

Accordingly, USDA proposes to amend Title 7 of the Code of Federal Regulations as follows:

## PART 1—ADMINISTRATIVE REGULATIONS

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

**Authority:** 5 U.S.C. 301, unless otherwise noted.

### Subpart J—Procedures Relating to Awards Under the Equal Access to Justice Act in Proceedings Before the Department

2. Amend § 1.186 by revising paragraph (b) to read as follows:

#### § 1.186 Allowable fees and expenses.

\* \* \* \* \*

(b) In proceedings commenced on or after the effective date of this paragraph, no award for the fee of an attorney or agent under the rules in this subpart may exceed \$150 per hour. No award to compensate an expert witness may exceed the highest rate at which the Department pays expert witnesses, which is set out at § 1.150 of this part. However, an award also may include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent, or witness ordinarily charges clients separately for such expenses.

\* \* \* \* \*

3. Amend § 1.187 by revising paragraph (a) to read as follows:

#### § 1.187 Rulemaking on maximum rates for attorney fees.

(a) If warranted by an increase in the cost of living or by special circumstances (such as limited availability of attorneys qualified to handle certain types of proceedings), the Department may adopt regulations providing that attorney fees may be awarded at a rate higher than \$150 per hour in some or all of the types of proceedings covered by this part. The Department will conduct any rulemaking proceedings for this purpose under the informal rulemaking procedures of the Administrative Procedure Act.

\* \* \* \* \*

Done at Washington, DC, July 13, 2010.

**Thomas J. Vilsack,**

*Secretary of Agriculture.*

[FR Doc. 2010-18099 Filed 7-29-10; 8:45 am]

**BILLING CODE 3410-90-P**

## DEPARTMENT OF ENERGY

### 10 CFR Part 707

[Docket No. HS-RM-10-WSAP]

RIN 1992-AA41

### Request for Information Regarding Workplace Substance Abuse Programs for Department of Energy Contractors

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

**ACTION:** Request for information.

**SUMMARY:** The Department of Energy (DOE or the Department) requests information and comments on issues related to workplace substance abuse programs for its contractor employees. Specifically, the Department solicits comment and information on the addition of anabolic steroids and other drugs to its randomized drug testing program; the availability of analytical testing methods for anabolic steroids; whether alcohol and certain prescription and over-the-counter medications and/or supplements should be added to the substance abuse program; whether medical review officers should obtain and maintain certification; and other pertinent subjects. The information received in response to this request will assist DOE in determining the appropriate course of action in developing an amendment to the current substance abuse program for its contractor and subcontractor employees.

**DATES:** All comments on this issue presented in this document must be received by the Department by October 28, 2010.

**ADDRESSES:** Comments in response to this document may be submitted by hardcopy or electronically through e-mail. Hardcopies (2 copies) sent by regular mailing should be addressed to: Jacqueline D. Rogers, Office of Health, Safety and Security, Office of Worker Safety and Health Policy, Docket No. HS-RM-10-WSAP, 1000 Independence Avenue, SW., Washington, DC 20585.

Electronic submissions may be sent to [jackie.rogers@hq.doe.gov](mailto:jackie.rogers@hq.doe.gov). If you have additional information, such as studies or journal articles, and cannot attach them to your electronic submission, please send 2 copies to the address above. The additional material must clearly identify your electronic comments by name, date, subject, and Docket No. HS-RM-10-WSAP.

**FOR FURTHER INFORMATION CONTACT:** Jacqueline D. Rogers, U.S. Department of Energy, Office of Health, Safety and Security, Office of Worker Safety and

Health Policy, 1000 Independence Avenue, SW., Washington, DC 20585, 202-586-4714, or [jackie.rogers@hq.doe.gov](mailto:jackie.rogers@hq.doe.gov).

Electronic copies of this **Federal Register** notice, as well as other relevant DOE documents concerning this issue, will be available on a Web page at: <http://www.hss.energy.gov/healthsafety/WSHP/rule851/rule707.html>.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Pursuant to DOE's statutory authorities, including the Atomic Energy Act of 1954, as amended, and the Drug-Free Workplace Act of 1988, DOE promulgated a rule on July 22, 1992, on DOE contractor workplace substance abuse programs (57 FR 32652). The rule established minimum requirements for DOE contractors and subcontractors performing work at DOE sites to use in developing and implementing programs that deal with the use of illegal drugs by their employees. The minimum requirements address: (1) Prohibition on the use, possession, sale, distribution, or manufacture of illegal drugs; (2) education and training; (3) testing of certain employees in sensitive positions; (4) employee assistance; (5) removal, discipline, treatment, and rehabilitation of employees; and (6) notification to DOE. The rule provides for drug testing of contractor employees in, and applicants for, testing designated positions (TDP) at sites owned or controlled by DOE and operated under the authority of the Atomic Energy Act of 1954, as amended. The Department determined that possible risks of 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.

Currently, the Department is considering more stringent requirements in various areas of the workplace substance abuse programs for its contractor. The Department urges those individuals interested in this issue to provide responses to the questions provided in this document.

##### II. Questions for Comment

The Department is especially interested in answers supported by evidence and rationale whenever possible to the questions below. When providing a response, please key your response to the number of the question.

1. Currently, DOE contractors and subcontractors performing work on DOE sites conduct randomized drug testing for the following drugs or classes of

drugs: Marijuana, cocaine, opiates, phencyclidine, and amphetamines. This testing is performed in conformance with the Department of Health and Human Services' *Mandatory Guidelines for Federal Workplace Drug Testing Programs*. Should the Department's contractor programs consider expanding randomized drug testing to include anabolic steroids, synthetic opiates, newer amphetamines, and other new prescription drugs, among others, to this list of drugs it routinely test for? If so, please specify what drugs should be added and why and provide evidence to support this addition.

2. Are there prescription and/or legal over-the-counter medications or supplements that provide false positives for anabolic steroids? If so, should use of these medications or supplements by employees of DOE contractors or subcontractors performing work at DOE sites be prohibited and tested for? If so, please identify these medications or supplements, explain the reasons for your answer, and provide evidence to support them.

3. Are there products available for sale in the United States or by import to the United States that mask prohibited drug use or anabolic steroid use? If so, what are these products and should their use by DOE contractor or subcontractor employees performing work at DOE sites be prohibited? Are there reliable and economically feasible means by which to test for these products? Please explain each of your answers and provide evidence to support your answers.

4. When conducting reasonable suspicion or occurrence testing, DOE contractors may test for any drug listed in Schedules I or II of the Controlled Substance Act. Should DOE consider expanding this requirement to include any drug listed in Schedules I through V of the Controlled Substance Act? If so, please explain why these drugs should be added and provide evidence to support these additions.

5. Are there reliable (*i.e.*, adequately sensitive and specific) analytical testing methods and/or procedures currently available for anabolic steroids? If so, please describe those methods, their reliability, and provide evidence to support your answer.

6. Compared to the types of drugs and classes of drugs currently being tested for, is it economically feasible (*i.e.*, cost effective) at this time to test for anabolic steroids? Please provide evidence to support your answer.

7. What is the cost per test for anabolic steroids? What other costs are associated with testing for anabolic steroids? Please describe the testing

method(s) for which you provide cost information and provide evidence to support your answers.

8. Currently, DOE contractors' substance abuse programs do not include policies, procedures, and/or protocols for controlling the use of alcohol while performing work at a DOE site. The use of alcohol, even in small amounts, can impair judgment and affect the ability to perform critical duties. Should the Department consider adding the use of alcohol to its contractors' workplace substance abuse program for its contractors? If so, why, what means of measurement of consumed alcohol should be used, and what measure of consumed alcohol should be prohibited at DOE sites? Please provide evidence to support your answers.

9. Are there any Federal Agencies with policies and procedures for controlling the use of alcohol affecting the workplace? If so, which Agency, and should DOE consider adopting its protocols and procedures for the use of alcohol in the workplace? Please provide evidence to support your answers.

10. The use of alcohol, even in small amounts, can impair judgment and affect the ability to perform critical duties. If an individual in a critical or sensitive position at a DOE site consumes alcohol while off duty, how long should that individual be required to abstain from alcohol use prior to reporting for duty? Please explain the reasons for your answer and provide evidence to support your answer.

11. Should the Department consider requiring its medical review officers to obtain and maintain medical review officer certification? If so, how often should certification occur? Please provide evidence to support your answers.

Issued in Washington, DC, on July 21, 2010.

**Glenn S. Podonsky,**

*Chief Health, Safety and Security Officer,  
Office of Health, Safety and Security.*

[FR Doc. 2010-18740 Filed 7-29-10; 8:45 am]

**BILLING CODE 6450-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 131

[EPA-HQ-OW-2010-0606; FRL-9182-1]

### Stakeholder Input; Revisions to Water Quality Standards Regulation

**AGENCY:** Environmental Protection Agency.

**ACTION:** Listening sessions.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing its plans to initiate national rulemaking to make a limited set of targeted changes to EPA's water quality standards regulation. EPA expects to publish such proposed rule changes in the **Federal Register** in Summer 2011. EPA's intent is to improve the regulation's effectiveness in helping to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. The purpose of this notice is to announce EPA's intent to hold two informal public "listening sessions" in August 2010. The sessions will allow EPA to inform the public about the rulemaking, and will offer an opportunity for the public to express views on the general direction of the rulemaking, including the six specific elements of the rulemaking.

**DATES:** The two public listening sessions will be held as audio teleconferences on August 24 and 26, 2010, from 1 to 2:30 p.m. EDT.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Gardner, EPA Headquarters, Office of Water, Office of Science and Technology, at 202-566-0386 or *e-mail:* [gardner.thomas@epa.gov](mailto:gardner.thomas@epa.gov).

In order to provide an adequate number of telephone lines for those wishing to attend EPA's sessions, interested individuals should register in advance following instructions on the Internet at <http://www.epa.gov/waterscience/standards/rules/wqs>. Although you may register at any time prior to the session of your choice, EPA prefers that you register at least three days in advance.

The agenda and resource materials will be identical for the two sessions. You do not need to attend both sessions.

If you do not have Internet access, please contact the person named in the **FOR FURTHER INFORMATION CONTACT** section above.

### SUPPLEMENTARY INFORMATION:

#### I. General Information

##### A. Public Listening Sessions

EPA will hold two informal public listening sessions via audio teleconference in August 2010 to inform the public about the rulemaking, and to hear views from the public regarding possible changes to EPA's water quality standards regulation at 40 CFR part 131 that are under consideration. The sessions will provide a review of EPA's current water quality standards regulation and a summary of the clarifications that EPA is considering. Clarifying questions and brief oral