

U.S. Department of Energy

Oak Ridge Operations

ORO O 350 Chapter VI

DATE: 6-28-96

SUBJECT: WORKPLACE SUBSTANCE ABUSE PROGRAMS AT OAK RIDGE SITES

1. PURPOSE. This Chapter correlates to Title 10 CFR Part 707, "Workplace Substance Abuse Program," by establishing minimum requirements for DOE contractors and subcontractors to observe in developing and implementing programs that deal with the use of illegal drugs by their employees and certain other individuals. Nothing in this issuance changes any requirements contained in any DOE Order.
2. CANCELLATION. This Chapter cancels and replaces ORIG 3792.X9, WORKPLACE SUBSTANCE ABUSE PROGRAMS AT OAK RIDGE SITES, dated November 1, 1993.
3. APPLICABILITY. The provisions of this Chapter apply to the ORO Principal Staff and the following DOE contracts performed at sites owned or controlled by DOE and operated under the authority of the Atomic Energy Act of 1954, as amended:
 - a. Management and operating contracts, and
 - b. Other contracts and subcontracts with a value of \$25,000 or more and which have been determined by DOE to involve:
 - (1) Access to or handling of classified information or special nuclear materials;
 - (2) High risk of danger to life, the environment, public health and safety, or national security; or
 - (3) The transportation of hazardous materials to or from a DOE site.
4. RESPONSIBILITIES.
 - a. Assistant Manager for Administration (AMA).
 - (1) Approves workplace substance abuse programs developed by prime contractors that meet the applicable baseline requirements of 10 CFR Part 707.5(a) and (b), and so advises the Contracting Officers' Representatives (COR).
 - (2) May grant extensions to the notification or implementation periods required of contractors by 10 CFR Part 707.5(g).

b. Director, Personnel Division.

- (1) Recommends approval, in consultation with the Chief Counsel and the cognizant COR, of workplace substance abuse programs which are developed by prime contractors that meet the applicable baseline requirements of 10 CFR Part 707.5(a) and (b).
- (2) Periodically evaluates each prime contractor's workplace substance abuse program, including the prime contractor's oversight of the covered subcontractors, to assure effectiveness and compliance with 10 CFR Part 707 and consistency of application among prime contracts and subcontracts.
- (3) Approves contractors' selections of Medical Review Officers.
- (4) Approves, as appropriate, allowable costs related to the workplace substance abuse program.
- (5) Maintains official copies of prime contractor workplace substance abuse programs and all related documents.

c. Contracting Officers (CO).

- (1) Insert the provision at DEAR 970.5204-57, Certification Regarding Workplace Substance Abuse Programs at DOE Sites, in solicitations, and the provision at DEAR 970.5204-58, "Workplace Substance Abuse Programs at DOE Sites," in contracts:
 - (a) For the management and operation of DOE-owned or -controlled sites operated under the authority of the Atomic Energy Act of 1954, as amended, or
 - (b) Where the work to be performed by the contractor will occur on sites owned or controlled by DOE and operated under the authority of the Atomic Energy Act of 1954, as amended, as specified in DEAR 923.570-1, "Applicability."
- (2) Provide written notification to prime contractors regarding the AMA's decision as to the acceptability of their workplace substance abuse programs.

5. REQUIREMENTS AND PROCEDURES.a. Programs of Prime Contractors.

- (1) Prime contractors shall develop and submit workplace substance abuse programs to their CO within 30 days of notification by DOE that their contract falls within the scope of 10 CFR Part 707, or such extension as may be approved by the AMA in accordance with subparagraph 4a(2) of this Chapter.
- (2) CO shall forward the program to the Director, Personnel Division, who shall, in consultation with the Chief Counsel and the COR, determine whether it meets the applicable baseline requirements of 10 CFR Part 707.5(a) and (b).
- (3) Director, Personnel Division, shall recommend to the AMA within 30 days approval of those programs that meet applicable baseline requirements and disapproval of those programs that fail to meet such requirements.
- (4) AMA shall approve or disapprove such programs and convey his decision to the CO within 15 days.
- (5) CO shall immediately inform the prime contractor of the AMA's decision.

b. Programs of Subcontractors.

- (1) Prime contractors shall submit to their CO all subcontracts they believe to be within the scope of 10 CFR Part 707.
- (2) CO shall determine whether the subcontract does fall within that scope and so advise the prime contractor.
- (3) The prime contractor shall advise the subcontractor of this determination and require the subcontractor to submit its workplace substance abuse program to the prime contractor within 30 days, or some other mutually agreed upon deadline for submittal of the program.
- (4) The prime contractor shall evaluate the subcontractor's program, and if the prime contractor considers that the program meets the applicable baseline requirements of 10 CFR Part 707.5(a) and (b), shall approve it.

- (5) If the prime contractor does not consider that the subcontractor's program meets the applicable baseline requirements of 10 CFR Part 707.5(a) and (b), the prime contractor shall return the program to the subcontractor for appropriate corrections.

6. REFERENCES.

- a. Executive Order 12564, "Drug-Free Federal Workplace."
- b. 10 CFR Part 707, "Workplace Substance Abuse Programs at DOE Sites."
- c. 10 CFR Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material."
- d. Department of Energy Acquisition Regulation (DEAR) 909.104-1, "General Standards."
- e. DEAR 923.5, "Workplace Substance Abuse Programs."
- f. DEAR 970.2305, "Workplace Substance Abuse Programs - Management and Operating Contracts."
- g. Department of Health and Human Services (HHS) Mandatory Guidelines for Federal Workplace Drug Testing Programs, 53 FR 11970, April 11, 1988.

7. DEFINITIONS.

- a. **Substance abuse**, as defined in this Chapter, is the use of illegal drugs.
- b. **DOE-owned or -controlled sites**, as defined in this Chapter, include facilities that have a valid security plan and are approved by the Safeguards and Security Division for classified work, whether the space is leased or owned.
- c. Definitions listed at 10 CFR Part 707.4 are incorporated herein by reference.

8. CONTRACTOR REQUIREMENTS DOCUMENT. See Contractor Requirements Document, Attachment 1 of this Chapter.

9. ATTACHMENTS.

Attachment 1 - Contractor Requirements Document.

CONTRACTOR REQUIREMENTS DOCUMENT

Contractors that are identified in paragraph 3 of this Chapter shall accomplish the following:

1. Develop a written workplace substance abuse program that is consistent with the requirements of 10 CFR Part 707, "Workplace Substance Abuse Programs at DOE Sites;" 10 CFR Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material;" and the guidelines of the HHS and subsequent amendments to those guidelines ("Mandatory Guidelines for Federal Workplace Drug Testing Programs," 53 FR 11970, April 11, 1988). This program shall be submitted to the CO within 30 days of notification by DOE that the contract falls within the scope of 10 CFR Part 707 and shall include at least those baseline elements identified at 10 CFR Part 707.5(a). Contractors that have identified testing designated positions (see Part 707.7(b)) shall also include those baseline elements identified at 10 CFR Part 707.5(b).
2. Notify the COR not later than 30 days prior to the award of any subcontract the contractor believes may be subject to the requirements of 10 CFR Part 707.
3. Require all subcontractors subject to the provisions of 10 CFR Part 707 to agree to develop and implement a workplace substance abuse program that complies with the requirements of 10 CFR Part 707 as a condition for award of the subcontract.
4. Review and approve each subcontractor's program, and periodically monitor each subcontractor's implementation of the program for effectiveness and compliance with 10 CFR Part 707.
5. Include, and require the inclusion of, the requirements of 10 CFR Part 707 in all subcontracts at any tier that are subject to the provisions of 10 CFR Part 707.
6. Contractors that implement workplace substance abuse requirements additional to those of baseline requirements (see Part 707.5(a) and (b)) shall inform the COR of such additional requirements at least 30 days prior to implementation.
7. Inform employees of the contractor's policies regarding workplace substance abuse programs, including those provisions identified in 10 CFR Part 707.5(a)(3).
8. Obtain DOE approval of physicians to be designated as Medical Review Officers.