

## § 712.12

review for certification and recertification in accordance with this part. With respect to the DOE personnel security review:

(i) If the DOE personnel security review is not completed within the 12-month time period and the individual's access authorization is not suspended, the HRP certification form shall be forwarded to the HRP certifying official for recertification or temporary removal, contingent upon a favorable security review;

(ii) If a final determination has been made by DOE personnel security that is favorable, this information shall be forwarded to the HRP certifying official and so noted on the certification form; or

(iii) If the final determination has been made by DOE personnel security that the access authorization has been suspended, the individual shall be immediately removed from the HRP position, the HRP certifying official notified, the information noted on the certification form, and the procedures outlined in 10 CFR part 710, subpart A, shall be followed.

(6) No use of any hallucinogen in the preceding five years and no experience of flashback resulting from the use of any hallucinogen more than five years before applying for certification or recertification;

(7) A psychological evaluation consisting of a generally accepted psychological assessment (test) and a semi-structured interview;

(8) An initial drug test and random drug tests for the use of illegal drugs at least once each 12 months in accordance with DOE policies implementing Executive Order 12564 or the relevant provisions of 10 CFR part 707 for DOE contractors, and DOE Order 3792.3, "Drug-Free Federal Workplace Testing Implementation Program," for DOE employees;

(9) An initial alcohol test and random alcohol tests at least once each 12 months using an evidential-grade breath alcohol device, as listed without asterisks on the Conforming Products List of Evidential Breath Measurement Devices published by the NHTSA (49 CFR part 40); and

(10) Successful completion of a counterintelligence evaluation, which in-

## 10 CFR Ch. III (1-1-05 Edition)

cludes a counterintelligence-scope polygraph examination in accordance with DOE's Polygraph Examination Regulation, 10 CFR part 709, and any subsequent revisions to that regulation.

(b) Each HRP candidate must be certified in the HRP before being assigned to HRP duties and must be recertified annually, not to exceed 12 months between recertifications. For certification:

(1) Individuals in newly identified HRP positions must immediately sign the releases, acknowledgments, and waivers to participate in the HRP and complete initial instruction on the importance of security, safety, reliability, and suitability. If these requirements are not met, the individual must be removed from the HRP position.

(2) All remaining HRP requirements listed in paragraph (a) of this section must be completed in an expedited manner.

(c) Alcohol consumption is prohibited within an eight-hour period preceding scheduled work for individuals performing nuclear explosive duties and for individuals in specific positions designated by either the Manager, the NNSA Administrator, his or her designee, or the appropriate Lead Program Secretarial Officer, or his or her designee.

(d) Individuals reporting for unscheduled nuclear explosive duties and those specific positions designated by either the Manager, the NNSA Administrator or his or her designee, or the appropriate Lead Program Secretarial Officer, or his or her designee, will be asked prior to performing any type of work if they have consumed alcohol within the preceding eight-hour period. If they answer "no," they may perform their assigned duties but still may be tested.

(e) HRP-certified individuals may be tested for alcohol and/or drugs in accordance with § 712.15(b), (c), (d) and (e) if they are involved in an incident, unsafe practice, or an occurrence, or if there is reasonable suspicion that they may be impaired.

### § 712.12 HRP implementation.

(a) The implementation of the HRP is the responsibility of the appropriate

## Department of Energy

## § 712.12

Manager or his or her designee. The Manager or designee must fully implement the HRP by April 22, 2004.

(b) The HRP Management Official must:

(1) Prepare an initial HRP implementation plan and submit it by March 23, 2004, to the applicable Manager for review and site approval. The implementation plan must:

(i) Be reviewed and updated every two years;

(ii) Include the four annual components of the HRP process: supervisory review, medical assessment, management evaluation (which includes random drug and alcohol testing), and a DOE personnel security determination; and

(iii) Include the HRP instruction and education component described in § 712.17 of this part.

(2) Approve the temporary removal and the reinstatement after temporary removal of an HRP-certified individual if the removal was based on a nonsecurity concern and the HRP-certified individual continues to meet the certification requirements and notify the HRP certifying official of these actions.

(c) The Deputy Administrator for Defense Programs, NNSA must:

(1) Provide advice and assistance to the Director, Office of Security, regarding policies, standards, and guidance for all nuclear explosive duty requirements; and

(2) Be responsible for implementation of all nuclear explosive duty safety requirements.

(d) The DOE Deputy Secretary, based on a recommendation of the Director, Office of Security, makes the final decision for any appeal of denial or revocation of certification or recertification from HRP.

(e) The Director, Security Policy Staff, within the Office of Security, is responsible for HRP policy and must:

(1) Ensure consistency of the HRP throughout the DOE and NNSA;

(2) Review and comment on all HRP implementation plans to ensure consistency with policy; and

(3) Provide policies and guidance, including instructional materials, to NNSA and non-NNSA field elements concerning the HRP, as appropriate.

(f) The Manager must:

(1) Review and approve the HRP implementation plan for sites/facilities under their cognizance and forward the plan to the Director, Security Policy Staff; and

(2) Ensure that the HRP is implemented at the sites/facilities under their cognizance.

(g) The HRP certifying official must:

(1) Approve placement, certification, reinstatement, and recertification of individuals into HRP positions; for unresolved temporary removals, follow the process in § 712.19(c)(5);

(2) Ensure that instructional requirements are implemented;

(3) Immediately notify (for the purpose of limiting access) the appropriate HRP management official of a personnel security action that results in the suspension of access authorization; and

(4) Ensure that the supervisory review, medical assessment, and management evaluation, including drug and alcohol testing, are conducted on an annual basis (not to exceed 12 months).

(h) Individuals assigned to HRP duties must:

(1) Execute HRP releases, acknowledgments, and waivers to facilitate the collection and dissemination of information, the performance of drug and alcohol testing, and medical examinations;

(2) Notify the Designated Physician, the Designated Psychologist, or the SOMD immediately of a physical or mental condition requiring medication or treatment;

(3) Provide full, frank, and truthful answers to relevant and material questions, and when requested, furnish, or authorize others to furnish, information that DOE deems pertinent to reach a decision regarding HRP certification or recertification;

(4) Report any observed or reported behavior or condition of another HRP-certified individual that could indicate a reliability concern, including those behaviors and conditions listed in § 712.13(c), to a supervisor, the Designated Physician, the Designated Psychologist, the SOMD, or the HRP management official; and

## §712.13

(5) Report to a supervisor, the Designated Physician, the Designated Psychologist, the SOMD, or the HRP management official, any behavior or condition, including those listed in §712.13(c), that may affect his or her ability to perform HRP duties.

### §712.13 Supervisory review.

(a) The supervisor must ensure that each HRP candidate and each individual occupying an HRP position but not yet HRP certified, executes the appropriate HRP releases, acknowledgments, and waivers. If these documents are not executed:

(1) The request for HRP certification may not be further processed until these requirements are completed; and

(2) The individual is immediately removed from the position.

(b) Each supervisor of HRP-certified personnel must conduct an annual review of each HRP-certified individual during which the supervisor must evaluate information (including security concerns) relevant to the individual's suitability to perform HRP tasks in a reliable and safe manner.

(c) The supervisor must report any concerns resulting from his or her review to the appropriate HRP management official. Types of behavior and conditions that would indicate a concern include, but are not limited to:

(1) Psychological or physical disorders that impair performance of assigned duties;

(2) Conduct that warrants referral for a criminal investigation or results in arrest or conviction;

(3) Indications of deceitful or delinquent behavior;

(4) Attempted or threatened destruction of property or life;

(5) Suicidal tendencies or attempted suicide;

(6) Use of illegal drugs or the abuse of legal drugs or other substances;

(7) Alcohol use disorders;

(8) Recurring financial irresponsibility;

(9) Irresponsibility in performing assigned duties;

(10) Inability to deal with stress, or the appearance of being under unusual stress;

(11) Failure to comply with work directives, hostility or aggression toward

## 10 CFR Ch. III (1–1–05 Edition)

fellow workers or authority, uncontrolled anger, violation of safety or security procedures, or repeated absenteeism; and

(12) Significant behavioral changes, moodiness, depression, or other evidence of loss of emotional control.

(d) The supervisor must immediately remove an HRP-certified individual from HRP duties, pursuant to §712.19, and temporarily reassign the individual to a non-HRP position if the supervisor believes the individual has demonstrated a security or safety concern that warrants such removal. If temporary removal is based on a security concern, the HRP management official must immediately notify the applicable DOE personnel security office and the HRP certifying official.

(1) Based on the DOE personnel security office recommendation, the HRP certifying official will make the final decision about whether to reinstate an individual into an HRP position.

(2) If temporary removal is based on a medical concern, the Designated Physician, the Designated Psychologist, or the SOMD must immediately recommend the medical removal or medical restriction in writing to the appropriate HRP management official, who will make the final determination in temporary removal actions and immediately notify the appropriate HRP certifying official.

(e) The supervisor must immediately remove from HRP duties any Federal employee who does not obtain HRP recertification. The supervisor may reassign the individual or realign the individual's current duties. If these actions are not feasible, the supervisor must contact the appropriate personnel office for guidance.

(f) The supervisor who has been informed by the breath alcohol technician that an HRP-certified individual's confirmatory breath alcohol test result is at or above an alcohol concentration of 0.02 percent shall send the individual home and not allow that individual to perform HRP duties for 24 hours, and inform the HRP management official of this action.

### §712.14 Medical assessment.

(a) *Purpose.* The HRP medical assessment is performed to evaluate whether