negatively impact the marketing of fresh Washington potatoes because this action reduces costs to both handlers and producers. Therefore, in an action taken on June 11, 2020, the Committee unanimously recommended that USDA terminate the Order.

Section 946.63(b) of the Order provides that USDA to terminate or suspend any or all provisions of the Order when a finding is made that the Order does not tend to effectuate the declared policy of the Act. Furthermore, § 608c(16)(A) of the Act provides that USDA shall terminate or suspend the operation of any order whenever the order or provision thereof obstructs or does not tend to effectuate the declared policy of the Act. An additional provision requires that Congress be notified not later than 60 days before the date on which order would be terminated.

The Committee considered alternatives to this rule, including taking no action (which would keep the Order active but with the handling regulations suspended) and suspending all of the Order's remaining regulatory provisions but not terminating the Order. The Committee determined that neither option was a viable long-term solution, and subsequently, recommended that the Order be terminated.

This proposed rule is intended to solicit input and other available information from interested parties on whether the Order should be terminated. USDA will evaluate all available information prior to making a final action on this matter.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178 Vegetable and Specialty Crops. Termination of the Order and reporting requirements prescribed therein, would reduce the reporting burden on Washington potato handlers by an estimated 9.7 hours per handler. Handlers would no longer be required to file forms with the Committee, which is expected to reduce industry expenses. This rule would not impose any additional reporting or recordkeeping requirements on either small or large potato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Committee meetings are widely publicized throughout the Washington potato industry, and all interested persons are invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the January 22 and June 11, 2020, meetings were public meetings, and all entities, both large and small, were able to express their views on these issues. Interested persons are invited to submit comments on this proposed rule, including regulatory and information collection impacts of this proposed action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *https://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

This rule invites comments on the proposed termination of Marketing Order 946, which regulates the handling of Irish potatoes grown in Washington. A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final action is made on this matter.

Based on the foregoing and pursuant to § 608c(16)(A) of the Act and § 946.63 of the Order, USDA is considering termination of the Order. If USDA decides to terminate the Order, trustees would be appointed to conclude and liquidate the Committee affairs and would continue in that capacity until discharged by USDA. In addition, USDA would notify Congress 60 days in advance of termination pursuant to § 608c(16)(A) of the Act.

List of Subjects in 7 CFR Part 946

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, part 946 is proposed to be removed.

PART 946—IRISH POTATOES GROWN IN WASHINGTON—[REMOVED]

■ 1. The authority citation for part 946 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Accordingly, part 946 is removed.

Erin Morris,

Administrator, Agricultural Marketing Service.

[FR Doc. 2021–19238 Filed 9–3–21; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

10 CFR Part 707

[AU–RM–19–WSAP]

RIN 1992–AA60

Workplace Substance Abuse Programs at DOE Sites

AGENCY: Office of Environment, Health, Safety and Security; Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Department of Energy (DOE or the Department) is proposing to amend its current regulations on contractor workplace substance abuse programs at DOE sites to be consistent with the Secretary of Energy's memorandum, dated September 14, 2007, entitled *Decisions regarding drug testing for Department of Energy positions that require access authorizations (Security Clearances),* and because there is a continued need for these changes. The proposed amendments would decrease the random drug testing rate for individuals in certain testing designated positions, and clarify that all positions requiring access authorizations (security clearances) are included in the testing designated positions. In addition, the proposed amendments would clarify requirements for DOE approval prior to allowing persons in certain testing designated positions to return to work after removal for illegal drug use.

DATES: The comment period for this proposed rule will end on October 7, 2021.

ADDRESSES: You may submit comments, identified by Docket No. AU–RM–19–WSAP and/or Regulation Identification Number (RIN) 1992–AA60, through the *Federal e-Rulemaking Portal: https://www.regulations.gov*. Follow the instructions in the portal for submitting comments.

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail and hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing Covid–19 pandemic. DOE is currently accepting only electronic

submissions at this time. If a commenter finds that this change poses an undue hardship, please contact Ms. Moriah Ferullo at (301) 903–0881 to discuss the need for alternative arrangements. Once the Covid–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

For detailed instructions on submitting comments and additional information on the rulemaking process, see section V. of this document (Public Participation—Submission of Comments).

Docket: The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov*. All documents in the docket are listed in the *https://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available. A link to the docket web page can be found at: *https://www.energy.gov/ehss/contractor-workplace-substance-abuse-program-doe-sites-10-cfr-707*. This web page contains a link to the docket for this document on the *https://www.regulations.gov* site. The *https://www.regulations.gov* web page contains instructions on how to access all documents, including public comments, in the docket. See section V. of this document for further information on how to submit comments through *https://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. Moriah Ferullo, U.S. Department of Energy, Office of Environment, Health, Safety and Security, AU–11, 1000 Independence Avenue SW, Washington, DC 20585; (301) 903–0881 or by email at: *moriah.ferullo@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to the Department of Energy's (DOE or the Department) statutory authority, including the Atomic Energy Act of 1954, as amended (AEA), and the Drug-Free Workplace Act of 1988, DOE promulgated a rule on July 22, 1992 (57 FR 32652), establishing minimum requirements for DOE contractor workplace substance abuse programs. The rule provided for drug testing of contractor employees in, and applicants for, testing designated positions (TDPs) at sites owned or controlled by DOE and operated under the authority of the AEA. The Department determined that possible risks of serious harm to the environment and to public health, safety, and national security justified the imposition of a uniform rule establishing a baseline workplace substance abuse program, including drug testing. The rule created a new Part 707 of Title 10 in the Code of Federal Regulations (CFR) entitled *Workplace Substance Abuse Programs at DOE Sites.*

On September 14, 2007, the Secretary of Energy (Secretary) issued a memorandum addressing drug testing for DOE positions that require access authorizations (security clearances). The memorandum stated the Secretary's determination that all Federal and contractor positions that require a security clearance, and all employees in positions that currently have security clearances, have the potential to significantly affect the environment, public health and safety, or national security. The Secretary determined that all such positions would be considered to be TDPs, which means they are subject to applicant, random, and for cause drug testing. The Secretary further determined, with regard to random drug testing, that employees in TDPs, other than those designated to be included in the 100 percent annual sample pool (primarily employees in the Human Reliability Program), be tested at a 30 percent annual sample rate. To implement the memorandum's provisions regarding TDPs for DOE contractor employees, the Department issued a final rule at 10 CFR part 707. *See* 73 FR 3861 (Jan. 23, 2008). However, the 2008 final rule contained incorrect section references. Whereas 10 CFR 707.7(a)(2) states that ''positions identified in paragraph (b)(3) of this section shall provide for random tests at a rate equal to 30 percent of the total number of employees in testing designated positions for each 12-month period'', the correct reference should have been to paragraphs (b)(2) and (b)(3). Furthermore, the second sentence of 10 CFR 707.7(a)(2), 10 CFR 707.7(b)(2)(iii), and 10 CFR 707.14(e) each contain an incorrect reference to paragraph (b)(2) of 10 CFR 707.7. Since TDPs identified in paragraph (b)(2) should be tested at a 30 percent annual sample rate and do not require DOE approval for return to work after illegal drug use, the references to ''(b)(2)'' in the second sentence of 10 CFR 707.7(a)(2); in 10 CFR 707.7(b)(2)(iii); and in 10 CFR 707.14(e) should be removed. The proposed second sentence of 10 CFR 707.7(a)(2) would state that employees in the positions identified in paragraphs (b)(1) and (c) of this section will be subject to random testing at a rate equal to 100 percent of the total number of employees identified, and those identified in paragraphs (b)(1) and (c) of this section may be subject to additional drug tests. DOE proposes to replace the reference to (b)(2) with (c) in 10 CFR 707.7(b)(2)(iii). In accordance with the 2007 Secretarial memorandum, and because there is a continued need for these changes, DOE proposes to add a new requirement at 10 CFR 707.7(b)(2)(vi) that access authorization (security clearance) holders be tested. That proposed section would refer to all other personnel in positions that require an access authorization (security clearance), other than those identified in paragraphs (b)(1) and (c) of this section.

II. Authority

This proposed rule would continue to establish minimum requirements for the workplace substance abuse programs for DOE contractors and their employees, and would be promulgated pursuant to DOE's authority under section 161 of the AEA to prescribe such regulations as it deems necessary to govern any activity authorized by the AEA, including standards for the protection of health and minimization of danger to life or property (42 U.S.C. 2201(i)(3) and (p)) and section 8102 of the Drug Free Workplace Act of 1988, as amended (41 U.S.C. 8102).

III. Discussion of Proposed Amendments

This proposed rule would amend DOE's regulations on contractor workplace substance abuse programs at DOE sites to modify the random drug testing rate of contractor employees in TDPs, other than those in the 100 percent rate of testing pool, and to clarify that all positions requiring access

authorizations (security clearances) are TDPs, as the Secretary established in 2007.

Currently, 10 CFR 707.7(a)(2) provides that contractor employees in positions identified in paragraphs 10 CFR 707.7(b)(2) will be subject to random testing at a rate equal to 100 percent of the total number of employees identified. The 2008 revisions to the rule incorrectly placed these TDPs in the random testing rate of 100 percent, which was never the intent of the Department. Rather, the employees identified in paragraph 10 CFR 707.7(b)(2) should have been placed in the 30 percent testing rate category and their return to work in TDPs after illegal drug use should not require DOE approval. This proposed rule would modify references to the employees identified in 10 CFR 707.7(b)(2) to be consistent with the Secretary's 2007 decision to decrease the random drug testing rate for certain TDPs. This proposed rule would also make clear that all positions requiring a security clearance are TDPs, as the Secretary had intended to establish in 2007.

IV. Procedural Review Requirements

A. Review Under Executive Order 12866 and 13563

This regulatory action has been determined not to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this action is not subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB).

DOE has also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011. 76 FR 3281 (January 21, 2011). Executive Order 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required by Executive Order 13563 to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that Executive Order 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, OIRA has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, DOE believes that this proposed rule is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized.

B. Review Under the National Environmental Policy Act

DOE has determined that this proposed rule is covered under the Categorical Exclusion found in DOE's National Environmental Policy Act regulations at paragraph A.5 of Appendix A to Subpart D, 10 CFR part 1021, which applies to interpretive rulemakings that amend an existing rule or regulation that do not change the environmental effect of the rule or regulation being amended.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires that an agency prepare an initial regulatory flexibility analysis for any regulation for which a general notice of proposed rulemaking is required, unless the agency certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605(b)).

This proposed rule would update DOE's regulations on workplace substance abuse programs for its contractor workers. This proposed rule applies only to activities conducted by DOE's contractors. The contractors who manage and operate DOE facilities would be principally responsible for implementing the rule requirements. DOE considered whether these contractors are ''small businesses'' as the term is defined in the Regulatory Flexibility Act (5 U.S.C. 601(3)). The Regulatory Flexibility Act's definition incorporates the definition of small business concerns in the Small Business Act, which the Small Business Administration (SBA) has developed through size standards in 13 CFR part 121. The DOE contractors subject to the proposed rule exceed the SBA's size standards for small businesses. In addition, DOE expects that any potential economic impact of this proposed rule on small businesses would be minimal because DOE contractors perform work under contracts to DOE or prime contractors at a DOE site. DOE contractors are reimbursed through their contracts for the costs of complying with workplace substance abuse program requirements. They would not, therefore, be adversely impacted by the requirements in this proposed rule. For these reasons, DOE certifies that this proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities, and therefore, no regulatory flexibility analysis need be prepared.

D. Review Under the Paperwork Reduction Act

This proposed rule does not impose any new collection of information subject to review and approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

E. Review Under the Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires Federal agencies to examine closely the impacts of regulatory actions on State, local, and tribal governments. Subsection 101(5) of title I of that law defines a Federal intergovernmental mandate to include any regulation that would impose upon State, local, or tribal governments an enforceable duty, except a condition of Federal assistance or a duty arising from participating in a voluntary Federal program. Title II of that law requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments, in the aggregate, or to the private sector, other than to the extent such actions merely incorporate requirements specifically set forth in a statute. Section 202 of that title requires a Federal agency to perform a detailed assessment of the anticipated costs and benefits of any rule that includes a Federal mandate, which may result in costs to State, local or tribal governments, or to the private sector, of

$100 million or more in any one year (adjusted annually for inflation). Section 204 of that title requires each agency that proposes a rule containing a significant Federal intergovernmental mandate to develop an effective process for obtaining meaningful and timely input from elected officers of State, local, and tribal governments.

This proposed rule does not impose a Federal mandate on State, local or tribal governments. The proposed rule would not result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $100 million or more in any one year. Accordingly, no assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

F. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277), requires Federal agencies to issue a Family Policymaking Assessment for any rulemaking that may affect family well-being. This proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

G. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined this proposed rule and has determined that it would not preempt State law and would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

H. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for the affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of the standards. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of Executive Order 12988.

I. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed this proposed rule under OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

J. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001) requires Federal agencies to prepare, and submit to OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1)(i) Is a significant regulatory action under Executive Order 12866, or any successor order; and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (2) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. This proposed rule would not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

V. Public Participation—Submission of Comments

DOE will accept comments, data and information regarding this proposed rule before or until October 7, 2021. Interested individuals are invited to participate in this proceeding by submitting data, views, or arguments with respect to this proposed rule using the method described in the **ADDRESSES** section at the beginning of this proposed rule. To help the Department review the submitted comments, commenters are requested to reference the paragraph(s) to which they refer, *e.g.,* 10 CFR 707.7(a)(2), where possible.

Submitting comments via https://www.regulations.gov. The *https://www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE's Office of Worker Safety and Health Policy staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment. However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *https://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI'')). Comments submitted through *https://www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section below.

DOE processes submissions made through *https://www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *https://www.regulations.gov* provides after you have successfully uploaded your comment.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email to *moriah.ferullo@hq.doe.gov*. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

DOE considers public participation to be a very important part of the process for developing its regulations. DOE actively encourages the participation and interaction of the public during the comment period in each stage of this process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the rulemaking process.

VI. Approval by the Office of the Secretary of Energy

The Secretary of Energy has approved publication of this notice of proposed rulemaking.

List of Subjects in 10 CFR Part 707

Classified information, Drug testing, Employee assistance programs, Energy, Government contracts, Health and safety, National security, Reasonable suspicion, Special nuclear material, Substance abuse.

Signing Authority

This document of the Department of Energy was signed on July 20, 2021, by Jennifer Granholm, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the **Federal Register**, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 1, 2021.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons set out in the preamble, DOE proposes to amend part 707 of Chapter III of Title 10 of the Code of Federal Regulations as set forth below:

PART 707—WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES

■ 1. The authority citation for part 707 is revised to read as follows:

Authority: 41 U.S.C. 8102 *et seq.;* 42 U.S.C. 2012, 2013, 2051, 2061, 2165, 2201b, 2201i, and 2201p; 42 U.S.C. 5814 and 5815; 42 U.S.C. 7151, 7251, 7254, and 7256; 50 U.S.C. 2401 *et seq.*

■ 2. Section 707.7 is amended by:
■ a. Revising paragraph (a)(2);
■ b. Revising paragraphs (b)(2)(iii) through (v); and
■ c. Adding paragraph (b)(2)(vi).

The revisions and addition read as follows:

§ 707.7 Random drug testing requirements and identification of testing designated positions.

(a) * * *

(2) Programs developed under this part for positions identified in paragraphs (b)(2) and (b)(3) of this section shall provide for random tests at a rate equal to 30 percent of the total number of employees in testing designated positions for each 12 month period. Employees in the positions identified in paragraphs (b)(1) and (c) of this section will be subject to random testing at a rate equal to 100 percent of the total number of employees identified, and those identified in paragraphs (b)(1) and (c) of this section may be subject to additional drug tests.

(b) * * *

(2) * * *

(iii) Protective force personnel, exclusive of those covered in paragraph (b)(1) and (c) of this section, in positions involving use of firearms where the duties also require potential contact with, or proximity to, the public at large;

(iv) Personnel directly engaged in construction, maintenance, or operation of nuclear reactors;

(v) Personnel directly engaged in production, use, storage, transportation, or disposal of hazardous materials sufficient to cause significant harm to the environment or public health and safety; or

(vi) All other personnel in positions that require an access authorization (security clearance), other than those identified in paragraphs (b)(1) and (c) of this section.

* * * * *

■ 3. Section 707.14 is amended by revising paragraph (e) to read as follows:

§ 707.14 Action pursuant to a determination of illegal drug use.

* * * * *

(e) If a DOE access authorization is involved, DOE must be notified of a contractor's intent to return to a testing designated position an employee removed from such duty for use of illegal drugs. Positions identified in § 707.7(b)(1) of this part will require DOE approval prior to return to a testing designated position.

* * * * *

[FR Doc. 2021–19231 Filed 9–3–21; 8:45 am]

BILLING CODE 6450–01–P