

CIVILIAN MARINE PERSONNEL INSTRUCTION

CMPI 792

COVER SHEET - 341

CIVMAR Drug-Free Workplace Program

Date: 7 Nov 07

Attached is the revised section of the CMPI for CIVMAR Drug-Free Workplace Program. This revision replaces CMPI 792. The "Record of CMPI Cover Sheets Received" should be initialed and this cover sheet filed as appropriate.

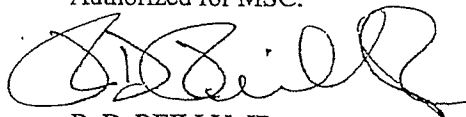
Reason for Revision

CMPI 792 has been streamlined and revised to reflect MSC organizational changes and updated DON controlling policies.

Effective Date

The above revision is effective upon receipt. Collective bargaining obligations with recognized labor organizations must be satisfied.

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CIVILIAN MARINE PERSONNEL INSTRUCTION 792

CIVIL SERVICE MARINER (CIVMAR) DRUG-FREE WORKPLACE PROGRAM (DFWP)

- Section 1. General Provisions
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Section 1. General Provisions

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1-1. PURPOSE. To provide the policy and procedures for implementing the Department of the Navy Drug-Free Workplace Program (DFWP) for CIVMARs of the Military Sealift Command (MSC).

1-2. POLICY. It is MSC policy to eliminate illegal drug use by CIVMARs through full implementation of Executive Order 12564 (EO 12564) and Public Law 100-71 (PL 100-71) and provide and maintain a safe, secure workplace and efficient MSC operations.

1-3. REFERENCES

- a. DoN Civilian Human Resource Manual (CHRM) Subchapter 792.3
- b. DoN Drug Free Workplace Program Handbook
- c. EO 12564
- d. 10 USC 7479

1-4. APPLICABILITY. This instruction applies to CIVMARs employed by MSC and to applicants for CIVMAR positions of MSC.

1-5. DEFINITIONS. See CMPI Definitions/Glossary Appendix for definitions of terminology used in this instruction.

1-6. RELATIONSHIP OF CIVMAR DFWP TO DEPARTMENT OF NAVY (DON) DFWP.

Unlike many other CIVMAR programs, the CIVMAR DFWP is not excluded from the DON DFWP of references (a) and (b). Types of testing, types of drugs, notification requirements, Safe Harbor, etc., are the same as those specified in references (a) and (b). Most of the requirements, policies and procedures of the reference (b) are incorporated, in many cases verbatim, into this CMPI, primarily for convenience of the reader. There are, however, certain program modifications that have been incorporated in this CMPI that are required to accommodate the CIVMARs' shipboard living and working environment. For example, each CIVMAR manned ship will have a CIVMAR Collection Site Coordinator (CSC); there is no voluntary testing, as all CIVMAR positions are Testing-Designated Positions; CIVMARs do not receive personnel services/servicing from an HRSC; a collection contractor is not used in the CIVMAR program. Additionally, this CMPI does not duplicate sample forms and notices that are already included in reference (b).

Section 2. Responsibilities

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2-1. COMMANDER, MILITARY SEALIFT FLEET SUPPORT COMMAND (MSFSC). The Commander, MSFSC will:

a. Ensure that DFWP policies and procedures are carried out for CIVMARs and applicants for CIVMAR positions consistent with the provisions of this instruction and applicable higher-level policies, procedures, laws and regulations. Issue local policies and procedures for managing and administering the program as may be necessary.

b. Ensure that a Urine Collection/Drug Testing Guide/Handbook (for use primarily aboard ship) is developed, promulgated, and maintained up-to-date, that covers drug testing and collection procedures tailored to the CIVMAR workforce and shipboard environment, and that is consistent with testing and collection procedures specified in reference (b) and the Department of Health and Human Services (DHHS) "Mandatory Guidelines for Federal Workplace Drug Testing Programs".

c. Appoint in writing an employee to serve as the MSFSC Drug Program Coordinator (DPC), and an Alternate DPC as deemed necessary, to direct, administer and manage the CIVMAR DFWP and receive all test results on behalf of the MSFSC. Per reference (a) the DPC

cannot be an employee associated with the administration of the Civilian Employee Assistance Program and should not be an employee located in a Security Office, or an employee relations/labor relations specialist who is involved on a day-to-day basis with the processing of discipline/performance cases.

d. Ensure that Collection Site Coordinators (CSC) are appointed to coordinate all collection activities at a site, including aboard ship. There should be a sufficient number of trained CSCs to have at least one on each CIVMAR manned ship.

e. Designate in writing, maintain up-to-date, and publish a listing of Approving Official(s), which should include, but not be limited to, supervisory officials ashore and Masters, responsible for deferring testing of individuals and approving testing of individuals ashore and afloat in cases of accident/unsafe practice or reasonable suspicion. Approving Officials may be at a level no lower than one level above the supervisor or manager requesting the test.

f. Ensure that mandatory training is provided to all supervisors and managers; that DPC (and Alternate DPC, if any) have attended the mandatory DASN (CP/EEO) training prior to being involved in the DFWP; and that CSCs and collection team personnel are sufficiently trained to perform the functions of their positions with regard to the requirements of the DFWP and DHHS collection procedures.

g. Ensure that the provisions of the DFWP are publicized to all employees including drug awareness, the hazards of illegal drug use, the Civilian Employee Assistance Program (CEAP), and "safe harbor" provisions.

h. Issue decisions on the reinstatement of an employee to his/her shipboard position as part of a counseling/rehabilitation program.

i. Ensure that a copy of the "General Notice" of the DON DFWP, signed by the Secretary of the Navy is distributed to all new hires. Sign (or use facsimile) and ensure distribution of the one-time "individual" notice to each CIVMAR at least 30 days before the individual is subject to unannounced random testing. These notices are in reference (b).

j. Ensure that all specimen collections are conducted following the provisions of the DHHS "Mandatory Guidelines for Federal Workplace Drug Testing Programs".

k. Authorize each random sampling conducted. This authority may be redelegated to the DPC.

l. Ensure that a CIVMAR found to use illegal drugs is immediately taken out of his/her shipboard position. The CIVMAR may be returned to sea duty as part of a counseling or rehabilitation program if it is determined that such action will not endanger public health, safety or national security. Only the Director, MSFSC is authorized to reinstate the employee to his or her shipboard position and this authority may not be re-delegated.

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m. Ensure that necessary disciplinary action is taken following the provisions of this instruction and CMPI 750.

n. Notify the activity head or commander of other Naval activity/command that his or her employee had a verified positive drug test as determined under applicant testing.

o. Ensure the use of any mandated DON and/or DOD automated system(s) for the CIVMAR DFWP.

p. Ensure that bargaining obligations with all exclusively recognized labor organizations as required by 5 USC are satisfied.

2-2. HUMAN RESOURCES AND MANPOWER DIRECTOR (N1). The N1 will:

a. Provide advice, guidance and training to employees, supervisors and managers on the DFWP.

b. Ensure that all vacancy announcements and/or other recruitment bulletins, announcements, and advertisements include notice that positions are subject to random drug testing.

c. Ensure that prior to making a final offer of employment or processing another type of position placement action, a required drug test has been conducted and the applicant is eligible for hire or placement. Ensure that any applicant who is ineligible to be hired or placed is not considered for employment or other employee-requested placement action for a period of 6 months following the date the test result was verified by the MRO.

d. Ensure appropriate data elements and/or corrections pertaining to the DFWP are entered into the current DOD approved and mandated personnel data system. Provide reports to the DPC from the data system.

e. Issue a copy of the "General Notice" signed by SECNAV to all new hires.

f. Maintain records and information relating to personnel actions taken against employees in accordance with the requirements in this CMPI, CMPI 750, and reference (b).

g. Maintain records required by appointment/placement procedures and merit promotion plan.

h. Notify the DPC if positive specimens need to be retained by the urinalysis laboratory longer than the normal 1-year period, e.g., because of an adverse action appeal or enforcement of a rehabilitation plan or agreement.

2-3. DRUG PROGRAM COORDINATOR (DPC). The DPC will:

a. Direct, administer and manage the CIVMAR DFWP, to include maintaining up-to-date, and issuing/reissuing a Urine Collection/Drug Testing Guide/Handbook tailored to the CIVMAR workforce and shipboard environment.

b. Coordinate/schedule/present employee education on drug abuse and supervisory training. Ensure that all collection team members are fully trained in their functional requirements.

c. Manage the issuance of all 30-day individual notices to occupants of TDPs and retain documentation verifying receipt.

d. Arrange and/or coordinate all urine collection and testing authorized, including random, reasonable suspicion, accident/unsafe practice, follow-up and applicant. Ensure that collection sites have restroom facilities which are clean, well lighted, and are sufficiently secure to prevent compromise during the collection of urine specimens.

e. Establish and promulgate procedures for the custody, control and handling of records and reports to and from ships and coordinate and manage supply requirements.

f. Ensure CIVMARs not assigned aboard ship are notified of scheduled random drug tests.

g. Notify the urinalysis laboratory if positive specimens are to be retained beyond the normal period of one year.

h. Receive and maintain all drug test results from the MRO per reference (b). Notify the CEAP Administrator and the appropriate supervisor/manager having the authority to initiate or approve an adverse action against the employee in the event of a verified positive drug test result.

i. Schedule applicant testing. Inform the applicant of the test date, time and location of the scheduled test. Inform the appropriate appointing authority/selecting official if the applicant for a CIVMAR position is eligible to be hired.

j. If delegated in writing by the donor's supervisor, notify employees of a scheduled drug test and/or determine if the employee can have his/her drug test deferred.

k. Use mandated DON automated system(s) for the CIVMAR DFWP and prepare and maintain all documentation and reports of the DFWP in accordance with this CMPI, references (a) and (b), and DHHS Guidelines.

2-4. COLLECTION SITE COORDINATOR (CSC). The CSC coordinates all collection activities at the collection site for the DPC. The DPC will ensure CSCs are properly trained.

2-5. COLLECTION TEAM PERSONNEL. Collection team personnel are responsible for assisting in specimen collection.

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2-6. MEDICAL REVIEW OFFICER (MRO). The MRO will (a copy of the Medical Review Officer Manual for Federal Workplace Drug Testing Programs may be found online at (<http://dwp.samhsa.gov>):

- a. Receive all drug testing results from the urinalysis laboratory.
- b. Assure that an individual who has tested positive has been afforded an opportunity to offer alternate medical justification for the test result.
- c. Report all verified drug test results to the DFWP computer system and the DPC as prescribed in reference (b).
- d. Coordinate with and report to the DPC and the Director, MSFSC on all drug testing functions and findings on a regular basis.

2-7. CIVILIAN EMPLOYEE ASSISTANCE PROGRAM (CEAP) ADMINISTRATOR. The CEAP Administrator will implement and operate the CEAP consistent with Department of the Navy policies and regulatory requirements.

2-8. SUPERVISORS. Supervisors will:

- a. Attend training on illegal drug use in the workplace, including initial training and refresher training (refresher training periodicity as specified by DON).
- b. Notify individual employees of scheduled drug tests. This authority may be delegated, in writing, to the DPC, when practical and appropriate (i.e., CIVMAR is ashore).
- c. Defer (in writing) an employee's random or follow-up drug test to the DPC. This authority may be redelegated, in writing, to the DPC.
- d. Initiate a reasonable suspicion test, after first making appropriate factual observations, documenting those observations, and obtaining approval from an MSFSC Approving Official.
- e. Initiate an accident test or unsafe practice test as may be appropriate.

2-9. CIVILIAN MARINERS (CIVMARs). CIVMARs will:

- a. Refrain from the illegal use of drugs on or off-duty.
- b. Provide a urine sample when required.
- c. Be responsible for successfully complete any rehabilitation/treatment required as the result of illegal drug use.
- d. Cooperate with the MRO, as requested, to provide additional information regarding a drug test.

Section 3. General Requirements, Provisions and Procedures of Testing

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3-1. TECHNICAL GUIDELINES FOR DRUG TESTING. As specified in references (a) and (b), EO 12564 granted the authority to issue mandatory scientific and technical guidelines for Federal employee drug testing programs to DHHS. DHHS certified laboratories (<http://dwp.samhsa.gov>) will test all civilian samples following the provisions of the DHHS Mandatory Guidelines for Federal Workplace Drug Testing Programs, hereinafter referred to as Guidelines. MROs will follow DHHS Guidelines and DHHS Technical Report 15; collectors/CSCs will follow the DHHS Guidelines and Substance Abuse and Mental Health Services Administration (SAMHSA) Urine Specimen Collection Handbook for Federal Workplace Drug Testing Programs.

3-2. TYPES OF DRUGS. Per references (a) and (b), DON civilians, which includes CIVMARs and applicants for CIVMAR positions, will be tested for cocaine, marijuana, amphetamines, opiates, and phencyclidine (PCP) and for any other drug(s) or classes of drug(s) subsequently approved by DHHS for testing on an agency-wide basis. Additionally, per DHHS Guidelines, DON is authorized to test for any drug on Schedule I and II of the Controlled Substance Act in cases of reasonable suspicion and after an accident or unsafe practices.

3-3. TYPES OF TESTING. Drug testing under the DON program includes *random testing* of employees in Testing Designated Positions (TDP) (all CIVMAR positions are TDP per reference (b)), *pre-employment (applicant) testing*, *reasonable suspicion testing*, *accident or unsafe practice testing*, and *follow-up testing*. The DON program also contains voluntary testing. Voluntary testing provides that an employee not in a TDP may volunteer to be included in the random testing program. Since all CIVMAR positions are TDPs, as provided in reference (b), making all CIVMARs subject to random testing, there are no voluntary testing provisions under the CIVMAR DFWP in this CMPI.

3-4. VOLUNTARY SELF-REFERRAL FOR "SAFE HARBOR"

a. EO 12564 allows agencies to provide an opportunity for assistance to employees who voluntarily seek treatment for drug use. This "safe harbor" provision insulates the employee

from discipline for admitted acts of using illegal drugs when the agency is unaware of such use. This safe harbor provision will be offered to any CIVMAR who meets *all* of the following conditions:

1. Voluntarily identifies himself/herself as an illegal user of drugs to a supervisor or other higher-level management officials prior to being identified through other means.
2. Obtains counseling and rehabilitation through CEAP.
3. Agrees to be tested by the MSFSC as part of or as a follow-up to counseling and rehabilitation.
4. Consents, in writing, to the release to appropriate management and CEAP officials of all counseling and rehabilitation records related to the illegal use of drugs.
5. Subsequently refrains from illegal use of drugs.

All of these conditions will be documented in an agreement between the MSFSC and the CIVMAR. Sample notices for Safe Harbor purposes are in reference (b).

b. A CIVMAR who admits to drug use after being notified that he or she is scheduled for a test or just after a sample is collected, or who is found to use drugs on the basis of other appropriate evidence (e.g., direct observation or evidence obtained from an arrest or criminal conviction) is not eligible for Safe Harbor. Further, Safe Harbor is for illegal users of drugs, not for drug dealers or those involved in other drug-related misconduct.

c. An employee who meets the "Safe Harbor" conditions will not be subject to discipline for the admitted acts of illegal use of drugs, including possession for personal use. However, the CIVMAR must be removed immediately from his/her shipboard duties.

d. Removal action will be initiated against a CIVMAR who invokes safe harbor and subsequently tests positive for illegal drug use. The subsequent positive drug test is considered a second finding of illegal drug use, resulting in removal per references (a), (b) and (c).

3-5. TESTING NOTICES. (Copies in reference (b)).

a. General Notice. A "General Notice" signed by SECNAV (copy in reference (b)) outlining Department of the Navy's DFWP policy must be issued to all new hires.

b. Individual Notice. An "Individual Notice" signed (or facsimile) by Director, MSFSC (copy in reference (b)) must be issued to each CIVMAR at least 30 days before he/she is subject to unannounced random testing. This one-time notice informs the employee that he/she is subject to random drug testing because he/she occupies a TDP and that refusal to submit to testing will result in initiation of disciplinary action, up to and including removal. It has been reviewed for legal sufficiency and must be issued without change to its contents.

c. Signed Acknowledgment of Notice. The DPC will manage the issuance of the individual notices to each new CIVMAR hire and retain documentation (written acknowledgment) verifying receipt of the notice by each employee. If an employee refuses to sign acknowledgment of receipt, the individual delivering the notice will note that fact on the acknowledgment form along with the date and time of delivery, sign it, and return it to the DPC. Failure to sign the acknowledgment form will not preclude testing of the employee.

3-6. URINE COLLECTION. The following situations and guidelines on urine collection are summarized from reference (b). To ensure strict chain of custody and control, specific, standard collection procedures will be used in all testing. Information on standard collection procedures can be found in reference (b) and in the Urine Specimen Collection Handbook for Federal Workplace Drug Testing Program. Any collection procedures/guides published by the MSFSC will be consistent with standard collection procedures. Should assistance be needed by or questions arise from collectors, CSC, or supervisors in the following situations, guidance is to be obtained from the MSFSC.

a. Collection

1. Unobserved. Generally, an individual will be permitted to provide a urine specimen privately in a restroom stall or similar enclosure so that he/she is not visually observed while providing the sample, except as provided below. Collection site personnel (DPC, CSC, observer) of the same gender will escort the employee or applicant to the restroom and remain outside the stall during the collection. If the same gender collector as the donor is not available, a different gender collector may perform the collection, however, he/she may not accompany the employee into the restroom and all water sources must be disabled.

2. Observed. If there is reason to believe that an individual may alter or substitute the specimen, he/she may be required to provide the specimen under direct visual observation. Observers will be of the same gender as the donor. Examples of situations where direct visual observation would be appropriate:

(a) The employee has previously been found to be an illegal drug user and is undergoing follow-up testing, including employees with safe harbor agreements.

(b) Facts and circumstances suggest that the employee has equipment or implements capable of tampering with or adulterating a urine sample or the individual has previously tampered with a sample.

(c) The first specimen provided was outside the range of 32-38C/90-100F.

Any such reason must be documented, in writing by the CSC and/or DPC on the Federal Custody and Control Form (CCF) and be retained with the collection records.

b. Failure to Report to the Designated Collection Site

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1. If an individual fails to appear at the collection site at the assigned time, the DPC or CSC will note the fact in the record and immediately notify the supervisor of the employee (for CIVMARs afloat – typically notify the Department Head and Master; for CIVMARs ashore or applicants – typically the DPC will notify the appropriate supervisory official(s) of the MSFSC).

2. An employee who fails to appear for testing (except for a deferral granted by a supervisor from random or follow-up testing) will be subject to the same range of discipline as a verified positive test result for illegal drug use. Disciplinary action of CIVMARs will be processed in accordance with CMPI 750 and any applicable collective bargaining agreement. Due to the nature of the offense there is no requirement for referral to the CEAP.

3. An applicant's failure to appear for a test will result in the cancellation of any tentative offer of employment. The DPC is to be notified and he/she will coordinate with appropriate supervisor and employment officials of the MSFSC.

c. Refusal to be Tested

1. If an employee refuses to be tested, regardless of the type of testing, he/she will be informed that refusal will be considered failure to follow a direct order and will result in a proposal to remove. If refusal occurs at the collection site, the DPC or CSC will immediately notify the supervisor of the employee (for CIVMARs afloat – typically notify the Department Head and Master, for CIVMARs ashore or applicants – typically the DPC notifies the appropriate supervisory official(s) in the MSFSC). The proposed removal action will be processed in accordance with CMPI 750. Due to the nature of this offense, there is no requirement for referral to the CEAP.

2. An applicant's refusal to be tested shall result in the cancellation of any tentative offer of employment. The DPC is to be notified and he/she will coordinate with employment and/or supervisory official(s) of the MSFSC.

d. Failure to Provide a Sample

1. Insufficient Sample. An employee should be given a reasonable amount of time to provide the sample. If he/she is unable to provide at least 30 milliliters (mL) of urine and the specimen is within the temperature range, the specimen is discarded and a second specimen is to be collected. The following steps should then be taken:

(a) The individual will be asked to drink a reasonable amount of liquid, not to exceed a maximum of 24 ounces and will remain at the collection site within view of the DPC or CSC until he/she is able to provide a sufficient sample.

(b) When the individual is ready to provide the second specimen, he/she shall void into a new bottle or catch container and the temperature of that sample will be checked. If it is within the acceptable temperature range it will be sent for urinalysis.

2. Unable to Void. If the employee is unable to void, he/she should be asked to drink sufficient fluids to facilitate urination. The employee will be required to remain at the collection site within view of the DPC or CSC until ready to provide the sample. If the employee is unable to provide a sample the following options are available.

(a) The employee may be released and the release documented. Such a release is not considered a deferral.

(b) If a licensed physician is immediately available, arrange to have the employee evaluated by him/her, as soon as practical after the attempted collection for a determination as to whether the donor's inability to provide a specimen is genuine or constitutes a refusal to provide a specimen. For shipboard CIVMARs, arrangements may be made to have the individual seen by the MSO, if any, or medical advice/assistance may be obtained via telephone or email from ashore officials.

e. Collection Extending Beyond the Regular Shift. If the collection extends beyond the end of the employee's regular shift or if the employee is not otherwise on duty (watch) during the time of collection, the employee may be required to remain at or report to and remain at the collection site and be compensated accordingly or the employee may be released or deferred.

f. Exemption during Treatment and Rehabilitation. While undergoing initial treatment or rehabilitation through CEAP, and at the request of the MSFSC CEAP Administrator, the employee may be exempted from *random testing* for a period not to exceed 60 days or for a time period specified in an abeyance/last chance agreement or rehabilitation plan. Upon completion of the stipulated exemption, the employee will be included in a separate testing pool as follow-up to counseling or treatment for illegal drug use for a period of at least one year in addition to remaining in the regular random testing pool.

g. Deferral of Testing

1. A CIVMAR selected for *random or follow-up testing* may be given a deferral, in writing, from testing if the employee's supervisory or an MSFSC designated Approving Official concurs that a compelling need necessitates a deferral. Example of grounds for deferral include: the employee is in a non-duty status such as on sick, annual or other leave category, suspension, absent without leave, continuation of pay; the ship to which the employee is assigned is in or about to go into an underway replenishment evolution or other critical mission activity; the employee is performing a task that cannot be interrupted and must remain at the work site on the job during the time of the scheduled test; etc.

2. Whenever a deferral is given, the employee's supervisor/MSFSC designated Approving Official will notify the CSC and/or DPC, provide a copy of the written deferral and attempt to reschedule the test at a different time, but the same day. If the test is not administered that same day, the supervisor or Approving Official will inform the employee that he/she may be tested within 60 days of the date of deferral or the date the employee returns to duty or the work site.

h. Opportunity to Justify a Positive Test Result. Drug test results from the laboratory will be provided to the MRO. The MRO will give the donor of a positive test result an opportunity to justify the result by submitting medical records, a valid prescription and/or other relevant biomedical information. The individual will be allowed to discuss the test results with the MRO. This discussion will not necessarily be in person, but may be by telephone.

3-7. RELEASE OF TEST RESULTS

a. The laboratory will disclose test results only to the MRO. Any positive result which the MRO determines to be justified by legitimate medical use will be treated as a negative test result and may not be released for purposes of identifying illegal drug use. Test results are governed by the provisions of the Privacy Act, 5 USC 552(a), et seq., as any record in a system of records and additionally restricted by Section 503(e) of PL 100-71. An employee's test results may not be disclosed without prior written consent of the employee, unless the disclosure would be:

1. To the MRO.
2. After the MRO review, to a DPC.
3. After MRO review, to the CEAP Administrator for purposes of counseling and rehabilitation.
4. After MRO review, to any supervisor or management official within DON having the authority to recommend, decide or process an adverse personnel action against the employee or to an administrative tribunal in a review of an adverse personnel action.
5. Under an order of a court of competent jurisdiction or required by the United States Government to defend against a challenge against an adverse personnel action.
6. After MRO review, to the U. S. Coast Guard as authorized by reference (d), in accordance with policies and procedures established by the MSFSC.

b. Any records of the MRO, including drug test results, may be released to any management official for purposes of auditing the activities of the MRO, for data collection or other purposes consistent with requirements to comply with Section 503(f) of PL 100-71 or DON requirements. This form of disclosure may not include personal identifying information on any employee.

c. Other information on records is contained in reference (b).

3-8. REVIEW OF DRUG TEST RESULTS. The urinalysis laboratory will send or deliver all drug test results to the MRO with a certified copy of the original CCF.

a. Negative Test Results. The MRO will forward all negative drug test results to the DPC.

b. **Positive Test Results.** The medical review of positive test results by the MRO will be initiated immediately upon receipt of the laboratory test report and will be completed as soon as possible, normally within 2 workdays after receipt of all information pertinent to the review. The purpose of this review is to determine if the positive result is evidence of illegal drug use.

1. The MRO will evaluate alternative medical explanations of a positive test result. This may include conducting a medical interview with the individual, review of the individual's medical history or consideration of other relevant biomedical factors. Requests for medical information will be made by the MRO directly to the individual to ensure maximum confidentiality. The MRO will contact the individual, based on information in the CCF, or if that information is insufficient, he/she will obtain information necessary from the DPC to contact the employee. The MRO will review all medical records including valid prescriptions made available by the individual when a positive test could have resulted from legally prescribed medications. The individual will have an opportunity to discuss the test results with the MRO, although a face-to-face interview is not required and he/she is not entitled to present evidence to the MRO in a hearing or similar administrative proceeding, although the MRO has the discretion to accept evidence in any manner deemed efficient or necessary.

2. The MRO is authorized to order a reanalysis of the original sample should questions arise as to the accuracy or validity of a positive test result. Since, some drug levels may deteriorate or are lost during freezing and/or storage, the retest must only show that the drug or its metabolite is present to reconfirm its presence during retesting. MRO's should refer to the DHHS published Medical Review Officer Guide for detailed scientific guidance.

3. If the MRO determines there is not medical justification for the positive result, such result will be considered a verified positive test result. The MRO will forward the report of the verified positive test result to the DPC. The DPC will notify the CEAP Administrator and the supervisory official having authority to take a personnel action against the employee. Prior to initiation of disciplinary action, the MRO letter and CCFs verifying the positive test result must be received.

3-9. FINDING OF ILLEGAL DRUG USE AND CONSEQUENCES. The determination that an employee uses illegal drugs may be made on the basis of any applicable evidence, including but not limited to direct observation, evidence obtained from an arrest or a criminal conviction, a verified positive test result, and the employee's own voluntary admission.

a. **Mandatory Administrative Action**

1. A CIVMAR who is found to use illegal drugs and who is assigned aboard ship must be relieved of shipboard duties and be repatriated to the MSFSC (the repatriation must be coordinated with the MSFSC).

2. An employee found to use illegal drugs must be referred to CEAP.

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A CIVMAR relieved of shipboard duties may be returned to sea duty by the Director, MSFSC as part of a rehabilitation and counseling program if the Commander determines that the return to sea duty would not endanger public safety or national security.

b. Disciplinary/Adverse Action

1. Disciplinary action will be initiated against any employee for the first instance of illegal drug use except for an employee who voluntarily admits to illegal drug use and meets all the conditions under the Safe Harbor provisions set forth in CMPI 792.3-4. Disciplinary action will also be initiated against an employee who fails to appear for testing. The severity of the action taken against an employee found to use illegal drugs or who fails to appear for testing includes the full range of disciplinary/adverse actions, up to and including removal from the Federal service. In certain cases, removal action is to be initiated, per below.

2. Action will be initiated to remove an employee who refusing to obtain counseling or rehabilitation through CEAP after having been found to use illegal drugs; for a second finding of illegal drug use, or for refusal to be tested when required.

3-10. REASONABLE ACCOMMODATION REQUIREMENTS

a. A verified positive result does not equate to a requirement that the employee be afforded reasonable accommodation. It indicates that the employee ingested a controlled substance at some recent time prior to providing the urine sample. It will not show whether the employee was a first time drug abuser, a casual drug abuser or a drug addict. Casual or occasional use of drugs is not a handicapping condition which invokes the requirements of the Rehabilitation Act, 29 USC 791, et seq.

b. Donors may request a retest of a positive specimen by submitting a written request to the DPC that includes his/her reasons for requesting the retest

Section 4. Testing

	Paragraph No.
Random Testing	4-1
Applicant (Pre-Employment) Testing.....	4-2
Reasonable Suspicion Testing	4-3
Accident or Unsafe Practice Testing	4-4
Follow-up Testing.....	4-5

4-1. RANDOM TESTING. All CIVMARs are subject to random testing because all CIVMAR ratings/positions are testing designated positions (TDPs), per reference (b).

a. Frequency and Testing Ratio. Per reference (b), *frequency and testing ratio for random testing* will be in accordance with higher level DON and DOD direction and guidelines. Per DASN (CHR) memo of 1 November 2004, the rate increased to one test per TDP per year, beginning in FY06.

b. Director, MSFSC or the DPC (if delegated) will authorize each random test; and individuals will be randomly selected. All information shall be strictly guarded to ensure identities of individuals selected remain confidential and employees do not know in advance that a random sampling will be conducted.

c. Scheduling. The DPC and/or Collection Site Coordinator will schedule the selectees for testing at a time and rate that the collection team can process efficiently and effectively.

d. Standard Collection Procedures. To ensure strict chain of custody and specimen control, standard collection procedures will be followed.

e. Notification of Selection. Notifications will be consistent with those prescribed in reference (b) and summarized below, tailored to CIVMARs.

1. Testing of CIVMARs ashore

(a) The DPC will notify appropriate and/or designated supervisory official(s) of the CIVMAR ashore, the same day the test is scheduled, preferably within two hours of the actual time of collection, provide him/her a supervisory and employee checklist reference (b), and annotate the testing event record with the date and time of supervisory notification.

(b) The supervisory official or DPC (if delegated to notify employees) will review the checklists, will privately notify the CIVMAR of the exact time and location of the test approximately 15-30 minutes prior to the scheduled testing, will note the date and time of notification on the employee checklist, and provide a copy of the annotated checklist to the employee. The supervisory official/DPC will respond to questions the CIVMAR may have to avoid misunderstandings, explain to the selectee that he/she is under no suspicion of taking drugs and that his/her name was selected randomly, and instruct the CIVMAR to take an appropriate photo identification to the test site. Adjustments may be made in the notification time, depending on the situation, so long as it is as brief an advance notice as possible.

2. Testing of CIVMARs afloat (assigned or detailed to a ship)

(a) The DPC will notify (using method he/she deems appropriate) the Master or Officer-in-Charge (OIC) of shipboard CIVMARs selected for random testing. Normally testing will be conducted within 8 hours of notification.

(b) The Master or OIC will notify the shipboard Collection Site Coordinator immediately upon receipt of the DPC notification so that necessary preparations can be made and obtain copies of the supervisory and employee checklists. The Master or OIC will notify the

appropriate shipboard supervisor/ Department Head and provide or have the CSC provide him/her copies of the supervisor and employee checklists within approximately two hours of the scheduled test.

(c) The shipboard supervisor/Department Head will notify the CIVMAR(s), privately, of the exact time and location of the test approximately 15-30 minutes prior to the scheduled testing, note the time of notification on the employee checklist, provide a copy to the CIVMAR, respond to his/her questions to avoid misunderstandings, and explain to the CIVMAR that he/she is under no suspicion of taking drugs and that the employee's name was selected randomly. The supervisory/Department Head will instruct the CIVMAR to take an appropriate photo identification to the test site.

f. Problems or deferrals will be reported to the DPC. For guidance, procedures and requirements on Exemption During Treatment/Rehabilitation, or Deferral of Testing see Section 3 above and reference (b).

4-2. APPLICANT (PRE-EMPLOYMENT) TESTING. An individual tentatively selected for a CIVMAR position and who is completing the final stages of pre-employment consideration is required to undergo a drug screening test.

a. Vacancy Announcements. Director, MSFSC will ensure that all vacancy announcements for CIVMAR positions contain the notification of drug testing statement, verbatim, specified in reference (b). All paid advertisements for CIVMAR positions will include an appropriate notice about the position being under the DFWP and subject to drug testing. Failure of the vacancy announcement to contain such notice will not preclude testing if advance notice is provided to the applicant in some other manner, except orally. Other forms of notice are proper if a vacancy announcement is not used.

b. Notification

1. In accordance with MSFSC established internal procedures for managing and administer the DFWP and prospective CIVMAR hires, responsible/designated officials involved in the CIVMAR new hire process, will notify the DPC when a drug test needs to be scheduled for a tentative selectee and will verify with the DPC that the selectee has not had a verified positive drug test result within the last six months. If the tentative selectee has had a verified positive test within the last six months, the DPC will coordinate with the responsible selecting officials of the MSFSC who will ensure the applicant is not selected. Otherwise, the DPC will arrange for the test and inform the designated/responsible official of the date, time and place of the test. The DPC or MSFSC designated/responsible official, as appropriate, will provide the date, time and location to the individual.

2. Failure to be at the test at the designated time and date will result in a withdrawal of the tentative job offer and will be treated as a declination. The drug test must be undertaken as soon after notification as possible, and no later than 48 hours after notice to the applicant.

c. Opportunity to Justify a Positive Test Result. All applicants will have an opportunity to justify a positive test result to the MRO.

d. Standard Collection Procedures. To ensure strict chain of custody and specimen control, standard collection procedures will be followed.

e. Test Results. The MRO will notify the DPC of the test results and the DPC will inform the responsible/designated officials involved in the CIVMAR new hire process who will, in turn, document the test result in the selection package so that the process can continue. If an applicant has a verified positive test result, the following applies:

1. The DPC will notify the responsible/designated officials involved in the CIVMAR new hire process so that another tentative selection can be made.

2. The DPC will notify the applicant that the verified presence of a drug in his or her urine precludes the command from hiring the applicant and that he/she will not be considered for any other vacancy at the command for a period of six months from the date the positive test was verified by the MRO.

3. If the applicant is an employee of another Navy activity/command, the DPC will notify the Director, MSFSC, who will notify the head of the employee's activity/command.

4. Medically disqualified applicants based on a verified positive drug test result listed on a certificate of eligible issued under the provisions of CMPI 330 must be processed on each case basis with the Commander, MSFSC serving as the final adjudicating authority.

f. Prior Drug Use by an Applicant. As specified in reference (b), the Department of the Navy has determined that drug use within the past six months is deemed current use. Therefore, "prior substance abuse" excludes any individual which has had a verified positive result in the preceding six month period.

4-3. REASONABLE SUSPICION TESTING. In accordance with reference (b), employees may be required to be tested when there is a reasonable suspicion that he/she uses illegal drugs. Although reasonable suspicion testing does not require certainty, mere hunches or rumors are not sufficient to meet this standard. The belief must be based on specific objective facts and reasonable inferences drawn from these facts. As specified in reference (b), "Reasonable suspicion testing may be based upon, among other things:

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

2. Arrest or conviction for an on or off-duty drug related offense or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking.

3. Information provided either by reliable and credible sources or independently corroborated.

4. Newly discovered evidence that the employee has tampered with a previous drug test.

5. The temperature or color of the urine sample, or other evidence, indicates probably adulteration, tampering or substitution."

a. Types of Drugs. In addition to testing for cocaine, marijuana, amphetamines, opiates and PCP, reasonable suspicion testing may include any drug on Schedules I and II of the CSA. The drug or drugs for which the employee is being tested must be specified on the Federal Drug Testing Custody and Control Form.

b. Documentation. As required in reference (b), as an immediate follow-up procedure to the test, the appropriate/responsible supervisory official will detail, in writing, the circumstances which warranted the test. At a minimum the report will include the appropriate dates and times of reported drug-related incidents, reliable and/or credible sources of information, reasons leading to the test, the Approving Officials concurrence, findings of the test, and any action taken. If the collection is being performed under direct observation, the reasons for this method of collection must also be documented. Documentation will be provided to and retained by the DPC. See reference (b) for a sample documentation report and notice letter.

c. Scheduling. The DPC/CSC will arrange for the collection to be conducted immediately, on the same day as the test was approved by an MSFSC designated Approving Official. The test will be conducted without regard to the employee's regular work shift, etc., and overtime pay or compensatory time, as may be appropriate, will be provided as may be necessary.

d. Testing of CIVMARs ashore

1. The ashore supervisor/management official or other responsible authority will immediately notify an MSFSC designated Approving Official and/or the DPC and provide details surrounding the incident including the date(s) and time(s) of the reported drug related incident(s), reliable, credible source(s) of information, and rationale leading to the request for testing. If the Approving Official agrees testing is warranted, he/she will notify the DPC or CSC of the requirement to arrange a test and will remind the reporting official to document the details in writing and provide the documentation to the DPC for retention.

2. The DPC or CSC will notify the supervisory official(s) of the employee (if not otherwise involved in the reasonable suspicion determination) that the emergency collection procedure has been initiated and will provide the supervisory official with the estimated time and location of the collection and any necessary information to be conveyed to the employee.

3. After the DPC or CSC confirms the time and location, the supervisor/management official will notify the employee of the test, issue him/her the specific written notice (sample notice in reference (b)) that he/she is being tested for reasonable suspicion, inform the CIVMAR

of the exact time and location of the test, direct the CIVMAR to take an appropriate photo identification to the test site, and escort the CIVMAR to the test site.

4. If there is no specific reason to believe that the CIVMAR may alter or substitute the urine specimen, standard collection procedures will be used. Conversely, if there is specific reason(s) to believe that the CIVMAR may alter or substitute the specimen, the CIVMAR will provide the urine sample under direct observation and an observer, the same gender as the CIVMAR, is required.

c. Testing of CIVMARs afloat (assigned or detailed to a ship)

1. The appropriate afloat supervisor/Department Head or other responsible authority will notify the Master or OIC with the circumstances which form the basis for his/her determination and provide details surrounding the incident including the date(s) and time(s) of the reported drug related incident(s), reliable, credible source(s) of information, and rationale leading to the request for testing.

2. If the Master or OIC agrees testing is warranted based on the presented facts and circumstances, he/she will notify the shipboard CSC of the requirement to arrange a test and notify the DPC (using method deemed most appropriate) of his/her approval for testing and the facts forming the basis for the approval. He/She will also direct the official making the report to document the details in writing (if the Master/OIC is reporting and Approving Official, he/she must complete the written documentation) and the Master or OIC will sign and send or provide the testing documentation to the DPC at the first opportunity.

3. The shipboard CSC will immediately arrange for the collection, on the same day as the test was approved by the Master or OIC, will notify the appropriate afloat supervisor/Department Head of the CIVMAR of the estimated time and location of collection and any other necessary information to be conveyed to the CIVMAR.

4. After the CSC confirms the test time and location the afloat supervisor/Department Head will notify the employee of the test, issue him/her specific written notice (sample written notice in reference (b)) that he/she is being tested for reasonable suspicion, inform the CIVMAR of the exact time and location of the test, direct the CIVMAR to take an appropriate photo identification to the test site, and escort the CIVMAR to the test site.

5. If there is no specific reason to believe that the CIVMAR may alter or substitute the urine specimen, standard collection procedures will be used. Conversely, if there is specific reason(s) to believe that the CIVMAR may alter or substitute the specimen, the CIVMAR will provide the urine sample under direct observation and an observer, the same gender as the CIVMAR, is required.

6. Upon completion of the collection, the Master or OIC must make a decision on the status of the CIVMAR. Options available include: having the ship's Medical Services Officer (MSO) or medical facility ashore, if in port, provide advice/evaluation; requesting medical advice and assistance from ashore; relieving the CIVMAR from duty, the period of time to be

determined on a case-by-case basis considering all facts and circumstances; requesting authority for repatriation; etc. In no case will the CIVMAR be summarily paid off the ship and left ashore without proper assistance being provided, including medical assistance, and necessary arrangements being made for his/her return to the MSFSC.

4-4. ACCIDENT OR UNSAFE PRACTICE TESTING. In accordance with reference (b), employees may be subject to drug testing when, based upon the circumstances of an on-the-job accident or unsafe, on-duty, job-related activity, their actions are reasonably suspected of having caused or contributed to an accident or unsafe practice, "*...when the accident or unsafe practice results in a death or personal injury requiring hospitalization or results in damage to government or private property estimated to be in excess of \$10,000*".

a. Types of Drugs. In addition to testing for cocaine, marijuana, amphetamines, opiates and PCP, reasonable suspicion testing may include any drug on Schedules I and II of the CSA. The drug or drugs for which the employee is being tested must be specified on the Federal Drug Testing Custody and Control Document.

b. Documentation. Once approval has been obtained for the testing, the supervisor, manager, or other responsible official who requested the testing must prepare written documentation which, at a minimum will include the appropriate dates and times, circumstances surrounding the incident, the reasons leading to the test, the Approving Officials concurrence, and any other action taken. The documentation will be submitted to and retained by the DPC.

c. Scheduling. The DPC or CSC will arrange for the collection to be conducted immediately, on the same day as the test was approved by the MSFSC designated Approving Official. The test will be conducted without regard to the employee's regular work shift, etc., and overtime pay or compensatory time, as may be appropriate, will be provided as may be necessary.

d. Testing of CIVMARs ashore

1. The ashore supervisor/management official or other responsible authority who believes that an employee has caused or contributed to an on-the-job accident or unsafe on-duty, job related activity that meets either of the above criteria will immediately gather all information, facts, and circumstances and present it to an MSFSC designated Approving Official.

2. If the Approving Official agrees testing is warranted he/she will notify the DPC or a CSC (dependent on location of the CIVMAR) of the requirement to arrange a test and will remind the reporting official to document the details in writing and provide it to the DPC for retention. The decision to conduct a test will be made the same day the event or behavior occurs, or as soon as management becomes aware of the event or behavior.

3. The DPC or CSC will notify the supervisory official(s) of the employee (if not otherwise involved in the determination) that the emergency collection procedure has been

initiated and will provide the supervisory official with the estimated time and location of the collection and any necessary information to be conveyed to the employee.

4. After the DPC or CSC confirm the test time and location the supervisor/management official will notify the employee of the test and issue him/her the specific written notice (sample notice in reference (b)) that he/she is being tested because of accident or unsafe practice, inform the CIVMAR of the exact time and location of the test, direct the CIVMAR to take an appropriate photo identification to the test site, and escort the CIVMAR to the test site.

5. If there is no specific reason to believe that the CIVMAR may alter or substitute the urine specimen, standard collection procedures will be used. Conversely, if there is specific reason(s) to believe that the CIVMAR may alter or substitute the specimen, the CIVMAR will provide the urine sample under direct observation and an observer, the same gender as the CIVMAR, is required.

e. Testing of CIVMARs afloat (assigned or detailed to a ship)

1. The appropriate afloat supervisor/Department Head or other responsible authority who believes that an employee has caused or contributed to an on-the-job accident or unsafe on-duty, job related activity that meets either of the above criteria will immediately gather all information, facts, and circumstances and notify the Master or OIC.

2. If the Master or OIC agrees testing is warranted he/she will notify the CSC of the requirement to arrange a test. The decision to conduct a test will be made the same day the event or behavior occurs, or as soon as management becomes aware of the event or behavior. The Master or OIC will also direct the reporting official to document the details in writing, (if the Master/OIC is reporting and Approving Official, he/she must complete the written documentation). The written documentation is to be sent or provided to the DPC at the first opportunity.

3. The shipboard CSC will immediately arrange for the collection, on the same day as the test was approved by the Master or OIC, will notify the afloat supervisor/Department Head of the CIVMAR of the estimated time and location of collection and any other necessary information to be conveyed to the CIVMAR.

4. After the CSC confirms the test time and location the afloat supervisor/Department Head will notify the employee of the test, issue him/her specific written notice (sample notice in reference (b)) that he/she is being tested because of accident or unsafe practice, inform the CIVMAR of the exact time and location of the test, direct the CIVMAR to take an appropriate photo identification to the test site, and escort the CIVMAR to the test site.

5. If there is no specific reason to believe that the CIVMAR may alter or substitute the urine specimen, standard collection procedures will be used. Conversely, if there is specific reason(s) to believe that the CIVMAR may alter or substitute the specimen, the CIVMAR will provide the urine sample under direct observation and an observer, the same gender as the CIVMAR, is required.

4-5. FOLLOW-UP TESTING. In accordance with reference (b), "all DON employees referred through administrative action to counseling or rehabilitation through CEAP for illegal drug use will be subject to unannounced drug testing as a follow-up to their program. This testing is separate from the regular random testing...[and] The employee will be tested for a period of at least 1 year or such time as specified in the abeyance agreement, rehabilitation plan, or other form of written agreement." Employees subject to follow-up testing are required to provide urine samples under direct observation.

a. Documentation. The abeyance/last change agreement, rehabilitation plan, or other form of written agreement will be retained and serve as evidence that the employee was aware of the requirement for follow-up testing.

b. Scheduling and Frequency. Employees subject to follow-up testing will be tested at a frequency determined appropriate by the Director, MSFSC or DPC. The rate or schedule of testing should not be specified in the agreement or rehabilitation plan. No additional notification time period other than what is needed for the employee to report to the testing site is given to employees subject to follow-up testing. The DPC will issue guidance and procedures covering follow-up testing of CIVMARs which will include guidance on Exemption During Treatment/Rehabilitation and Deferral of Testing, see also CMPI 792.3.

c. Notification. The MSFSC supervisor/manager, or other responsible official ashore is required to notify the DPC upon the CIVMAR's return to work so that follow-up testing can begin, if the CIVMAR was in a non-duty status. The MSFSC CEAP Administrator or Counselor is required to notify the DPC so testing can be initiated upon the employee's completion of any initial or in-patient counseling or rehabilitation for illegal drug use or as part of the rehabilitation process.

Section 5. Training and Education

	Paragraph No.
Supervisory Training	5-1
Employee Education	5-2
Drug Program Coordinator Training	5-3
Collection Site Coordinator/Collection Personnel Training	5-4

5-1. SUPERVISORY TRAINING. The MSFSC will ensure that supervisors, ashore and afloat, are provided training to assist them in recognizing and addressing illegal drug use by CIVMARs, as required by reference (c). The training may be incorporated into ongoing supervisory training program required of individuals within the first 6 months of assuming supervisory duties and may be a separate course. After initial DFWP training, supervisors will attend DFWP training on a basis required by DON and specified in reference (b). Per reference (b), training should include information on: DON policy on illegal use of drugs; supervisor's role in the DFWP; how to recognize, document, and deal with employee performance and conduct problems due to the illegal use of drugs; the role of the DPC, CEAP Administrator, MRO, and personnel staffs and

the supervisor's responsibilities to offer CEAP services and take required administrative and disciplinary actions.

5-2. EMPLOYEE EDUCATION. Drug education will be offered to all CIVMARs and may be accomplished through such means as the distribution of written materials including pamphlets, books, brochures, flyers, electronic newsletters, notices, etc.; videotapes, employee forums; drug awareness days; etc. Employee education should include information as follows:

a. Types and effects of drugs; symptoms of drug use, and the effects on performance and conduct; the opportunity to justify a positive drug test with the MRO; information on the appropriate use prescriptions; relationship between CEAP and the drug testing program, and other relevant treatment, rehabilitation, safe harbor provisions of the DFWP, confidentiality; release of test results; disciplinary actions for positive test results, refusal to provide a specimen, failure to appear for testing and specimen adulteration or substitution.

b. Because CIVMARs are deployed on ships, which make foreign ports of call, information will be provided on certain legal over-the-counter medications in foreign areas containing substances, which produce positive drug test results. CIVMARs should be advised to refrain from using locally-available medications unless they are certain that the medication will not produce a positive test result or unless they have a bona-fide prescription from a medical doctor.

c. Per reference (b), "Employees should be advised that ingestion of hemp oil products will not be accepted as justification for positive marijuana test results."

5-3. DRUG PROGRAM COORDINATOR TRAINING. As mandated in reference (b), DPC/Alternate DPC must attend the Basic DPC Course sponsored by ODASN (CP/EEO). This mandatory course includes training and information on management of the DFWP; collection and chain of custody procedures; general information on drug testing laboratory procedures; required records and reports; confidentiality and Privacy Act requirements; establishing and maintaining the TDP pool; and, use of the software for DFWP management.

5-4. COLLECTION SITE COORDINATOR/COLLECTION PERSONNEL TRAINING. These individuals will be trained by the DPC. Training will include collection procedures and responsibilities; collection and chain of custody procedures; confidentiality and Privacy Act requirements, at a minimum.

Section 6. Records and Reports

	Paragraph No.
Records	6-1
Employee Access to Records	6-2
Reports	6-3

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6-1. RECORDS. All records and reports will be maintained as specified in reference (b), for the DPC, MRO, Employee Medical File, and CEAP. The CIVMARs of the MSFSC are excluded from the DON HRSC/HRO organizations and the records' responsibilities identified in reference (b) for the HRSC and HRO will be managed and administered by the MSFSC for CIVMARs.

6-2. EMPLOYEE ACCESS TO RECORDS. Access to records by employees (including Federal employee applicants) subject to drug testing will be as prescribed in reference (b).

6-3. REPORTS

a. The DPC shall collect and compile anonymous statistical data for reporting on the number and types of testing and testing related actions as prescribed in reference (b). Data will be provided to COMSC who will consolidate and submit the data for MSC. DON will include the statistical data in its annual report to the DOD and the DHHS. The DHHS will use the data to assist in overall program evaluation and to determine whether changes to the DHHS Guidelines may be required.

b. Other data and reports will be as requested.