federal service.

If you have other questions after providing a urine specimen, please contact your servicing personnel office or Drug Program Coordinator.

CHAPTER VII. VOLUNTARY TESTING

I. PROCEDURES PRIOR TO ACTUAL COLLECTION

A. Employee's Request for Testing

1. Any DOT employee, regardless of position, may volunteer for drug testing by submitting a request in writing to his/her immediate supervisor. The request shall include the following data.

   - Name of employee.
   - Occupational series and title.
   - Social security number.
   - Gender.
   - Organizational code/routing symbol.
   - Duty location/facility address.

2. The supervisor shall forward requests to the DPC.

B. Acknowledgment and Confirmation of Employee Request

The DPC shall, within 10 working days of his/her receipt of a request for voluntary testing, provide to the requesting employee two copies of an acknowledgment notice of that request. A sample notice is provided at the end of this chapter. This notice shall include the following information.

1. The notice will acknowledge the employee's request for voluntary testing.

2. The notice will provide an explanation of the consequences of failing to meet DOT test requirements (see Chapter X, Section III).

3. An explanation of the consequences of a positive test result (see Chapter X, Section IV) will be provided.

4. The notice will include a statement that testing shall be scheduled at the earliest possible time consistent with the best interests of the Department. Every effort shall be made to schedule the employee's voluntary test on the same day that other testing is scheduled at the employee's duty location.

5. A statement signed and dated by the employee acknowledging receipt of this notice will also be included. The employee shall be instructed to return this signed copy no later than 10 working days after receipt and that failure to do so will be viewed as a withdrawal of the request.

C. Test Scheduling

1. The DPC shall forward one copy of the employee's signed acknowledgment notice to the DDO.

2. The DDO in coordination with the contractor shall make every effort to schedule testing at the earliest possible time. However, in the interest of economy to the Government, the DDO shall attempt to coordinate all voluntary testing with other types of testing being scheduled.

D. Contractor Notification

The contractor shall be notified by the DDO in the same manner as Random Testing, Chapter II.

E. Operating Administration Notification

The OAs shall be notified by the DDO that voluntary testing has been scheduled in the same manner as random testing procedures.

F. Supervisor Notification

1. The DPC/SC shall notify the employee's first level supervisor approximately 1 hour prior to the actual collection.

2. In situations where the first level supervisor is unavailable, the next higher management official shall be contacted.

3. The DPC/SC shall provide the supervisor with any information to be conveyed to the employee. (See Section I.G., "Employee Notification.")

4. The DPC/SC shall annotate the test list when a supervisor has been contacted by entering the date and time of notification.

G. Employee Notification

1. Approximately 15-30 minutes prior to the actual collection, the supervisor shall verbally and privately inform the employee that he/she is scheduled for voluntary drug testing. The employee shall be clearly informed as to the time and exact location to report for testing and instructed to take appropriate photo identification. Acceptable identification includes DOT employee identification with photo or, if unavailable, a driver's license with photo.

2. Every effort shall be made by the supervisor to personally provide the above information to the employee to avoid any misunderstandings.

3. The supervisor shall be knowledgeable about the drug testing program and should be able to provide information in response to questions that may extend beyond the information provided in written notices.

4. The supervisor shall immediately report to the DPC/SC, via telephone, any problem encountered during employee notification. These problems shall be recorded on the test list by the DPC/SC. The DPC/SC shall assume the employee has received proper notification in the absence of any such call from the supervisor.

H. Unavailability of Employee

When an employee scheduled for voluntary testing is unavailable on the scheduled day, the supervisor shall inform the DPC. The DPC shall inform the employee that, if he/she still wishes to be scheduled for voluntary drug testing, a second written request must be submitted. A second request shall be prepared in the same manner as the first request.

I. Cancellation by Employee

An employee may, up until the time collection procedures are completed, submit a written request to the supervisor canceling voluntary testing.

II. PROCEDURES DURING COLLECTION

Standard procedures will be followed in accordance with Random Testing, Chapter II, Section II. The chain of custody form shall be annotated in the proper block as to the type of test.

March 31, 1988

SAMPLE LETTER

NOTICE TO EMPLOYEE REQUESTING VOLUNTARY DRUG TESTING

[Date]

Subject: INFORMATION: Acknowledgment of Request for Voluntary Drug Testing

From: (Drug Program Coordinator)

To: (Employee)

This notice will acknowledge your recent written request to volunteer for agency drug testing. As you know, Executive Order 12564 ("Drug-Free Federal Workplace"), among other things, requires agencies to establish "a program for voluntary employee drug testing." The Department of Transportation (DOT) has initiated a comprehensive program to achieve the goal of a drug-free workplace in DOT. This program, including the program for voluntary employee drug testing, is set forth in DOT Order 3910.1 ("Drug-Free Departmental Workplace").

The Department will schedule a collection of your urine specimen as soon as practicable. Every effort will be made to schedule this collection on the same day that other specimen collections are scheduled at your duty location. You are hereby asked to sign and date the attached statement, acknowledging receipt of this notice. I request that you complete this statement no later than 10 working days after receipt of this notice. Your failure to return the completed statement to me by that time will be viewed as a withdrawal of your request for drug testing.

Drug testing for the Department is performed through urinalysis by an independent contract laboratory certified by the Department of Defense (DOD). The testing methodology reflects the scientific and technical procedures necessary to assure the results are highly reliable and accurate. DOD certification provides for strict quality control procedures. These procedures will include an initial screen of the urine sample you provide for drugs and confirmation by gas chromatography/mass spectrometry.

To assure that the sample collected from you is not accidently confused with any other sample, strict procedures will be used when collecting and transferring the specimen. The total of these procedures is known as the chain of

custody. The test results from your sample will be handled with maximum respect for individual confidentiality consistent with safety and security. A confirmed positive test result reported by the laboratory will be reviewed by a DOT Medical Review Officer before a determination is made that an employee has used illegal drugs. You will be given an opportunity to list all prescription and over-the-counter drugs that could affect the outcome of the drug test and which may be identified through the confirmation procedure.

If it has been determined that you are using illegal drugs off duty by means of this drug test or any other means, you will be provided the opportunity to use the services of the Department's Employee Assistance Program (EAP). Through this program, you will receive counseling and learn about the availability of rehabilitation. Information concerning the EAP may be obtained from me or by contacting _____, your local EAP coordinator, at _____.

If you are an employee in a critical safety/security position within the meaning of DOT Order 3910.1, and it is determined that you are using illegal drugs off duty, you will be assigned to non-safety or non-security duties. You may be returned to safety or security duties when a determination is made that such action would not pose a danger to public health or safety or the national security. In addition, if a determination is made that you are using illegal drugs off duty, you will be subject to unannounced follow-up testing for a period of 1 year after your return to safety or security duties or completion of a rehabilitation/abatement program, whichever is later. Refusal to enter or successfully complete a rehabilitation/abatement program will be grounds for removal from the Federal service. If you test positive a second time as a result of any subsequent drug test or a second determination of illegal drug use by you is made, you also will be subject to removal.

If you have other questions after providing a urine specimen, please contact your servicing personnel office or Drug Program Coordinator.

March 31, 1988

SAMPLE ACKNOWLEDGMENT OF EMPLOYEE'S RECEIPT OF NOTICE

I acknowledge receiving notice from the DPC concerning procedures for submitting to voluntary agency drug testing and the consequences of a confirmed positive drug test result or refusing to cooperate with collection procedures.

I understand that failure to sign and return this acknowledgment within 10 working days after receipt of notice will be viewed as a withdrawal of my request for voluntary drug testing.

_____
Printed or Typed Name

_____
Signature of Employee

_____
Date

CHAPTER VIII. FOLLOW-UP TESTING

I. PROCEDURES PRIOR TO ACTUAL COLLECTION

A. Test Scheduling

1. Upon the employees's return to safety/security critical duties (for Category I employees), or the completion of rehabilitation (for Category II employees), the EAP counselor shall complete a Follow-up Testing Worksheet. (See worksheet provided at the end of this chapter.)

2. This worksheet shall be submitted to the DPC who in turn shall provide a copy to the DDO.

3. The DDO shall develop an individualized follow-up testing plan for the following 1 year based on this information.

4. Certain covered positions require a return to duty medical examination for any employee identified as an illegal drug abuser. This examination will, in all such instances, include drug testing. This test shall serve as the first follow-up test.

B. Operating Administration Notification

The OAs shall be notified when follow-up testing has been scheduled in the same manner as Random Testing, Chapter II.

C. Supervisor Notification

1. The DPC/SC shall notify the employee's supervisor approximately 1 hour prior to the actual collection.

2. In situations where the first level supervisor is unavailable, the next higher management official shall be contacted.

3. The DPC/SC shall provide the supervisor with the information to be conveyed to the employee. (See Section I.D., "Employee Notification.")

4. The DPC/SC shall annotate the list when a supervisor has been contacted by entering the date and time of notification.

D. Employee Notification

1. On the day of collection, approximately 15-30 minutes prior to actual collection, the supervisor or management official shall provide the employee with written notice that he/she has been scheduled for follow-up drug testing. The employee shall be clearly informed as to the exact time and location for the test and instructed to take appropriate photo identification. Acceptable identification includes a DOT employee photo identification or, if unavailable, a driver's license with photo.

2. The supervisor shall be knowledgeable about the drug testing program and able to provide information in response to employee questions that may extend beyond information provided.

3. The supervisor shall immediately report to the DPC/SC, via telephone, any problem encountered during employee notification that would preclude notification. The DPC/SC shall assume the employee has received proper notification in the absence of any such call from the supervisor.

E. Unavailability of Employee

1. When an employee scheduled for follow-up testing is unavailable for legitimate reasons (e.g., on travel, leave), the supervisor shall immediately notify the DPC/SC (if SC, the DPC should then be notified by the SC).

2. The DPC shall arrange a new date/time of collection with the contractor and immediately notify the employee's supervisor by telephone of the new schedule.

3. The DPC shall annotate the list indicating the reason for rescheduling and the new date/time of the test.

II. PROCEDURES DURING COLLECTION

Procedures will be followed for direct observation collection in accordance with Reasonable Suspicion Testing, Chapter IV, Section II. The chain of custody form shall be annotated in the proper block as to the type of test.

March 31, 1988

FOLLOW-UP DRUG TESTING WORKSHEET

EMPLOYEE IDENTIFICATION DATA:

DATE DUE TO ENTER FOLLOW-UP: _____

RECOMMENDED TESTING PLAN:

Timeframe (Months)	Frequency*
ONE THRU THREE	_____
FOUR THRU SIX	_____
SEVEN THRU NINE	_____
TEN THRU TWELVE	_____
EXTENDED ** (Specify Timeframe)	_____

*Frequency Key

A - Weekly
B - Bi-weekly
C - Monthly
D - Quarterly

** Extended Testing Requires Justification and Approval By DPC and OST (DDO)

_____
Signature, EAP Coordinator

Telephone: _____

March 31, 1988

SAMPLE LETTER

NOTICE TO EMPLOYEES SUBJECT TO FOLLOW-UP DRUG TESTING

[Date]

Subject: INFORMATION: Notice of Follow-up Testing for Illegal Drugs

From: (Supervisor or Management Official)

To: (Employee)

When you elected to enter the Department's Employee Assistance Program, you were advised that you would be subject to follow-up testing for illegal drug use. You are scheduled for follow-up testing today. Be prepared to present photo identification to the collector. You will be required to provide a urine specimen of at least 60 milliliters under direct observation.

Drug testing for the Department is performed through urinalysis by an independent contract laboratory certified by the Department of Defense (DOD). The testing methodology reflects the scientific and technical procedures necessary to assure the results are highly reliable and accurate. DOD certification provides for strict quality control procedures. These procedures will include an initial screen of the urine sample you provide for drugs and confirmation by gas chromatography/mass spectrometry.

To assure that the sample collected from you is not accidently confused with any other sample, strict procedures will be used when collecting and transferring the specimen. The total of these procedures is known as the chain of custody. The test results from your sample will be handled with maximum respect for individual confidentiality consistent with safety and security. A confirmed positive test result reported by the laboratory will be reviewed by a DOT Medical Review Officer before a determination is made that an employee has used illegal drugs. You will be given an opportunity to list all prescription and over-the-counter drugs that could affect the outcome of the drug test and which may be identified through the confirmation procedure.

If you test positive you will be subject to removal. Refusal to submit to testing or failure to cooperate with collection procedures will be grounds for removal from the Federal service.

If you have other questions after providing a urine specimen, please contact your servicing personnel office or Drug Program Coordinator.

CHAPTER IX. MEDICAL REVIEW OFFICER

I. GENERAL

A. Role

1. Provides the medical review of laboratory test results and determines if the laboratory confirmed positive test findings are consistent with illegal drug use.

2. Monitors the specimen collection operation and laboratory testing and reporting operations to ensure accurate and complete information is available for decision-making purposes.

3. Maintains the medical system of records for the drug testing program.

4. Provides management with summary statistical data on the program test findings.

5. Determines when an employee who has entered a rehabilitation/abatement program is medically fit to return to critical safety/security duties.

B. Organizational Relationships

1. The Departmental Medical Review Officer (DOT MRO) receives and maintains records of all specimen collections and drug testing results. In consultation with field Medical Review Officers (MRO), the DOT MRO participates in the verification determination of positive test results. The DOT MRO does not participate in verification determinations for periodic drug testing conducted by the FAA.

2. Field MRO's are the primary medical officials in the administration of the specimen collection and drug testing programs. Field MRO's receive the MRO copy of the Drug Testing Control Form from the collector. A copy of that form is made and sent promptly to the DOT MRO. Both the DOT MRO and appropriate field MRO receive laboratory test results directly from the drug testing contractor.

3. Notifications to appropriate management officials, Employee Assistance Program (EAP) coordinator, employing personnel office (in the case of applicants) and the employee concerning positive test results will ordinarily be made by the Drug Program Coordinator (DPC) who receives a copy of the verified positive test report from the MRO.

C. Communications

1. Communications regarding sensitive medical information (positive drug test results, medical records reviews, medical interviews, consultations with treating physicians, etc.) will be conducted in a manner that provides the maximum protection of employees' right to privacy. Medical details in individual cases will be restricted to communications between health care professionals and only as required to arrive at a decision regarding a positive drug test result or return to duty for employees who have entered an abatement/ rehabilitation program.

2. Telephone communication is permitted for the purpose of acquiring medical or other information necessary to arrive at a medical determination in individual cases. Only those persons who have a need to know will be privy to or participate in such conversations.

3. Transmittal of written medical information will be by sealed envelope labeled: "To be opened by addressee only". This would include drug test results, medical record and interview information, communications between an EAP coordinator and an MRO, Drug Testing Control Forms, etc..

II. TEST RESULTS

A. Receipt

1. Test results from the contract laboratory will be received via computer located in the MRO's office.

2. During periods of computer outages, reports shall be sent from the contractor via Federal Express.

B. Review

1. The medical review of each positive test result must be performed by the MRO, a licensed physician with knowledge of substance abuse disorders. The purpose of the review is to determine if the positive result is evidence of illegal drug use.

2. There may be circumstances in which formal verification cannot be made immediately because of the need to obtain additional information. For example, a positive result for opiates or amphetamines may be due to legitimate prescribed use of such drugs. In such situations the MRO will obtain documentation needed for a final decision in as expeditious a manner as possible.

3. The MRO shall undertake the evaluation of alternative explanations of a positive test result. This may include the conduct of employee/applicant medical interviews, review of an individual's medical history or the review of other biomedical factors. Any requests for medical information shall be made by the MRO directly to the employee/applicant to ensure maximum confidentiality.

4. The MRO shall review all medical records made available by the tested individual when a positive test could have resulted from legally prescribed medications.

5. In situations where face-to-face interviews/ consultations are considered necessary, the MRO may delegate this responsibility to an on-site physician with appropriate training and experience. The MRO will be responsible for any final determination, but can consider input from this on-site physician. This delegation may also include the review of medical records where they exist, consultations with appropriate medical professionals, etc.

6. In situations where face-to-face interviews and consultations with employees/applicants are not considered to be necessary by the MRO, the employee/applicant may request to submit additional information. The MRO should determine if this information is pertinent to a medical review or is information primarily evidentiary in nature that should be considered by the appropriate management official.

7. The MRO review to verify a positive test result will not address any issues of innocent ingestion. These are matters to be considered by the appropriate management official.

8. The review of positive test results by the MRO shall be initiated immediately upon receipt of the laboratory test report, and shall be completed within 2 work days after receipt of all information pertinent to the review. In the case of cocaine, marijuana, and PCP, the MRO review shall be completed the same day as receipt of the positive test report.

9. Each positive test report received from the contract laboratory shall have a verification statement signed by the MRO to the effect that:

   a. the positive test result has been verified as positive, or

   b. the medical review has identified a legitimate medical reason for the positive test result, and the result has been reclassified to a negative report, and

   c. the MRO has consulted with the DOT MRO prior to formal verification.

10. In the instance such as paragraph 9.b., above, a copy of the confirmed laboratory positive report with the MRO's verification statement re-classifying to a negative report will be sent promptly to the DOT MRO.

C. Distribution

1. Negative reports will be forwarded to the appropriate DPC, so that the DPC can provide employees with the results of their tests. For applicants, the appropriate DPC will be given a copy of the negative test report and will in turn notify the employing personnel office.

2. A confirmed positive test result shall not be distributed until a review has been conducted by the MRO and the positive test result has been verified.

3. A copy of the signed verified positive test report will be sent through the DPC to the appropriate management official. That official shall provide the report to the servicing personnel specialist. Care should be taken to safeguard the confidentiality of the report. The report will be maintained in a secure filing system (see Chapter I, Section H.3., General Provisions). A separate copy of the report will be sent to the DOT MRO. No other copies of the verified positive test report will be made or maintained.

D. Notification

1. After verification of a positive test result by the MRO, the DPC shall notify only the coordinator of the Employee Assistance Program in which the employee is receiving counseling or treatment or is otherwise participating and the management official having authority to initiate appropriate personnel actions. That management official will inform the employee. For applicants, the DPC will notify the employing personnel office.

2. Notification of management officials by the DPC shall normally be accomplished the same day as verification of the positive test result by the MRO.

3. Notifications shall be recorded in each case, listing the official notified, organization/ routing symbol, date, and time notified.

4. A copy of the verified positive test report shall be provided by the MRO to the employee at his/her home address in an envelope clearly labeled "To be opened by addressee only." This shall be mailed on the same day as verification of the positive test result by the MRO and shall be signed by the MRO.

III. REINSTATEMENT OF EMPLOYEE TO CRITICAL SAFETY/SECURITY DUTIES

A. MRO Responsibilities

The MRO is responsible for determining when an employee may be medically cleared to return to critical safety/security duties.

B. EAP Responsibilities

To assist the MRO in determining whether an employee is fit to return to critical safety/ security duties, the EAP coordinator shall provide the MRO with the following minimum information.

1. Evaluation reports which include, as a minimum, a professional opinion regarding the type of substances used in the past, extent or frequency of use, results of any tests given, prognosis, follow-up recommendations, and a conclusion on whether the employee is attending and cooperating with treatment.

2. Admission summary, interim progress reports and discharge summary where inpatient treatment or evaluation is involved.

3. Where outpatient therapy or counseling is required beyond the initial evaluation, progress reports at least quarterly.

1. Evaluation reports which include, as a minimum, a professional opinion regarding the type of substances used in the past, extent or frequency of use, results of any tests given, prognosis, follow-up recommendations, and a conclusion on whether the employee is attending and cooperating with treatment.

2. Admission summary, interim progress reports and discharge summary where inpatient treatment or evaluation is involved.

3. Where outpatient therapy or counseling is required beyond the initial evaluation, progress reports at least quarterly.

CHAPTER X. DISCIPLINARY ACTION

I. GENERAL

A. Coverage

This chapter sets forth the appropriate disciplinary procedures and actions that DOT management officials and supervisors will follow in administering the DOT Drug Program. All disciplinary procedures and actions will be taken pursuant to the Civil Service Reform Act.

B. Drug Use - Effect on Mission

A determination by the agency to initiate action to remove an employee in Category I on the basis of illegal drug use is warranted since such illegal drug use is inconsistent with the mission of the agency and the nature of the employee's duties. Accordingly, removal will promote the efficiency of the service. Prior to initiating appropriate disciplinary action against an employee in Category II, management officials and supervisors shall determine if the disciplinary action will promote the efficiency of the service.

C. Required Guidance/Consultation

Prior to initiating any disciplinary action against any employee, management officials and supervisors shall secure guidance from their servicing personnel or labor and employee relations division offices. Such offices shall, in turn, contact appropriate agency legal counsel.

II. ACTIONS BASED ON ON-DUTY OR ON AGENCY PROPERTY USE OR POSSESSION OF ILLEGAL DRUGS AND DRUG TRAFFICKING

A. Use of Illegal Drugs On-Duty or on Agency Property

1. Upon learning that an employee has used illegal drugs on-duty or on agency property, the supervisor shall be responsible for documenting all relevant details to support any disciplinary action taken against such an employee based on that use.

2. The supervisor shall initiate action to remove an employee in Category I from the Federal service for such cause as will promote the efficiency of the service consistent with the procedural requirements of 5 C.F.R. §752.404; DOT Order 3770.1C, Subject: Disciplinary and Adverse Actions and Appeals, dated September 1, 1980, as amended; applicable collective bargaining agreements; and other statutes, orders, and regulations. The employee shall be charged with usage of illegal drugs on-duty or on agency property. No opportunity to enter a rehabilitation/abatement program will be offered.

3. The supervisor shall initiate appropriate disciplinary action against an employee in Category II. An employee in Category II will be offered an opportunity to enter a rehabilitation/abatement program consistent with provisions of the Drug Abuse Prevention, Treatment and Rehabilitation Act of 1972, as amended (42 U.S.C. Section 290ee-1 et seq.).

B. Possession of Illegal Drugs On-Duty or on Agency Property

1. Upon learning that an employee has possessed illegal drugs on-duty or on agency property, the supervisor shall be responsible for documenting all relevant details to support any disciplinary action taken against such an employee based on that possession.

2. The supervisor shall initiate action to remove an employee in Category I from the Federal service for such cause as will promote the efficiency of the service consistent with the procedural requirements of 5 C.F.R. §752.404; DOT Order 3770.1C, Subject: Disciplinary and Adverse Actions and Appeals, dated September 1, 1980, as amended; applicable collective bargaining agreements; and other statutes, orders, and regulations. The employee shall be charged with possession of illegal drugs on-duty or on agency property.

3. The supervisor shall initiate appropriate disciplinary action against an employee in Category II.

4. No opportunity to enter a rehabilitation/ abatement program will be offered.

C. Drug Trafficking

1. Upon learning that an employee has engaged in illegal drug trafficking, e.g., sale, manufacture, growing, distribution or transportation, the supervisor shall be responsible for documenting all relevant details to support any disciplinary action taken against an employee because of drug trafficking.

2. The supervisor shall initiate action to remove the employee in Category I from the Federal service for such cause as will promote the efficiency of the service consistent with the procedural requirements of 5 C.F.R. §752.404 DOT Order 3770.1C, Subject: Disciplinary and Adverse Actions and Appeals, dated September 1, 1980, as amended, applicable collective bargaining agreements; and other statutes, orders, and regulations. The employee shall be charged with illegal drug trafficking, i.e., sale, manufacture, growing or other appropriate charge.

3. The supervisor shall initiate appropriate disciplinary action against an employee in Category II.

4. No opportunity to enter a rehabilitation/ abatement program will be offered.

III. ACTIONS BASED ON FAILURE TO COMPLY WITH PROCEDURES DURING COLLECTION

A. Failure of Employee to Report to Designated Collection Site

1. Upon notification by the DPC that an employee has failed to appear for a scheduled collection, the supervisor shall discuss with

the employee the reason(s) for failing to appear. If the employee provides a legitimate reason(s) for failing to report, no disciplinary action may be taken.

2. If an employee in Category I does not provide a legitimate reason(s) for failing to report, the supervisor shall document the failure in writing and initiate action to remove the employee from the Federal service for such cause as will promote the efficiency of the service consistent with the procedural requirements of 5 C.F.R. §752.404; DOT Order 3770.1C, Subject: Disciplinary and Adverse Actions and Appeals, dated September 1, 1980, as amended; applicable collective bargaining agreements; and other statutes, orders and regulations. The employee shall be charged with failure or refusal to take a drug test authorized by Executive Order 12564.

3. If an employee in Category II does not provide a legitimate reason(s) for failing to report, the supervisor shall document the failure in writing and initiate appropriate disciplinary action.

4. Given the nature of the offense, there is no obligation to offer the employee an opportunity to enter a rehabilitation/abatement program.

B. Refusal of Employee to Provide a Specimen at the Collection Site

1. Upon notification by the DPC that an employee has refused to provide a specimen at the collection site, the supervisor shall be responsible for documenting all relevant details to support any disciplinary action taken against an employee because of refusal to provide a specimen, including the employee's reason(s).

2. The supervisor shall initiate action to remove an employee in Category I from the Federal service for such cause as will promote the efficiency of the service consistent with the procedural requirements of 5 C.F.R. §752.404; DOT Order 3770.1C, Subject: Disciplinary and Adverse Actions and Appeals, dated September 1, 1980, as amended; applicable collective bargaining agreements; and other statutes, orders, and regulations. The employee shall be charged with refusal to take a drug test authorized by Executive Order 12564.

3. The supervisor shall initiate appropriate disciplinary action against an employee in Category II.

4. No opportunity to enter a rehabilitation/ abatement program will be offered.

C. Failure of Employee to Provide Specimen

1. Upon notification by the DPC that an employee has failed to provide a sufficient quantity of urine (at least 60 milliliters), the supervisor shall be responsible for documenting all relevant details to support any disciplinary action taken against an employee because of failing to provide a specimen.

2. The supervisor shall initiate action to remove an employee in Category I from the Federal service for such cause as will promote the efficiency of the service consistent with the procedural requirements of 5 C.F.R. §752.404; DOT Order 3770.1C, Subject: Disciplinary and Adverse Actions and Appeals, dated September 1, 1980, as amended; applicable collective bargaining agreements; and other statutes, orders, and regulations. The employee shall be charged with failure to take a drug test authorized by Executive Order 12564.

3. The supervisor shall initiate appropriate disciplinary action against an employee in Category II.

4. No opportunity to enter a rehabilitation/ abatement program will be offered.

D. Tampering/Adulteration/Substitution of Urine Samples by Employee

1. Upon notification by the DPC that an employee has tampered/adulterated/substituted his/her sample, the supervisor shall be responsible for documenting all relevant details to support any disciplinary action taken against an employee because of tampering/adulteration/substitution of a urine sample.

2. The supervisor shall initiate action to remove an employee in Category I from the Federal service for such cause as will promote the efficiency of the service consistent with the procedural requirements of 5 C.F.R. §752.404; DOT Order 3770.1C, Subject: Disciplinary and Adverse Actions and Appeals, dated September 1, 1980, as amended; applicable collective bargaining agreements; and other statutes, orders, and regulations. The employee shall be charged with tampering, adulterating or substituting his/her urine sample.

3. The supervisor shall initiate appropriate disciplinary action against an employee in Category II.

4. No opportunity to enter a rehabilitation/ abatement program will be offered.

IV. ACTIONS BASED ON VERIFIED POSITIVE URINALYSIS FINDINGS

A. First Verified Positive Urinalysis Finding or First Determination of Illegal Drug Use

1. Upon receipt of a first verified positive urinalysis finding that an employee uses illegal drugs or a first determination that an

employee uses illegal drugs, the supervisor shall assign an employee in Category I to non-safety or non-security duties if such duties are available. An employee who possesses a security clearance of "Top Secret" shall no longer have access to top secret information. Such access, in accordance with DOT Order 1630.2, Subject: DOT Personnel Security Handbook, dated July 21, 1975, as amended, shall be suspended pending completion of a rehabilitation/abatement program.

2. The supervisor shall issue to an employee in Category I a proposed removal letter which shall refer the employee to the appropriate DOT Employee Assistance Program and offer the employee an opportunity to enter a rehabilitation/abatement program. The employee shall be charged with illegal off-duty drug use.

3. The supervisor shall initiate appropriate disciplinary action against an employee in Category II. Prior to taking any disciplinary action, the employee will be offered an opportunity to enter a rehabilitation/abatement program. The employee shall be charged with illegal off-duty drug use.

4. If the employee agrees to accept DOT's offer of rehabilitation/abatement in writing, a decision letter will inform the employee that his/her removal or disciplinary action will be held in abeyance pending successful completion of the rehabilitation/abatement program.

5. If the employee in Category I refuses to accept DOT's offer of rehabilitation/abatement, the appropriate deciding official shall proceed with the issuance of a final decision letter on the proposed removal consistent with the procedural requirements of 5 C.F.R. §752.404; DOT Order 3770.1C, Subject: Disciplinary and Adverse Actions and Appeals, dated September 1, 1980, as amended; applicable collective bargaining agreements; and other statutes, orders, and regulations.

6. If the employee in Category II refuses to accept DOT's offer of rehabilitation/abatement, the deciding official shall take appropriate disciplinary action.

B. Second Verified Positive Urinalysis Finding or Second Determination of Illegal Drug Use

1. Upon receipt by a management official of a second verified positive urinalysis finding that an employee uses illegal drugs or a second determination that an employee uses illegal drugs, removal of an employee from the Federal service is mandatory.

2. The supervisor shall initiate action to remove an employee from the Federal service for such cause as will promote the efficiency of the service consistent with the procedural requirements of 5 C.F.R. §752.404; DOT Order 3770.1C, Subject: Disciplinary and Adverse Actions and Appeals, dated September 1, 1980, as amended; applicable collective bargaining agreements; and other statutes, orders, and regulations. The employee shall be charged with failure to refrain from illegal off-duty drug use. The employee will not be offered a second opportunity to enter a rehabilitation/ abatement program.

U.S. Department of Transportation
Office of the Secretary of Transportation

Memorandum

Subject: INFORMATION: Drug Program Issues

Date: AUG 11 1988

From: Gloria K. Harris, Chief
Drug Awareness and Education Division

Reply to Attn of:

To: Drug Program Coordinators (DPCs)

As part of our ongoing effort to keep Drug Program Coordinators informed about current drug program operational matters, we will periodically issue memoranda addressing situations which may arise during drug testing. A question and answer format shall be used for this purpose.

QUESTION
Should a supervisor or manager always be present at a facility during random drug testing?

ANSWER
Yes, due to the complexity and sensitivity associated with random drug testing, it is of the utmost importance to have a supervisor or other management official present at the test facility during a collection. The DPC should ensure, without compromising the confidentiality of the tests, that a manager or supervisor will be at the test facility during collection. In the event management personnel are scheduled to be away from the facility during testing, on leave, etc., the DPC should make every effort to schedule another management official to be present. Locations having no on-site supervisor, such as small isolated facilities, should not be treated any differently. Arrangements should be made, in advance of testing, to have the off-site supervisor or another management official present on the day of testing.

In the unlikely event that no management official can be present at a facility during testing, the testing will be rescheduled. DPCs should reschedule testing through the local Upjohn Office and then notify the Departmental Drug Office. However, we fully expect that these instances will be rare. Proper coordination between the DPC and facility management should ensure management presence during random testing most of the time.

My staff is ready to assist you. Please call 366-6000, if you have any questions.

U.S. Department of Transportation
Federal Aviation Administration

Memorandum

Subject: INFORMATION: Drug Program Issues #1 Certified Bashful Bladders

Date: JUN 14 1990

From: Substance Abuse Program Manager, ALR-200

Reply to Attn. of:

To: Drug Program Coordinators (DPC)

As part of our ongoing effort to keep Drug Program Coordinators informed about current program operational matters, we will periodically issue memoranda addressing situations which may arise during drug testing. A question and answer format shall be used for this purpose.

QUESTION: What do you do with a "Second Time Around Bashful Bladder"?

ANSWER: The answer to this question is a step by step procedure, as follows:

Scenario: An employee on a reschedule has just sat for a minimum of 4 hours facilitating fluids and still unable to provide a specimen.

--The Site Coordinator and UpJohn should notify the Drug Program Coordinator immediately when the employee is still unable to provide a specimen (NOTE: Remind your collectors to maintain copies of the chain-o-custody form for referral to the Regional Flight Surgeon noting the circumstances surrounding the non-collection).

--The DPC should give the Regional Flight Surgeon advance notice of the situation and that the paperwork is forthcoming.

--The Regional Flight Surgeon is responsible for making a medical determination as to whether or not a valid reason exist for the employees inability to provide a specimen. (Note: Past practice has been established whereas the FAA will incur the cost for outside medical evaluations (urological/psychological) if the Regional Flight Surgeon determines it to be necessary.)

--When the Regional Flight Surgeon in consultation with the Departmental Medical Review Officer determines that there is medical reason for the employee's inability to provide a specimen the employee will be identified as a "Certified Bashful Bladder" (CBB).

--The Departmental Medical Review Officer will determine how the employee is to be handled for future drug testing. (Note: During a meeting with OST/GC/AM/ALR several procedures were agreed upon as follows--for a CBB an acceptable specimen is at least 60 ml. the employee will not be required to facilitate fluids and will not to be rescheduled if unable to provide on the first attempt.) The employee should complete the chain-of-custody and attempt to provide a specimen. Documentation of the medical findings and subsequent procedures should be maintained in the employees medical file. The Headquarters Substance Abuse Staff will notify you in writing as to the procedures to the used during random drug testing.

Please call the Substance Abuse Program Staff, ALR-200 if you have any questions.

Harnetta R. Williams

U.S. Department of Transportation
Federal Aviation Administration

Memorandum

Subject: INFORMATION: Drug Program Issues #2 S/C's Excusing Themselves from Random Testing

Date: JUN 14 1990

From: Manager, Substance Abuse Program

Reply to Attn. of:

To: Drug Program Coordinators

As part of our ongoing effort to keep Drug Program Coordinators informed about current drug program operational matters, we will periodically issue memoranda addressing the situations which may arise during drug testing. A question and answer format shall be used for this purpose.

Question: How should Site Coordinators be handled when they improperly excuse themselves from random drug testing, when it is apparent they should have been tested?

Answer: Specimen collection procedures require that all employees properly identified and available for testing are to be tested. Failure to correctly follow collection procedures jeopardizes the integrity of the Department's Drug-Free Workplace Program and intrudes on employee rights.

As Drug Program Coordinators you are required to review each test list for consistency with program guidelines and procedures. If it is discovered during your review that a site coordinator that should have been tested improperly excused him or herself the following actions should be taken:

- You should immediately notify the site coordinator and his or her supervisor to go over the procedures with them for future testing.

- Reschedule a specimen collection for the site coordinator (using normal rescheduling procedures),

- Expunge all collection and test result records of the name of the FAA employee who should have not been tested, and

- Inform both employees in writing of your actions.

Please call the Substance Abuse Program, ALR-200, if you have any questions.

Harnetta R. Williams

U.S. Department of Transportation
Federal Aviation Administration

Memorandum

Subject: INFORMATION: Drug Program Issues - #3 Follow-up Drug Testing

Date: AUG 30 1990

From: Manager, Substance Abuse Program

Reply to Attn. of:

To: Drug Program Coordinators

As part of our ongoing effort to keep Drug Program Coordinators informed about current program matters, several issues have been raised regarding follow-up drug testing that need to be clarified.

Question: When does the one-year follow-up drug testing period begin?

Answer: Category I employees will be subject to follow-up testing for a one-year period after return to safety or security duties or completion of rehabilitation/abatement program, whichever is later. Note: The Departmental drug office had been counting the one-year from the date of the return to duty test; not fully understanding that employees do not immediately return to their positions.

Question: Why does the return-to-duty test count as the first follow-up, as referenced in the DOT guide?

Answer: During the discussions with the Departmental drug office it was agreed that based upon current practices this test should in fact not count as the first follow-up test. The first follow-up test is actually after the employee has returned to duty. The return-to-duty test is a part of the medical process to assure that the employee is ready to return to duty. During the next change to the guide this reference should be deleted.

Note: In order to assure consistency with application of the above information the Follow-up Drug Testing Worksheet has been redesigned (see attached). Please note the changes:

Employee Identification Data: Self Explanatory

Entered Program Through: Self/Management Referral must be accompanied with a statement identifying the illegal drug used and the recency of the usage.

Date of Return to Category I Duties: The date is very important and must be completed, with year, month and day in order for the form to be accepted in this office. This is the beginning of the one year.

Date of Return to Duty Test: This date should be completed by medical.

Recommended Testing Plan: This section should be completed by the Medical Review Officer and the Employee Assistance Program Coordinator.

Signatures: The Medical Review Officer signature is a new requirement to assure their participation in this process. Some regions currently have their medical officers initial.

Question: What happens to the worksheet once I send it into Headquarters?

Answer: The worksheet is reviewed for completeness and logged into the system. Once I have initialed on the worksheet it is forwarded to the Departmental Drug Office (Shirley Thomas). Shirley will no longer process any worksheets without my initials. You'll need to send the worksheet as soon as possible to ensure immediate processing. Shirley will set-up the collection under direct observation (test sheet). If there are 10 days or more left in the month in which the worksheet is received in the DDO, test lists will be issued for the remainder of the month. If there are fewer than 10 days left in the month, testing will begin in the following month.

The information provided has been coordinated with the Departmental Drug Office. Please call the Substance Abuse Program Staff, ALR-200 if you have any questions.

Harnetta R. Williams

Harnetta R. Williams

FOLLOW-UP DRUG TESTING WORKSHEET

EMPLOYEE IDENTIFICATION DATA:

Name: Social Security No.:

Date of Birth: Sex: Occupation:

Duty Station:

ENTERED PROGRAM THROUGH (check one): Random ___
Reasonable-suspicion ___ Post-accident ___ Voluntary ___
Pre-appointment ___ Self-referral ___ Management-referral ___

(If self-referral or management referral, attach explanation and identify illegal drug(s) used.)

DATE OF RETURN TO DUTY TEST _____

DATE OF RETURN TO CATEGORY I DUTIES: _____

RECOMMENDED TESTING PLAN:

Timeframe (Months)	Frequency (# tests per month)
ONE THRU THREE	_____
FOUR THRU SIX	_____
SEVEN THRU NINE	_____
TEN THRU TWELVE	_____
EXTENDED THRU (Specify Timeframe) *(Requires justification and DDO approval)*	_____

Signature, MRO Date

Signature, EAP Manager Date

Signature, DPC Date

(Revised 8/31/90)

SECTION II

ROLE AND RESPONSIBILITIES

SECTION II. ROLE AND RESPONSIBILITIES

A. Role and Responsibilities of the Facility Manager.

(1) Acts as the point of contact at the facility to receive information on scheduling drug testing from the regional DPC.

(2) Serves as the SC, or designates another supervisor to perform SC duties. Ensures that the drug testing provisions of applicable FAA/Union Agreements are carried out.

B. Role and Responsibilities of the Site Coordinators (SC)

(1) Serving as a SC is perhaps the most important function in the random drug testing collection process. You must be familiar will all phases of random drug testing; e.g. the process by which employees are selected, how to "work the list", how to set up the collection site and all responsibilities of other persons involved in the random drug testing process.

(2) As the SC, you will be one of the first persons at your facility to be notified when random drug testing will occur. This notification should set off a series of events that culminate in the completion of testing at your facility that day. This handbook should provide most of the necessary guidance to help you through the collection process. In the event you need clarification or additional guidance, contact your regional DPC.

The regional DPC can be contacted at:

Phone _____.

Your actions as SC may include, but should not be limited to the following:

(a) Reviewing this handbook and being knowledgeable of the "Checklist for SC" in Chapter II of the Drug Testing Guide.

(b) Using the guidelines in "Working the Test List", identify the employees to be tested and determine the schedule for testing.

(c) Identifying and securing the best possible collection site in accordance with applicable regulations contained in the Drug Testing Guide.

(d) Monitoring and ensuring that the Contract Collectors are in compliance with their checklist.

(e) Maintaining CONFIDENTIALITY at all times.

C. Role and Responsibilities of the First Line Supervisor

(1) Using the "Checklist for Supervisor" in Chapter II of the Drug Testing Guide, your role in the random drug testing process is basically one of coordination. On the actual date that random drug testing takes place, the SC will notify you of employees who have been randomly selected for drug testing.

(2) Your actions during random drug testing should include, but not be limited to the following:

(a) Familiarize yourself with the "Checklist for Supervisors" from the Drug Testing Guide.

(b) Familiarize yourself with all memorandums of understanding and collective bargaining agreements governing bargaining unit employees which you supervise.

(c) The SC will coordinate a collection schedule with you. It is important for you to notify the affected employee verbally and privately at the appropriate time that they will be tested.

(d) Provide each employee to be tested with a copy of the "Checklist for Employees" from the Drug Testing Guide.

(e) It is important that you preserve the dignity and **CONFIDENTIALITY** of those employees selected for testing. Copies of the test lists are PROHIBITED.

D. Role and Responsibilities of the Union Representative

(1) Unions may or may not have negotiated agency agreements on the role of the union representative during drug testing.

(2) Presently, the National Air Traffic Controllers Association (NATCA), the Professional Airways Systems Specialists (PASS), and the National Association of Air Traffic Specialist (NAATS) unions have negotiated Memorandums of Agreement on drug testing matters. These are included in Section IV for your reference.

(3) Under the NATCA agreement, an employee will be allowed to confer with their union representative for a reasonable period of time not to exceed 15 minutes prior to and immediately after the sample collection process has been completed.

(4) The NATCA Union Representative:

(a) May be available to provide support to employees, outside of the collection area, prior to or after the completion of the collection process.

(b) Will normally be answering questions or passing out locally prepared union information regarding drug testing.

E. Role and Responsibilities of the Employee

(1) Because of the nature of your work you have been identified through a process of random selection for drug testing by urinalysis. You have been notified by your supervisor of when and where to report for your random testing. Please review the "Checklist for Employees" that has been given to you.

(2) When you report to the collection site you will be required to do the following:

(a) Provide a photo identification.

(b) Provide at least 60 milliliters of specimen. (30 milliliters is acceptable)

(c) Ensure the proper completion for the chain of custody of your specimen.

(d) Ensure that your specimen remains within your sight at all times.

(e) Immediately after transferring your specimen to the shipping bottle, note the temperature reading for the chain of custody form.

(f) Direct any questions you may have to your SC, immediate supervisor or your regional DPC.

F. Role and Responsibilities of the Collector

(1) The collectors are responsible for setting up lavatories and work space to be used in conjunction with the Site Coordinator (SC) as follows:

(a) Assures complete CONFIDENTIALITY at all times, conferring only with the SC.

(b) Provides the SC with the official yellow test list.

(c) Follows the standard collection procedures (unobserved) as contained in the "Checklist for Contract Collectors", in Chapter II of the Drug Testing Guide.

(d) Immediately notifies the SC of any difficulties encountered, (e.g., uncooperative behavior, interference with process, employee leaving collection site, temperature outside of acceptable range, etc.). The SC will contact the regional DPC for further guidance.

The regional DPC can be contacted at:

Phone _____.

SECTION III

GUIDANCE FOR WORKING THE TEST LIST

SECTION III. GUIDANCE FOR WORKING THE TEST LIST

A. Standard Operating Procedures for Working the Random Drug Test List.

(1) It is the responsibility of the designated Site Coordinator (SC) to "work the test list" (See Attached - Sample Test List) and identify a preset number of employees for random drug testing. The following procedures shall be used in administering random drug tests at all test sites.

(2) **Union notification** - When applicable, and in accordance with the appropriate collective bargaining unit agreement, the SC/Facility Manager will notify the union representative that the collection team has arrived on site to conduct random drug testing.

(3) The designated SC will be responsible for determining a reasonable amount of time to accomplish random drug testing. The SC will note the present collection goal which is printed at the top right-hand corner of the test list. This goal is the MAXIMUM number of employees who will be identified for random testing, per test list, on the particular day in which collections occur. **The maximum number identified as a collection goal shall not be exceeded at any time. The collection goal represents one-third of employees for a given collection site.**

(4) The collection goal is used to compute the approximate amount of time that it should take to complete the collections. The rule-of-thumb is fifteen minutes per employee to be tested. Arrival and preparation is not counted in this timeframe. The total collection time may be extended by 2 hours in the occurrence of a "bashful bladder."

(5) Once an approximate time has been computed, the SC will establish a "window period" for determining whether or not the employee in question is scheduled to be at work during testing. The SC shall begin with the first employee name on the test list (**names listed in random order**) and determine if that employee will be available for testing. If the answer is "Yes", that employee's name is annotated using standardized language for testing. Should the answer be "No", then the test list is annotated appropriately, i.e., A/L for annual leave, etc. The SC repeats this question-and-answer process, moving down the list in SEQUENTIAL ORDER, for each employee name on the test list until the collection goal or the bottom name on the list has been reached, whichever comes first.

(6) The SC will notify, using the appropriate supervisors, the employees identified for testing in the MOST EFFICIENT ORDER possible. For example, the twentieth employee on the test list could be the ninth name <u>identified</u>, but would be the first person <u>tested</u> if the SC knows that this employee is scheduled to leave work in an hour.

(7) Notification to an employee identified for testing should be conducted as discreetly as possible. A copy of the employee checklist will be presented at the time of notification by the supervisor. The SC should ensure that supervisors do not advise all employees at the same time that they have been identified for testing.

(8) The SC, in the face of change, must be able to make a proper and fair decision when the need arises. For example, when a test list totaling thirty employee names has been presented, the preset collection goal will be ten. Assume that the SC works sequentially through the first twenty-one names to obtain the preset collection goal of ten. However, during testing the SC discovers that the tenth employee designated for testing is unavailable through the normal exclusion process (e.g., employee calls in sick, or will not report to work during the expected collection time period), the SC must go back to the test list, and beginning at the twenty-second name (where he previously left off), choose a new tenth employee for testing. Since the original tenth person was never notified a reschedule is not necessary. The new tenth person is still a random selection because no individual, specifically the SC, had anything to do with his eventual selection for testing. If no employee from the twenty-second through the thirtieth name will be available for testing during the remaining time that the collectors are expected to be at the site, then a line should be drawn after the thirtieth name, and only nine employees will be tested on this particular day.

(9) Followed closely, this procedure of sequentially working the list strictly prohibits the SC from "picking and choosing" those employees identified for random testing. Should any questions arise during testing that the SC cannot answer, each test list contains the telephone number of the regional DPC.

(10) Maintain **CONFIDENTIALITY** at all times. Test lists are not to be reproduced or retained at the facility under any circumstances.

Report any problems in the drug testing process to the regional DPC

Phone _____

B. Standard Language for Annotating FAA's Random Drug Test List

* **RDO**--(Regular Day Off)
* **On Leave**--(specify--A/L, S/L, LWOP, military, court, etc.)
* **NOD**--(Not on Duty)
* **TDY**--(Temporary Duty)
* **NLE**--(No longer employed--i.e., resigned, retired, removed, deceased etc.)
* **Oper. Unavail.**--(Operationally Unavailable)
* **Not on Site**--(i.e.,--FAM trip, detail, working in field)
* **PCS**--(Permanent Change of Station)
* **Unable to Provide**--(Bashful Bladder) Notify DPC--See Site Coordinator's Handbook
* **NET**--(Not eligible for testing--explain)
* **RTP**--(Refused to provide specimen)
  Notify DPC - See Site Coordinator's Handbook
* **TC**--(Training complete--Aeronautical Center use only)

DATE: 1990 | DO NOT COLLECT FROM EMPLOYEES WHO ARE NOT ON THIS LIST | COLLE' 4

MRO: (PINK)
ANTHONY ZIEGLAR, M.D.
P.O. Box 1689, ASW-300
4400 BLUE MOUND ROAD
FORT WORTH, TX 76193-0300
(817) 624-5300; FTS 734-5300

DPC:
ROGER D. BLOCKER
SW REGION HDQS., ASW-16
4400 BLUE MOUND ROAD
FORT WORTH, TX 76193-0016
(817) 624-5818, FTS 734-5818

DOT: (BLUE)
DOT/OST/M-19
400 7TH STREET S.W.
WASHINGTON, DC 20590
(202) 366-6000; FTS SAME

ADMIN: FAA
REGION: SW
OPERATING ELEMENT: 203826

LOCATION: FORT WORTH, TX
FACILITY: SW REGION HDQS
ADDRESS: 4400 BLUE MOUND ROAD, FORT WORTH, TX 76193-0016

MSA: FORT WORTH, TX

TEST	NAME	SSN	SEX	DOB	SERIES	TITLE	RTG SYM
R	John A. Doe	452973784	M	01-01-50	2152	AIR TRAFFIC CONTROL SPECIALIST	FTW
NO SHOW REASON: NOD			DATE COLLECTED:		DPC SIGNATURES: John Q. Public		
R	Dean Child	176348945	M	06-05-30	2152	AIR TRAFFIC CONTROL SPECIALIST	FTW
NO SHOW REASON:			DATE COLLECTED: 5/1/90		DPC/SC SIGNATURE John Q. Public		
R	Lynda Coleman	244873456	F	06-03-53	2152	AIR TRAFFIC CONTROL SPECIALIST	FTW
NO SHOW REASON: RDO			DATE COLLECTED:		DPC/SC SIGNATURE John Q. Public		
R	Joe Wade	449065678	M	12-02-46	2152	AIR TRAFFIC CONTROL SPECIALIST	FTW
NO SHOW REASON: On Leave			DATE COLLECTED:		DPC/SC SIGNATURE John Q. Public		
R	Lillie Powell	217453780	F	03-05-40	2152	SUPERVISORY AIR TRAFFIC CONTROL SPEC.	FTW
NO SHOW REASON:			DATE COLLECTED: 5/1/90		DPC/SC SIGNATURE John Q. Public		
R	Roger Blocker	438651234	M	05-17-61	2152	AIR TRAFFIC CONTROL SPECIALIST (S)	FTW
NO SHOW REASON:			DATE COLLECTED: 5/1/90		DPC/SC SIGNATURE John Q. Public		
R	Roger Rabbit	217650987	M	10-10-56	2152	AIR TRAFFIC CONTROL SPECIALIST	FTW
NO SHOW REASON: PCS			DATE COLLECTED:		DPC/SC SIGNATURE John Q. Public		
R	Molly McButter	111550987	F	08-03-39	2152	AIR TRAFFIC CONTROL SPECIALIST	FTW
NO SHOW REASON:			DATE COLLECTED: 5/1/90		DPC/SC SIGNATURE John Q. Public		
R	Donald Duckett	234567890	M	07-15-46	2152	AIR TRAFFIC CONTROL SPECIALIST	FTW
NO SHOW REASON:			DATE COLLECTED:		DPC/SC SIGNATURE		
R	Oprah Wimhrey	098765432	F	11-09-50	2152	AIR TRAFFIC CONTROL SPECIALIST	FTW
NO SHOW REASON:			DATE COLLECTED:		DPC/SC SIGNATURE		
R	Flash Gordon	234780987	M	04-04-49	2152	AIR TRAFFIC CONTROL SPECIALIST	FTW
NO SHOW REASON:			DATE COLLECTED:		DPC/SC SIGNATURE		
R	Dwitty Dee	567451234	F	11-10-81	2152	AIR TRAFFIC CONTROL SPECIALIST	FTW
NO SHOW REASON:			DATE COLLECTED:		DPC/SC SIGNATURE		
R	Rodney Dangerfield	890442341	M	10-02-32	2152	AIR TRAFFIC CONTROL SPECIALIST	FTW
NO SHOW REASON:			DATE COLLECTED:		DPC/SC SIGNATURE		
R	Minnie Mouse	789001234	F	09-11-51	2152	AIR TRAFFIC CONTROL SPECIALIST	FTW
NO SHOW REASON:			DATE COLLECTED:		DPC/SC SIGNATURE		
R	Mickey Mouse	341233456	M	04-04-50	2152	AIR TRAFFIC CONTROL SPECIALIST	FTW
NO SHOW REASON:			DATE COLLECTED:		DPC/SC SIGNATURE		

SECTION IV

UNION CONSIDERATIONS

SECTION IV. UNION CONSIDERATIONS

A. Union Considerations Regarding the Random Drug Testing Program.

(1) To the extent training on the drug program is developed and made available to agency employees, the Employer shall notify and provide the union representative at the regional and local levels the opportunity to attend such training, when offered in the local community area. For purposes of attendance at such training, the Union's regional and local representatives shall be on official time.

(2) Union representatives may request copies of test lists in accordance with applicable bargaining unit agreements.

(3) Under the NATCA agreement, an employee will be allowed to confer with the union representative for a reasonable period of time, not to exceed 15 minutes prior to and immediately after the sample collection process has been completed.

(4) The SC should familiarize themselves with national and local FAA/Union agreements on drug testing. National FAA union agreements are enclosed within this section.

B. NAATS/FAA Agreement - Article 74, Drug Testing

Section 1. The Parties recognize that numerous issues related to the impact and implementation of drug testing are pending before the Federal Labor Relations Authority (FLRA) on negotiability appeal. The Parties agree that when the FLRA issues decisions resolving such disputes, the Parties shall meet and negotiate the impact and implementation of drug testing in accordance with those decisions and other applicable provisions of law and regulation.

Effective January 1, 1988

C. NATCA/FAA Agreement - Article 26, Leave for Special Circumstances

Section 13. Every reasonable effort shall be made to accommodate employee requests for annual or sick leave immediately upon completion of a drug test in order to allow the employee to secure back-up testing in a timely manner. Assignments of qualified staff and supervisory personnel to accomplish such leave requests will be made. Individuals who are granted such leave may be required, upon request, to provide proof that back-up testing was accomplished. Employees are not required to provide the results of such tests.

Effective May 1, 1989

D. NATCA/FAA Agreement - Article 74, Prior Memorandum of Understanding

Section 1. The Parties' memorandum of understanding on drug testing dated October 9, 1987, is hereby incorporated in this Agreement and shall remain in full force and effect for the life of this Agreement.

Attachment

Effective May 1, 1989

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE NATIONAL AIR TRAFFIC CONTROLLERS ASSOCIATION,
MEBA, AFL-CIO
AND
THE FEDERAL AVIATION ADMINISTRATION
DEPARTMENT OF TRANSPORTATION

The Parties at the national level have agreed to the attached broad scope grievance procedure and procedures for the Federal Aviation Administration's drug testing program.

The attached procedures become effective on the date signed and will be incorporated into the Parties' comprehensive negotiated agreement without change. They shall remain in full force and effect for the term of that agreement.

For the Federal Aviation Administration:

Joseph W. Norman

Director of Labor and Employee Relations

For the National Air Traffic Controllers Association, MEBA, AFL-CIO:

John F. Thornton

National Coordinator

Manager, Administrative Systems, AAT-10

Manager, Union/Management Relations Division, ALR-100

William W. Osborne Jr.

General Counsel

Signed and effective on October 9, 1987.

Attachments

MEMORANDUM OF UNDERSTANDING
NATIONAL AIR TRAFFIC CONTROLLERS ASSOCIATION,
MEBA, AFL-CIO
AND
FEDERAL AVIATION ADMINISTRATION

Drug Testing

Section 1. All collection and drug testing conducted by the Employer shall be done in accordance with DOT Order 3910.1, applicable law, and governmentwide rules and regulations, including the mandatory policies and procedures contained in the Department of Health and Human Services' "Scientific and Technical Guidelines for Drug Testing Programs."

Section 2. The Parties recognize that it is the Employer's policy to assure the establishment and maintenance of a drug-free workplace. The Employer agrees to make every effort to fully inform employees about the goals, objectives, policies, and procedures of its drug-free workplace program and to ensure that the program is implemented in a fair and equitable manner.

Section 3. To the extent training on the drug program is developed and made available to agency employees, the Employer shall notify and provide an opportunity to the Union's representatives at regional and local levels to attend such training when offered in the local commuting area. For purposes of attendance at such training, the Union's regional and local representatives shall be on official time.

Section 4. Semi-annually, the Employer shall convene a meeting at the national level for the Union's national officers and Regional Representatives for the express purpose of presenting a detailed review of the drug program and for exchanging views on the program as they concern bargaining unit employees. The exchange of views shall not be construed as constituting or requiring negotiations. The Employer agrees to pay travel and per diem costs associated with attendance at the annual meeting.

Section 5. To the extent the Employer prepares and maintains nationally developed statistical records regarding employee drug testing, the Employer agrees, consistent with Privacy Act provisions, to provide a copy of such records upon written request by the Union.

Section 6. The Employer shall maintain and make available to employees drug information and an Employee Assistance Program. All referrals of employees for drug-related problems shall be made in accordance with the provisions of DOT Order 3910.1 and applicable agencywide directives.

Section 7. Any disciplinary or adverse action taken against an employee as specifically provided in DOT Order 3910.1 and FAA Order 3750.4 shall be taken only for such just cause as promotes the efficiency of the service and in accordance with applicable provisions of law.

Section 8. When reasonable suspicion exists that an employee is using illegal drugs, either on or off duty, management may require that an employee submit to drug testing. Reasonable suspicion must be based on specific objective facts and reasonable inferences drawn from these facts in the light of experience. Examples of things which reasonable suspicion may be based on include, but are not limited to:

a. observable phenomena, such as direct observation of drug use and/or the physical symptoms of being under the influence of a drug;

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 provided either by reliable and credible sources or independently corroborated; or

e. newly discovered evidence that the employee has tampered with a previous drug test.

Section 9. At the time an employee is ordered to submit to drug testing based on reasonable suspicion of illegal drug use, he/she will be given a written statement setting out the basis for establishing reasonable suspicion. Upon the employee's request, a copy of the written statement will be provided to the union representative. If an employee requests union representation, and such representation is immediately available, the employee will be allowed to confer for a reasonable period of time not to exceed 15 minutes prior to and immediately after the sample collection process has been completed.

Section 10. At any investigatory interview with an employee concerning allegations of illegal drug use by the employee, upon request, the employee will be allowed union representation. The investigatory interview will be delayed for a reasonable period of time in order to allow the union representative the opportunity to attend the meeting. The agency has the right to obtain a urine sample in a timely manner even if the union representative has not yet arrived at the investigatory interview.

GRIEVANCE PROCEDURE

Section 1. A grievance shall be defined as any complaint:

a. By an employee concerning any matter relating to the employment of the employee;

b. By the Union concerning any matter relating to the employment of any unit employee; or

c. By a unit employee or either party concerning any claimed violation, misinterpretation, or misapplication of any law, rule or regulation affecting conditions of employment as provided in the Civil Service Reform Act of 1978.

Section 2. This procedure provides for the timely consideration of grievances. Except as limited or modified by Sections 3, 4 and 5, it shall be the exclusive procedure available to the parties and the employees in the unit for resolving grievances. Any employee, group of employees or the parties may file a grievance under this procedure. The parties shall cooperate to resolve grievances informally at the earliest possible time and at the lowest possible supervisory level.

Section 3. This procedure shall not apply to any grievance concerning:

a. Any claimed violation of Subchapter III of Chapter 73, Title 5, U.S.C. (relating to prohibited political activities);

b. Retirement, life insurance, or health insurance;

c. A suspension or removal under Section 7532, Title 5, U.S.C. (relating to National Security matters);

d. Any examination, certification, or appointment Title 5, U.S.C. 7121(c)(4);

e. The classification of any position which does not result in the reduction in grade or pay of an employee;

f. The removal of probationers;

g. Matters relating to overtime entitlement under the Fair Labor Standards Act, as amended. The compliance and complaint system of OPM shall be the procedure followed.

Section 4. In matters relating to 5 U.S.C. 2302(b)(1) dealing with certain discriminatory practices, an aggrieved employee shall have the option of utilizing this grievance procedure or any other procedure available in law or regulation.

Section 5. In matters covered by 5 U.S.C. 4303 (removal or reduction in grade for unacceptable performance) or 5 U.S.C. 7512 (removal, suspension for more than 14 days, a reduction in grade, a reduction in pay and a furlough of 30 days or less) an aggrieved employee shall have the option of utilizing this procedure or the appellate procedures in 5 U.S.C. 7701, but not both.

Section 6. Employees are entitled to be assisted by the Union in the presentation of grievances. Any employee or group of employees covered by this procedure may present grievances without the assistance of the exclusive representative, as long as the exclusive representative has been given the opportunity to be present during the grievance proceedings. The right of individual presentation does not include the right of taking the matter to arbitration unless the Union agrees to do so.

Section 7. In the case of grievances concerning disciplinary/adverse actions, the Union may elect to utilize the procedures of Section 8 or Section 16a. Grievances filed under Section 8 should be submitted beginning with Step 2, rather than Step 1, no later than twenty (20) calendar days after the date of the final decision to effect disciplinary/adverse action.

Section 8. Grievances filed by Employees.

Step 1. An aggrieved employee shall request informal resolution of his/her grievance from his/her immediate supervisor (who may be the Air Traffic Manager) within twenty (20) calendar days of the event giving rise to the grievance or within twenty (20) calendar days of the time the employee may have been reasonably expected to have learned of the event. The supervisor shall promptly arrange for a meeting at a mutually agreeable time, but no later than twenty (20) calendar days following the date of the employee's request to discuss the grievance. The employee and his/her representative will be given a reasonable amount of official time to present the grievance. The supervisor shall answer the grievance either orally or in writing within twenty (20) calendar days following the meeting.

Step 2. If the employee or the Union is not satisfied with the answer, a formal grievance may be submitted to the Air Traffic Manager within twenty (20) calendar days following the receipt of the answer. The grievance shall be submitted in writing on a grievance form and shall contain the name of the grievant, the alleged violation, the corrective action desired, the name of his/her Union representative, and whether he/she wishes to make an oral presentation. Failure to provide all of the information listed above shall result in the grievance being returned for completion. The time limit will continue to run during the period the grievance is returned. If requested, the Air Traffic Manager shall, prior to making a decision, afford the employee and/or Union representative an opportunity to present the grievance orally. The employee and his/her representative will be given a reasonable amount of official time to present the grievance. The decision of the Air Traffic Manager shall be delivered to the employee and/or Union representative within twenty (20) calendar days following receipt of the written grievance. In disciplinary/adverse action cases, a decision shall be delivered to the employee within ten (10) calendar days of the date of the grievance. The decision shall be delivered personally to the employee, and/or his/her representative, if he/she is on duty. therwise, another appropriate method of delivery shall be used.

Step 3. If the Union is not satisfied with the decision, the Union may within twenty (20) calendar days following receipt of the decision or the day the answer was due, advise the Manager, Labor Relations Branch,

Regional Headquarters, by certified mail, that it desires the matter be reviewed by the Manager, Air Traffic Division or his designee. The Union will be notified by certified mail within twenty (20) calendar days of the regional decision. The Union at the National level may, within thirty (30) calendar days following receipt of the regional decision, advise the Director, ffice of Labor and Employee Relations, that it desires the matter be submitted to arbitration. Within thirty (30) calendar days after receipt of the request, an arbitrator shall be selected from the panel by the Parties or by alternately striking names until one remains. Absent mutual agreement of the parties, if an arbitrator is not selected and a hearing scheduled within the time limits, the grievance is void.

At least once quarterly, and more often if mutually agreed to, the Union's Regional representative, or his/her designee, and the Manager, Air Traffic Division, and the Manager, Labor Relations Branch, or their designees, shall meet to discuss and attempt to resolve grievances pending at Section 8, Step 3 or Section 9 of this procedure. The Union representative shall be in a duty status if otherwise in a duty status, including travel time. The Union representative shall bear his/her own travel expenses.

Section 9. The parties will create a panel of three mutually acceptable arbitrators in each FAA Region. Either party may unilaterally remove an arbitrator from the panel and another arbitrator shall be mutually selected to fill the vacancy. Arbitrators selected for panels must also agree to hear expedited arbitration cases as provided in Section 16.

Section 10. The grievance shall be heard by the arbitrator as promptly as practicable on a date and at a site mutually agreeable to the Parties. The grievant and/or the Union representative, if an employee of the FAA, shall be given a reasonable amount of official time to present the grievance. FAA employees who are called as witnesses shall be in a duty status if otherwise in a duty status. Management agrees to adjust the schedules of witnesses, when operational requirements permit, to allow them to appear in a duty status. Each party shall bear the expense of its own witnesses who are not employed by the FAA, or who are not located at that duty location where the grievance arose. The Employer agrees to make every reasonable effort to produce witnesses requested by the Union. The arbitrator shall submit his/her report to the Air Traffic Manager, the aggrieved employee and/or the Union representative, as soon as possible, but in no event later than thirty (30) calendar days following the close of the record before him/her unless the parties waive this requirement. The decision of the arbitrator is final and binding.

Section 11. Grievances filed by Union or Employer.

Step 1. In the case of any grievance which the Union at the facility, regional or national level may have against the Employer at the corresponding level, or which the Employer at the facility, regional or National level may have against the Union at the corresponding level, the moving party shall at that level submit the grievance to the other party in

writing within twenty (20) calendar days of the event giving rise to the grievance or within twenty (20) calendar days of the time the moving party may have been reasonably expected to have learned of the event and shall provide the following information:

(a) The facts upon which the grievance is based.

(b) The corrective action sought.

Step 2. The responding party shall answer the grievance in writing within twenty (20) calendar days following the date the grievance was received. If the moving party is not satisfied with the answer and desires the matter to be submitted to arbitration, they shall, at the national level, so advise the respondent at the national level by certified mail within thirty (30) calendar days following receipt of the respondent's answer or the date the answer was due. The parties will create a national panel of three mutually acceptable arbitrators. Each party may unilaterally remove an arbitrator from the panel and another arbitrator shall be mutually selected to fill the vacancy. Within seven (7) calendar days after receipt of the request, an arbitrator shall be selected from the panel by the parties or by alternately striking names until one remains. Absent mutual agreement of the Parties, if an arbitrator is not selected and a hearing scheduled within the time limits, the grievance is void.

Step 3. The grievance hearing shall be conducted by the arbitrator as promptly as practicable on a date and at a site mutually agreeable to the parties. Each party shall bear the expenses of its own witnesses. The arbitrator shall submit his report to the parties as soon as possible, but in no event later than thirty (30) calendar days following the close of the record before him unless the parties waive this requirement. The decision of the arbitrator is final and binding.

Section 12. The arbitrator's fees and expenses of arbitration incurred under this procedure shall be borne equally by the parties. If a verbatim transcript of the hearing is made and either party desires a copy of the transcript, that party will bear the expense of the copy or copies they obtain. The parties will share equally the cost of the transcript, if any, supplied the arbitrator.

Section 13. The arbitrator shall confine himself/herself to the precise issue submitted for arbitration and shall have no authority to determine any other issues not so submitted to him/her. In matters covered under 5 U.S.C. 4303 and 7512 which have been raised under this procedure, an arbitrator shall be governed by 5 U.S.C. 7701(c)(1).

Section 14. Failure of a grievant to proceed with a grievance within any of the time limits specified in this procedure shall render the grievance void or settled on the basis of the last decision given by management, unless an extension of time limits has been agreed upon. Failure of management to render a decision within any of the time limits specified in this procedure shall entitle the grievant to progress the grievance to the next step without a decision.

Section 15. The parties retain their rights under 5 U.S.C. 7122 and 7123.

Section 16. Expedited Arbitrations.

a. If the Union at the national level elects to process a disciplinary/adverse action under this section, rather than Section 8, it shall, within thirty (30) calendar days following the final decision to take disciplinary/adverse action, notify the regional labor relations branch of its intent to proceed under this section and advise the Director, Office of Labor and Employee Relations, that it desires the matter be submitted directly to expedited arbitration. Within seven (7) calendar days after receipt of the request, an arbitrator shall be selected from the regional panel by the Parties or by alternately striking names until one remains. Absent mutual agreement of the Parties, if an arbitrator is not selected and a hearing scheduled within the time limits, the grievance is void. An arbitrator unable to hear an expedited arbitration case within seven (7) calendar days shall be deemed unavailable and the next arbitrator in turn will be selected. The hearing shall be conducted as soon as possible. The necessity for transcripts or filing of briefs shall be determined on a case by case basis. If the Parties cannot agree, the arbitrator will decide the issue. The arbitrator shall issue a decision as soon as possible, but no later than twenty-one (21) calendar days after the hearing has been held.

b. In cases other than disciplinary/adverse actions, the Parties at the national level may refer a particular grievance to expedited arbitration in lieu of the normal arbitration process in this procedure. The Parties shall meet and select an arbitrator from the national or regional panel or by alternately striking names. The hearing shall be conducted as soon as possible and shall be informal in nature. There shall be no briefs, no official transcripts, no formal rules of evidence, and the arbitrator shall issue a decision as soon as possible, but not later than five (5) calendar days after the official closing of the hearing unless otherwise agreed between the Parties. Determinations as to whether expedited arbitration shall be utilized in cases other than disciplinary/adverse actions shall be based on the facts and circumstances of each case; however, only those grievances where the passage of time would preclude a remedy or result in irreparable harm are subject to this expedited procedure.

Section 17. The Parties at the national level may, by mutual agreement, agree to stipulate the facts and the issue in a particular case directly to an arbitrator for decision without a formal hearing. Argument will be by written brief.

Section 18. Questions as to whether or not a grievance is on a matter subject to the grievance procedure in this agreement or is subject to arbitration shall be submitted to the arbitrator for decision.

Section 19. In the handling of grievances under this procedure and where law and OPM regulations permit, the Union shall have access to such information as is relevant and necessary to the processing of the grievance.

Memorandum of Understanding
Between
The Federal Aviation Administration
and
The National Air Traffic Controllers Association

SECTION 1. The principal facility representative or his/her designee will be notified of the arrival, at the facility, of the collector for the purposes of conducting random drug testing of bargaining unit employees.

SECTION 2. The principal facility representative or his/her designee will be notified when random drug testing has been completed. Upon request, the Employer will inform the representative of the number of people tested at the facility.

SECTION 3. This agreement may be changed by mutual consent of both parties.

For the Federal Aviation Administration

For the National Air Traffic Controllers Association

3/3/89
Date

E. PASS/FAA Agreement - Article 72

A. Post-Accident Drug Testing

Section 1. This constitutes the entire agreement on the issues raised during the negotiations on the employer's procedures on post-accident drug testing in effect on June 27, 1988. The Parties agree that any subsequent proposed changes to these procedures which impact bargaining unit employees and are initiated by the employer, will be implemented subject to the procedures contained in Articles 69 or 70, as appropriate.

Section 2. In the event that a determination is made pursuant to Section I(B) (1) or Section II (C) (1) of Chapter VI of DOT Drug-Free Departmental Workplace Drug Testing Guide that a covered event has occurred, the employer will notify, by telephone, the appropriate Regional Vice President of PASS as soon as possible, and will confirm by written notice sent within 24 hours of the determination.

Section 3. At any investigatory interview with an employee concerning whether the employee should be subject to post-accident drug testing, the employee will be allowed union representation. The investigatory interview will be delayed for a reasonable period of time in order to allow the union representative the opportunity to attend the meeting. However, in no event will the unavailability of a union representative constitute reason for delaying a determination as to whether an employee should be subject to post-accident testing beyond the tine limits prescribed in the DOT Drug Testing Guide and Action Notice 3910.1.

Attachment

Effective October 21, 1988

MEMORANDUM OF UNDERSTANDING
PROFESSIONAL AIRWAYS SYSTEMS SPECIALISTS
AND
FEDERAL AVIATION ADMINISTRATION

Post-Accident Drug Testing

Section 1. This constitutes the entire agreement on the issues raised during the negotiations on the Employer's procedures on post-accident drug testing in effect at the time of this agreement. The Parties agree that any subsequent proposed changes to these procedures which impact bargaining unit employees and are initiated by the Employer, will be implemented subject to the procedures contained in the Parties' existing negotiated agreements.

Section 2. In the event that a determination is made pursuant to Section I(B)(1) or Section II(C)(1) of Chapter VI of DOT Drug-Free Departmental Workplace Drug Testing Guide that a covered event has occurred, the Employer will notify, by telephone, the appropriate Regional Vice President of PASS as soon as possible, and will confirm by written notice sent within 24 hours of the determination.

Section 3. At any investigatory interview with an employee concerning whether the employee should be subject to post-accident drug testing, the employee will be allowed union representation. The investigatory interview will be delayed for a reasonable period of time in order to allow the union representative the opportunity to attend the meeting. However, in no event will the unavailability of a union representative constitute reason for delaying a determination as to whether an employee should be subject to post-accident testing beyond the time limits prescribed in the DOT Drug Testing Guide and Action Notice 3910.1.

For the Federal Aviation Administration

Gary W. Baldwin
Manager, Union/Management Relations Division,
Office of Labor and Employee Relations

For the Professional Airways Systems Specialists

Howard E. Johannssen
President

June 27, 1988
Date

Memorandum of Understanding
Between
The Federal Aviation Administration
and
The Professional Airways Systems Specialists
on
Implementation of the Changes
to the Random Drug Testing Selection Procedure

SECTION 1. The Parties agree that, upon request, once per quarter, PASS at the national level will be provided the most current 3-month listing of locations (MSA's) that were subject to random testing and where random testing has occurred. The listing will not include the month in which the request is made or the month preceding the request.

SECTION 2. Upon request, once per quarter, PASS at the national level will be provided the number of bargaining unit members who have tested positive under the random drug testing procedures.

SECTION 3. Any bargaining unit employee who has submitted to random drug testing may request his/her location on the test list. The Employer will provide the employee with this information, through appropriate channels.

SECTION 4. Nothing in this memorandum of understanding precludes the parties at the national level from discussing any unforeseen circumstances that may arise with regard to the revised random drug testing procedures.

For the Federal Aviation Administration

Joseph W. Thomas

For the Professional Airways Systems Specialists

Harold E. Johannessen

3/22/89
Date

U.S. Department of Transportation
Federal Aviation Administration

Memorandum

Subject: INFORMATION: Union Representation During Random Drug Testing

Date: MAY 24 1988

From: Director of Labor and Employee Relations

Associate Administrator for Air Traffic

To: Regional Directors

The agency has agreed with the National Air Traffic Controllers Association (NATCA) that, if during the course of the drug testing process a NATCA bargaining unit employee has questions about the procedure and wishes to discuss the matter with a union representative, the employee will be allowed to do so, provided the NATCA representative is readily available and the discussion does not interfere with or unduly delay the testing procedure. Union representatives may not be present during the collection process.

The policy is effective immediately. Please forward this information to all terminals and centers with instructions to place it in the facility read and initial binder.

Joseph W. Noonan

B. Keith Potts

cc: Regional Air Traffic Division Managers
Regional Human Resource Management Officers

U.S. Department
of Transportation

**Federal Aviation
Administration**

Memorandum

Subject: INFORMATION: Union Agreements on the Implementation of the New Random Drug Testing Selection Procedures

Date: APR 6 1989

From: Manager, Substance Abuse Program, ALR-200

Reply to Attn. of:

To: Regional Drug Program Coordinators

Attached are copies of the union agreements reached between the Federal Aviation Administration (FAA), Professional Airways Systems Specialists (PASS) and the National Air Traffic Controllers Associations (NATCA) concerning changes to the procedure used for selection under the Departmental Random Drug Testing Program.

Please distribute copies of these agreements to the appropriate Facility Managers and Site Coordinators in your region.

Note that Section 3 of the agreement between FAA/PASS allows bargaining unit members who have submitted to random drug testing to request information regarding his/her location on the test list. In order to preserve the integrity of the process and avoid any interruption or confusion during the testing process the Drug Program Coordinator, not the Facility Manager/Site Coordinator is the appropriate person to release this information to the employee.

The Site Coordinator should provide you with the names of those employees who have requested to know their placement on the test list. In order to assure consistency on a nationwide basis the attached form is to be used in providing this information back to the employee. (Note: The information should be addressed directly to the employee and you should sign your name). I would suggest you keep a log with the following information for future reference: Date of Request/Information Requested by Whom/Employees Name/Date Information Provided. Please maintain a file copy of each response you send out for future reference and send all requested information through the Facility Manager/Site Coordinator for distribution. You will need to establish the procedure that will work best for you in providing this information upon request. Please assure that this information is provided to the appropriate managers/supervisors.

Please remind Facility Managers/Site Coordinators to provide information regarding the new Random Selection Process to their employees. The Labor Relations Office (ALR-100) here at Headquarters has received several complaints from union representatives that this information has not been communicated to the employees.

If you have any additional questions call me.

Harnetta R. Williams

Harnetta R. Williams

Attachments

U.S. Department of Transportation
Federal Aviation Administration

Memorandum

Subject: INFORMATION: Name on Test List Request

Date:

From: Regional Drug Program Coordinator

Reply to Attn. of:

To:

The following information is provided based upon your request:

Date of Test:

Location/Facility of Test:

Quota:

Location on Test List:

Total number of people on the list:

U.S. Department of Transportation
Federal Aviation Administration

Memorandum

Subject: INFORMATION: Guidance on labor relations aspects of random drug testing

Date: JUN 20 1989

From: Director of Labor and Employee Relations, ALR-1

Reply to Attn. of:

To: Managers, Regional Labor Relations Branches

The following guidance is being provided in response to two inquiries arising from the field:

1) What access should union representatives have to the area where drug testing is being conducted?

Neither of the two agreements between the agency and the National Air Traffic Controllers Association (NATCA) address the physical location access by union representatives to the drug testing area.

In most cases, there are two types of physical locations involved in the testing process:

a) An "administrative area" where Upjohn representatives brief employees to be tested and/or their union representatives on the actual testing process and provide them with Privacy Act information. This area would be the appropriate area to allow employees to confer with their union representatives.

b) A "controlled area" where forms are filled out, chain-of-custody process is initiated, actual specimen is collected and chain-of-custody is completed.

It is our understanding that the "controlled area" is jointly determined by the Upjohn testing personnel and the designated site coordinator. This determination varies depending on the configuration of the particular facility. The determination should be based on reasonableness given the space/location. However, once

this determination is made, the union representative should not be allowed beyond its parameters. The agreement with NATCA does not provide for the representative to follow the employee through the process of completing the forms (if this is done within the controlled area), or being present in the actual collection area. Our only obligation is to allow them to confer prior to and after the actual testing.

The agency's agreement with NATCA, communicated to the field by memorandum dated May 24, 1988, provides that:

> "If during the course of the drug testing process a NATCA bargaining unit employee has questions about the procedure and wishes to discuss the matter with a union representative, the employee will be allowed to do so, provided the NATCA representative is readily available and the discussion does not interfere with or unduly delay the testing procedure. Union representatives may not be present during the collection process."

The initial agreement with NATCA, transmitted to the field by memorandum dated October 9, 1987, stated that

> ".....the employee will be allowed to confer for a reasonable period of time not to exceed 15 minutes prior to and immediately after the sample collection process has been completed."

There has never been any agreement that the union representative will validate or police the chain-of-custody process.

2) <u>Is there any obligation to notify anyone when drug testing will be taking place at a facility if a facility does not have a resident representative?</u>

Our position is that in these situations, management should attempt to notify the non-resident representative that testing is about to begin. However, the testing should not be unduly delayed due to the location of the representative.

This guidance has been coordinated with the National Drug Coordinator. Please ensure this guidance is disseminated to all Air Traffic managers and supervisors.

If you have any questions or concerns on this matter, please contact Susanna Leon-Guerrero at 267-3975.

Joseph W. Noonan

SECTION V

MISCELLANEOUS

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SECTION VI. RESERVED

This section is reserved for any future FAA/DOT Orders, Action Notices or official publications covering other aspects of the drug testing program.