

Date: April 19, 2011

U.S. Department of Agriculture
Departmental Management
Office of Human Resources Management



Plan for a Drug Free Workplace:

On April 27, 1988, the Department of Health and Human Services (HHS) certified to Congress that this plan met the requirements of the law and the Executive Order on Drug-Free Workplace Programs.

The Plan has been changed and/or modified several times. All changes have been approved by the Secretary of Agriculture and copies provided to HHS. This continues to be the official certified Plan for a Drug Free Workplace for the Department of Agriculture. If there are any inconsistencies between the Plan and Departmental Regulations, the Plan takes precedence.

I. INTRODUCTION

A. Background

On September 15, 1986, President Reagan signed Executive Order 12564, establishing the goal of a Drug-Free Federal Workplace. The Order made it a condition of employment for all Federal employees to refrain from using illegal drugs on or off-duty. In a letter to all executive branch employees dated October 4, 1986, the President reiterated his goal of ensuring a safe and drug-free workplace for all Federal workers. The Secretary of Agriculture on October 10, 1986, expressed the support of the U.S. Department of Agriculture (USDA) for a Drug-Free Federal Workplace.

The Executive Order recognized that illegal drug use is seriously impairing a portion of the national workforce, resulting in the loss of billions of dollars each year. As the largest employer in the nation, the Federal Government has a compelling proprietary interest in establishing reasonable and necessary conditions of employment. Prohibiting employee drug use is one such condition. USDA is concerned with the well-being of its employees, the successful accomplishment of agency missions and the need to maintain employee productivity. The intent of the policy is to offer a helping hand to those who need it, while sending a clear message that any illegal drug use is, quite simply, incompatible with Federal service.

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On July 11, 1987, legislation was signed affecting implementation of the Executive Order under Section 503 of the Supplemental Appropriations Act of 1987, P.L. 100-71, 101 Stat. 391, 468-471, codified at 5 U.S.C. Section 7301 (hereafter referred to as the "Act"). The Act established uniformity among Federal agency drug testing plans, reliable and accurate drug testing, employee access to drug testing records, confidentiality of drug testing results, and centralized oversight of the Federal Government's drug testing program.

The purpose of the USDA Drug-Free Workplace Plan is to set forth objectives, policies, procedures and implementation guidelines, to achieve a drug-free workplace, consistent with the Executive Order and Section 503 of the Act.

B. Statement of Policy

The USDA, in light of its responsibility to protect the agricultural economy, the nation's food supply, and the natural resources of this country, and in light of the corresponding sensitive nature of these endeavors, has a compelling obligation to eliminate illegal drug use from its workplace.

Agricultural products are essential to each and every individual and the economic well-being of the country. Agriculture remains the single most important business concern of the United States. USDA establishes and enforces policies which affect every aspect of agriculture. It is essential that development and implementation of policies affecting the production, harvesting, sale, marketing, research, and use of agricultural commodities and natural resources, under the auspices of USDA established in a drug-free environment

Illegal drug usage by employees has had a negative impact on the mission of USDA. Cases have been identified where employees have used government property to grow and distribute drugs, created international drug related incidents, embezzled funds and stolen property to maintain their own drug dependencies, and overdosed themselves with heroin on USDA property. The number of such incidents is, fortunately, low when compared with the number of employees. However, the number of drug related incidents being reported has increased by over 300 percent since 1984. This dictates the need for a program which prevents such occurrences.

A drug testing program that incorporates: (1) random testing; (2) other appropriate types of testing; (3) provides assistance to and protection from drug abusers. Given the seriousness of the existing cases, such a program is a critical component for ensuring the integrity of the accomplishment of the mission of USDA.

The success of USDA's Drug-Free Workplace Program also depends on how well USDA can: (1) inform its employees of the hazards of drug use and (2) provide assistance to drug users. Equally important is the assurance to employees that their personal dignity and privacy will be respected in reaching the USDA goal of a drug-free workplace.

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Therefore, this plan includes policies and procedures for: (1) employee counseling and assistance; (2) supervisory training; (3) employee education; and (4) identification of illegal drug use through drug-testing on a carefully controlled and monitored basis.

It is USDA's policy that its workplace be free from the illegal use, possession, or distribution of controlled substances, (as specified in Schedules I through V, as defined in 21 U.S.C. 802(6) and listed in Part B, Subchapter 13 of that Title) by the officers and employees of USDA. The possession of controlled substances and the possession and distribution of controlled substances will be dealt with promptly in accordance with legal and administrative disciplinary procedures. In addition, the safe operation of USDA large and passenger carrying vehicles mandates that those entrusted with that responsibility are not impaired by any illegal substance. The USDA Employee Assistance Program (EAP) is a vital part of this effort. However, the policy's primary goal is to ensure that illegal drug use is eliminated and that the USDA workplace be safe, healthful, productive and secure.

C. Nature, Frequency, and Type of Drug Testing to be Instituted

The USDA Plan includes the following types of drug testing: (1) Applicant testing; (2) Random testing of those employees in sensitive positions that have been designated as testing designated positions; (3) Reasonable suspicion testing; (4) Accident or unsafe practice testing; (5) Voluntary testing, and (6) Testing as part of or as a follow-up to counseling or rehabilitation including counseling or rehabilitation following a positive drug test result..

The frequency of random testing, voluntary testing, and follow-up testing is specified at Section IX(A), Section XII(B), and Section XII(C), respectively. The Secretary reserves the right to increase or decrease the frequency of testing based on USDA's mission, need, availability of resources, and experience in the program, consistent with the duty to achieve a drug-free workplace under the Executive Order.

D. Drugs for Which Individuals Are Tested

The drugs for which individuals will be tested are listed in Appendix B. A specimen may be tested for additional drugs, on a case-by-case basis, when a Federal agency is conducting a specimen collection for reasonable suspicion, post accident or unsafe practice testing under Section X and Section XII of this plan. A Federal agency may have a urine specimen tested for any drug identified in Schedule I or II of the Controlled Substances Act in addition to the drugs listed in Appendix B. The Federal agency must request the HHS-certified laboratory to test for the additional drug, include a justification to test a specific specimen for the drug, and ensure that the HHS-certified laboratory has the capability to test for the drug and has established properly validated initial and confirmatory analytical methods.

A Federal agency must petition the Secretary, HHS in writing for approval to routinely test for any drug class not listed in Appendix B. Such approval must be limited to the use

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of the appropriate science and technology and must not otherwise limit agency discretion to test for any drug under reasonable suspicion, post accident or unsafe practice testing.

E. Scope and Implementation

This plan was effective on August 8, 1988, and covers all agencies of USDA.

F. Union Cooperation

The active participation and support of labor organizations can contribute to the success of this program. Management will seek ways in which recognized bargaining unit representatives might assist in program implementation, such as in acquainting employees with rehabilitation facilities and by enhancing employee confidence in the program. Management will continue to observe agreements already reached, and will continue to meet its obligations under Title VII of the Civil Service Reform Act of 1978.

G. Revision of USDA Plan

The Secretary has delegated the right to make additions, deletions, or changes to this Plan to the Assistant Secretary for Administration (ASA). Requests for changes must be submitted to the ASA for approval.

H. References

1. Authorities

- a. Executive Order 12564, dated September 15, 1986, Drug-Free Federal Workplace;
- b. Executive Order 10450, dated April 27, 1953, Security Requirements for Government Employees, as amended;
- c. Executive Order 12356, dated April 2, 1982, National Security Information;
- d. Section 503 of the supplemental Appropriations Act of 1987, P.L. 100-71, 101 Stat. 391, 468-471, codified at 5 U.S.C. Section 7301 note (1987);
- e. Mandatory Guidelines for Federal Workplace Drug Testing Programs, which includes Scientific and Technical Requirements and Certification of Laboratories Engaged in Urine Drug Testing, 53 FR 11970 (1988) as revised in 59 FR 29908 (1994), as revised in 69 FR 19644 (2004) and as revised in 73 FR 71858 (2008);
- f. Civil Service Reform Act of 1978, Pub. L. 95-454;

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- g. Sections 523 and 527 of the Public Health Service Act and implementing regulations at 42 CFR Part 2, Confidentiality of Alcohol and Drug-Abuse Patient Treatment Records;
- h. The Privacy Act of 1974 (5 U.S.C. Section 552a), prescribing requirements governing the maintenance of records by agencies pertaining to the individuals and access to these records by the individual(s) to whom they pertain;
- i. 7 CFR Part 1, Subpart G, implementing the Privacy Act of 1974 within the USDA;
- j. Federal Employees Substance Abuse Education and Treatment Act of 1986, P.L., 99-570;

2. Guidance – Sections c, d, and e of Paragraph 6 of the USDA Departmental Regulation, Safety Management Program DR 4410-004 dated November 18, 2005.

II. DEFINITIONS

- A. Applicant means any individual tentatively selected—
 - 1. For employment with USDA in a Testing Designated Position; or
 - 2. Any individual within USDA tentatively selected for movement into a Testing Designated Position who has not, immediately prior to the selection, been subject to random testing.
- B. Employee Assistance Program (EAP) means the USDA counseling program that offers assessment, short-term counseling, and referral services to employees for a wide range of drug, alcohol, and mental health problems, and monitors the progress of employees while in treatment.
- C. Drug Free Workplace Program (DFWP) Manager who also serves as the Employee Assistance Program (EAP) Manager means the individual responsible for ensuring the development, implementation, and review of the USDA EAP and for the management of this Plan for a Drug-Free Workplace in USDA.
- D. Employee Assistance Program Coordinator means the individual designated by USDA agencies to be responsible for implementing and operating the EAP within their agency.
- E. Medical Review Officer (MRO) means a licensed physician with appropriate medical training in substance abuse disorders to evaluate and interpret all positive test results received from the drug testing laboratory together with an individual's medical

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history and any other relevant biomedical information.

- F. **Illegal Drug** means a controlled substance included in Schedule I or II, as defined by section 802(6) of Title 21 of the United States Code, the possession of which is unlawful under chapter 13 of that Title. The term “illegal drugs” does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law. The drugs for which individuals will be tested are listed in Appendix B.
- G. **Management Official** means an employee required or authorized by the USDA to formulate, determine, or influence USDA policies as per 5 U.S.C. Section 7103(a)(11).
- H. **Random Testing** means a system of drug testing imposed without individualized suspicion that a particular individual is using illegal drugs. Random testing may either be:
1. Uniform unannounced testing of employees occupying Testing Designated Positions in a specified area, organizational element or position, or;
 2. A statistically random sampling of a percentage of such employees based on a neutral criterion, such as social security numbers.
- I. **Reasonable Suspicion Testing** means testing may be required of any employee in a position which is designated for random testing when there is a reasonable suspicion that the employee uses illegal drugs whether **on or off duty**. Reasonable suspicion testing may also be required of **any employee** in any position when there is a reasonable suspicion of **on-duty use or on-duty impairment**. Testing may be based upon, among other things:
1. Observable phenomena, such as direct observation of drug use or possession and/or the physical symptom(s) of being under the influence of a drug;
 2. A pattern of abnormal conduct or erratic behavior;
 3. Arrest or conviction for a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking;
 4. Information provided either by reliable and credible sources or independently corroborated; or
 5. Newly discovered evidence that the employee has tampered with a previous drug test.

Although reasonable suspicion testing does not require certainty, mere “hunches” are not sufficient to meet this standard.

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J. Sensitive Position means a position designated by the Secretary of Agriculture as:

1. Special-Sensitive, Critical-Sensitive, or Noncritical-Sensitive under chapter 731 of the Federal Personnel Manual or designated as sensitive in accordance with Executive Order No. 10450, as amended;
2. Employees granted access to classified information or who may be granted access to classified information pursuant to a determination of trustworthiness by the Secretary of Agriculture under Section 4 of Executive Order No. 12356;
3. Individuals serving under Presidential appointments;
4. Law enforcement as defined in 5 U.S.C. Section 8331 (20) and 8401 (17); or
5. Other positions that the Secretary of Agriculture determines involves law Enforcement, national security, the protection of life and property: public health or safety, or other functions requiring a high degree of trust and confidence.

K. Supervisor means an employee having authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove other employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature, but requires the consistent exercise of independent judgment.

L. Testing Designated Positions (TDPs), means an employment position within USDA which has been designated for random testing under Section IX (B) of this Plan.

M. Verified Positive Test Result means the result reported by an HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentration and reviewed and verified by the MRO in accordance with this plan and the Mandatory Guidelines for Federal Workplace Drug Testing Programs. This can include adulterated and substituted results.

N. Agency Drug Testing Liaison (ADTL) means the person appointed by the Agency Head to serve as the liaison with the Agency Head, DFWP Manager and the supervisors and employees of their agency on the Drug-Free Workplace Program.

O. Validity Testing means testing every specimen for creatinine concentration, (specific gravity if creatinine is less than 20 mg/dl), pH, and for oxidizing adulterants. This testing is done to insure the sample was produced by the metabolic process of the human body and to insure that no other outside contaminants were added to the specimen to try and defeat the drug test.

III. EMPLOYEE ASSISTANCE PROGRAM (EAP)

A. Function

The USDA EAP plays an important role in preventing and resolving employee drug use by providing employees an opportunity, with appropriate assistance, to discontinue their drug use through individual counseling and referral to rehabilitation facilities. Employee Assistance Program Guidelines are contained in Appendix D of this Plan. The USDA EAP provides educational materials to supervisors and employees on drug use issues and assists supervisors in confronting employees who have performance and/or conduct problems and making referrals to appropriate treatment and rehabilitative facilities. Follow-up with individuals will also be made by the EAP during the rehabilitation period to track their progress and encourage successful completion of the program. EAP Counselors providing confidential assessment, short-term counseling, and referral services will not be involved in sample collection or the initial reporting of test results. Specifically the EAP shall-

1. Provide counseling and assistance to employees who self-refer for treatment or whose drug tests have been verified positive, and monitor the employees' progress through treatment and rehabilitation;
2. Provide needed education and training to all levels of the USDA on types and effects of drugs, symptoms of drug use and its impact on performance and conduct, relationship of the EAP to drug testing, and related treatment, rehabilitation, and confidentiality issues; and
3. Ensure that confidentiality of test results and related medical treatment and rehabilitation records are maintained in accordance with Section XIV.

B. Referral and Availability

Employees found to be using drugs will be referred to the EAP. The EAP shall be administered separately from the testing program and shall, be available to employees without regard to a finding of drug use. The EAP shall provide counseling or rehabilitation for all referrals, as well as education and training regarding illegal drug use. In addition, the EAP is available not only to USDA employees, but, when feasible, to the families of employees with drug problems, and to employees with family members who have drug problems.

In the event the employee is not satisfied with the program of treatment or rehabilitation, the employee may seek review of the EAP Counselor's referral by notifying the EAP Manager prior to completing the program. The decision of the EAP Manager regarding the treatment will be final and will not be subject to further administrative review. Regardless of the treatment program chosen, the assertions that the counselor failed to consider one or more of the factors in Section VI G (5) in making a referral shall not

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constitute either an excuse for continuing to use illegal drugs or a defense to disciplinary action if the employee does not complete treatment.

C. Records and Confidentiality

All EAP operations will be confidential in accordance with section XIV of this Plan relating to records and confidentiality.

D. Structure and Responsibility

The Employee Relations Officer, Office of Human Resources Management (OHRM), is responsible for oversight of the USDA EAP, and will provide high level direction and promotion of the program. The USDA EAP is a decentralized program with agencies responsible for assuring that EAP is available for their employees through a consortium, agency contracted services, as a rider on other organization's contracts or through in-house counseling services that meets the requirements of Title 5 CFR, Part 792.

USDA agencies will have an EAP Coordinator who will be responsible for working with the EAP Manager, agency Drug Testing Liaison, Employee Relations Officers, supervisors and program managers with regards to the drug testing program.

E. Leave Allowance

With supervisory approval, employees may be allowed up to one hour (or more as necessitated by travel time) of excused absence for each counseling session during the assessment/referral phase of rehabilitation. Thereafter, absences during duty hours for rehabilitation or treatment must be charged to the appropriate leave category in accordance with law and leave regulations.

IV. SUPERVISORY TRAINING

A. Objectives

Since supervisors have a key role in establishing and monitoring a drug-free workplace, USDA will provide training to assist supervisors and managers in recognizing and addressing illegal drug use by agency employees. The purpose of supervisory training is to understand-

1. Agency policies relevant to work performance problems, drug use, and the USDA EAP;
2. The responsibilities of offering EAP services;
3. How employee performance and behavioral changes should be recognized and documented;

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4. The roles of the Medical Review Officer, medical staff, supervisors, personnel, and EAP personnel;
5. The ways to use the USDA EAP;
6. How the EAP is linked to the performance appraisal and the disciplinary process; and
7. The process of reintegrating employees into the workforce.

B. Implementation

Each USDA agency, with the assistance of the DFWP (EAP) Manager as necessary, will be responsible for implementing supervisory training designed to ensure that all supervisors are fully informed of the USDA Drug-Free Workplace Plan.

C. Training Package

Supervisory training will be required of all supervisors within two years of implementation of this Plan. Training will be provided as soon as possible after a person assumes supervisory responsibility. A variety of training delivery methods such as formal training sessions, teleconferences, and self-instruction through internet training programs (AgLearn: Search for drug testing in the catalog), video tapes, audio tapes, and written materials may be used. Training courses should be based on the forty (40) goals and learning objectives developed as a part of the USDA Generic Training Project and should also include:

1. Departmental policy relating to drug use and EAP;
2. The prevalence of various employee problems with respect to drugs and alcohol;
3. The EAP approach to handling problems including the supervisor's role and relationship to the EAP;
4. How to recognize employees with possible problems;
5. The roles of the medical staff, supervisors, personnel and EAP personnel;
6. How to document employee performance or behavior;
7. Skills in confronting employees with possible problems;
8. Agency procedures for referring employees to the EAP;
9. Disciplinary action, and removals from sensitive positions as required by

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Section 5(c) of the Executive Order;

10. How to arrange for details from sensitive positions;
11. Reintegration of employees into the workforce; and
12. Written materials which the supervisor can use at the work site.

V. EMPLOYEE EDUCATION

A. Objectives

Agency training programs, with assistance from EAP as necessary, will offer on-going drug education to all USDA employees. Drug education presented to employees will be based upon the goals and learning objectives developed for this area as part of the USDA Generic Training Project. This includes:

1. Types and effects of drugs;
2. Symptoms of drug use and the effects on performance and conduct;
3. The relationship of the EAP to the drug testing program; and
4. Other relevant treatment, rehabilitation, and confidentiality issues.

B. Means of Education

Drug education activities may include:

1. Distribution of written materials;
2. Videotapes, DVD's and Internet Training programs (AgLearn: Search for drug testing in the catalog);
3. Lunchtime employee forums;
4. Employee drug awareness days; and
5. Formal training sessions.

VI. SPECIAL DUTIES AND RESPONSIBILITIES

A. Assistant Secretary for Administration

The ASA will:

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Advise the Secretary of Agriculture, Mission Areas/Agency Heads, and Staff Office Directors regarding DFWP policies and procedures, and provide program oversight.

1. Ensure that the Plan is efficiently and effectively accomplished in accordance with the Executive Order and all other applicable laws and regulations;
2. Develop policies and procedures to enable the efficient and swift implementation of the Executive Order at headquarters and field locations, taking into account the unique geographical, personnel, budgetary and other relevant factors of the field offices;
3. Contract for drug testing services or ride other federal agency drug testing contracts ensuring that contractors chosen to perform the drug testing services are HHS accredited and that all contracts conform to the technical specifications of the HHS guidelines contained in Appendix C;
4. Establish, by contract or with USDA employees as deemed appropriate, the function and specific responsibilities of the MRO as required by the HHS guidelines contained in Appendix C and the position of the USDA DFWP Manager; and
5. Approve agency requests for additional applicant testing under Section XI of this Plan.
6. Review and issue decisions on TDP appeals.

B. Director, Office of Human Resources Management (OHRM)

The Director, OHRM will:

Advise the ASA in planning, developing and implementing policies and procedures regarding the DFWP.

C. Employee Relations Officer, OHRM

The Employee Relations Officer, OHRM, will:

1. Direct, administer and manage the implementation of this program in accordance with applicable laws, regulations, and guidelines through the DFWP Manager;
2. Decide upon requests from Agency Heads to exempt positions from testing on the basis of hardship due to remote location, unavailability of on-site testing

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personnel, or the lack of an appropriate site for the test to be administered (this authority can be delegated to the DFWP Manager at the discretion of the Employee Relations Officer, OHRM);

3. Coordinate with, and report to, HHS on drug testing activities and findings that may affect the reliability or accuracy of drug testing results;
4. Respond to agency requests to temporarily defer personnel from testing under Section IX of this Plan. This authority can be delegated to the USDA DFWP Manager to insure continuity in day-to-day operations at the discretion of the Employee Relations Officer, OHRM;
5. Consistent with Sections VIII and XIV, receive all verified positive test results from the DFWP Manager;
6. Take appropriate action regarding any security clearance on those employees with verified positive test results; and
7. Initiate action under Section VIII of this Plan in cases where the authority to take action rests with the Director, Office of Human Resources Management of the Office of the Assistant Secretary for Administration, Office of the Secretary.

D. Drug Free Workplace Program (DFWP) Manager

The DFWP Manager will implement this Plan under the supervision of the Employee Relations Officer OHRM. The DFWP Manager will be responsible for:

1. Directing, administering, and managing the implementation of this Plan within USDA in accordance with applicable laws, regulations and guidelines. The DFWP Manager will serve as the principal contact with all organizations, internal and external to USDA, on Drug-Free Workplace matters, and arrange for all drug and alcohol testing required by this program;
2. Ensure that all current employees in positions that are reclassified as TDP and are then subject to random testing receive individual notices as described in Section VII(B) of this Plan. All TDP positions that are advertised to be filled will state that the position is subject to random drug testing and a pre-employment test will be required of the applicant selected for the position.
3. Conduct laboratory inspections, as appropriate, and document all results of laboratory inspections conducted;
4. Coordinate with and report through the Employee Relations Officer and Deputy Director OHRM to the ASA on DFWP Manager Activities and findings that may affect the reliability or accuracy of laboratory results;

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5. Assure that the Drug-Free Workplace Program is publicized throughout the Department, that drug program educational materials are disseminated, and that training and education regarding drug use and rehabilitation are provided to supervisors and employees;
6. Coordinate with the Agency Drug Testing Liaisons in field offices wherever possible to conserve resources and to efficiently and speedily accomplish reliable and accurate testing objectives;
7. Upon receipt of a verified positive test result from the MRO, assure that agencies have EAP available, and that as appropriate, employees are referred to the program. Notify the Chief, Personnel Security Branch of those employees who have a security clearance;
8. Report verified positive Executive Order (EO) TDP random or applicant test results to Employee Relations Officer, OHRM and to the appropriate Mission Area/Agency Personnel Officers through the ADTL for action consistent with HHS and DFWP plan guidelines;
9. Provide training to newly identified Agency Drug Testing Liaison (ADTL) on the USDA Plan for a Drug Free Workplace and procedures for accessing the drug testing collection contractor's website for requesting and tracking drug tests on their employees. Also, provide on-going guidance and updates on programmatic changes from HHS and serve as a resource for the ADTLs;
10. Inform and consult with appropriate supervisory and management personnel on appropriate actions regarding employees with positive drug test results;
11. Monitor and assist the ADTL in coordination with the collection contractor to exhaust all possibilities for collection to include; establishing new sites as close as possible to the employee to be tested and/or provide a collector to travel to the employee's location to conduct an on-site collection;
12. Report monthly to the Employee Relations Officer, OHRM the status of all requested drug tests. Respond to all reporting requirements and report on a regular basis to the ASA on all Drug-Free Workplace Program activities; and,
13. As the EAP Manager, manage the delivery of the EAP as defined in this Plan.

E. Agency Heads

Agency Heads will:

1. Designate in writing to the Employee Relations Officer (OHRM) an Employee Assistance Program Coordinator and an Agency Drug Testing

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Liaison (ADTL) to coordinate the agency EAP and DFWP with the Agency Head, Employee Relations Branch, OHRM, the DFWP Manager, EAP personnel, agency supervisors and employees;

2. Require employees to present themselves for testing when scheduled, and ensure that employees subject to random testing receive notification of scheduled testing in a timely manner;
3. Ensure that agency employee relations officers consult with appropriate supervisory and management officials on proposed actions, and with EAP personnel on referrals regarding employees with positive test results.
4. Publicize the DFWP through distribution of educational materials and other means, and provide training and education regarding drug use and rehabilitation to supervisors and employees;
5. Implement an effective EAP in accordance with applicable laws, regulations and guidelines;
6. Recommend additions, deletions, or changes to this program, or to the positions designated for testing; and,
7. Recommend exempting positions from drug testing on the basis of hardship due to remote location, unavailability of onsite testing, or the lack of an appropriate site for the test to be administered, to the Employee Relations Officer, OHRM and the DFWP Manager after coordination with the collection contractor to exhaust all possibilities for collection to include; establishing new sites as close as possible to the employee to be tested and/or provide a collector to travel to the employee's location to conduct an on-site collection.
8. Ensure that supervisory training and employee education is delivered within their agency in accordance with Sections IV and V of this Plan; and,
9. Make recommendations for additional applicant testing (if any) within their agency to the ASA, as outlined in Section XI of this Plan.

F. Employee Assistance Program Coordinator

The Agency Heads will designate an Employee Assistance Program Coordinator (EAPC) who will:

1. Implement and operate the EAP within their agency according to this Plan, ensure that EAP is available to all employees, and ensure that supervisors and employees know how to access the program;

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2. Coordinate with the Department EAP Manager (DFWP Manager), the Employee Relations Officer, union representatives, and supervisors, as appropriate on drug testing issues;
3. Work with the Department EAP Manager (DFWP Manager) to provide educational materials and training on illegal drugs in the workplace to managers, supervisors, and employees;
4. Advise supervisors of employees with performance and/or personnel problems that may be related to illegal drug use in the services available through the EAP; and
5. Monitor the progress of referred employees during and after the rehabilitation period, and provide feedback to supervisors in accordance with 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records.

G. Employee Assistance Counselors

The Employee Assistance Counselors shall:

1. Serve as the initial point of contact for employees who ask or are referred for counseling;
2. Be familiar with all applicable law and regulations, including drug treatment and rehabilitation insurance coverage available to employees through the Federal Employee Health Benefits Program;
3. Meet the qualifications as described in the agency EAP contract and be trained in counseling employees in the occupational setting, and in identifying drug use;
4. Document and sign the treatment plan prescribed for all employees referred for treatment, after obtaining the employee's signature on this document: and
5. In making referrals, consider the—
 - a. Nature and severity of the problem;
 - b. Location of the treatment;
 - c. Cost of the treatment;
 - d. Intensity of the treatment environment;
 - e. Availability of inpatient/outpatient care;

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- f. Other special needs, such as transportation and child care; and,
- g. The preferences of the employee.

H. Agency Drug Testing Liaison

Each Agency Head will designate in writing to the Employee Relations Officer, OHRM, an Agency Drug Testing Liaison (ADTL) who will:

1. Arrange for employees to present themselves for drug testing when so instructed by the DFWP Manager or Agency Head;
2. Ensure that notices are delivered to employees subject to random testing;
3. As assigned by the Agency Head, provide staff support in the responsibilities of the Agency Head covered in Section VI. E.4. of this Plan;
4. Assist the DFWP Manager with the coordination of all drug testing duties within their agency;
5. Coordinate with the collection contractor to exhaust all possibilities for collection to include; establishing new sites as close as possible to the employee to be tested and/or provide a collector to travel to the employee's location to conduct an on-site collection: and
6. Provide monthly report of drug testing activities to the Agency Head and DFWP manager. See example at Appendix E.

I. Medical Review Officer

USDA will have a MRO to carry out the purposes of this Plan. The MRO, shall among other duties:

1. Receive all laboratory test results;
2. Assure that an individual who has tested positive has been afforded an opportunity to justify the test result in accordance with Section XIII. D. of this Plan;
3. Consistent with confidentiality requirements, refer all test results to the DFWP Manager and for verified positive test results, a positive drug test result form indicating that the positive result has been verified, together with all relevant documentation and a summary of findings; and
4. Report test results of individuals subject to applicant testing to the DFWP Manager who will insure notification to the appropriate personnel official.

J. Mission Area/Agency Personnel Officers will:

1. Make determinations regarding reasonable suspicion and accident/unsafe practice in cases involving employees in their jurisdiction. This authority may be re-delegated to personnel officers or management officials one organizational level below the agency personnel officer;
2. Consistent with Sections VIII and XIV, receive all verified positive test results from the DFWP Manager through the Agency Drug Testing Liaison;
3. Take appropriate action regarding any security clearance on those employees with verified non-negative (positive, adulterated or substituted) results; and
4. Inform and consult with appropriate supervisory and management personnel on appropriate actions regarding employees with positive drug test results and Initiate action under Section VIII of this Plan, working with supervisors and EAP as appropriate.

K. Department and Agency Training Officers

Training Officers will ensure that supervisory training and employee education is delivered within their areas of responsibility in accordance with Sections IV and V of this Plan.

L. Supervisors

Supervisors will be trained to recognize and address illegal drug use by employees, and will be provided information regarding referral of employees to the EAP, procedures and requirements for drug testing, and behavioral patterns that give rise to a reasonable suspicion that an employee may be using illegal drugs. Working with personnel specialists as appropriate, first line supervisors will:

1. Be trained on illegal drug use in the workplace;
2. Initiate procedures for a reasonable suspicion test in accordance with Section X of this Plan after first making appropriate factual observations, documenting those observations and obtaining appropriate concurrence. However, failure of supervisors to receive training on reasonable suspicion testing procedures shall not invalidate otherwise proper reasonable suspicion testing;
3. Refer employees to the EAP for counseling and rehabilitation, upon a finding of illegal drug use;

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4. Initiate appropriate disciplinary action upon receiving a finding of illegal drug use by a subordinate;
5. Assist higher-level supervisors, personnel official, and the EAP Counselor in evaluating employee performance, conduct, and or personal problems that may be related to illegal drug use; and
6. A higher-level supervisor shall review and concur, in advance, with all tests ordered on the basis of a reasonable suspicion in accordance with Section X.

VII. NOTICE

A. General Notice

A general notice from the Secretary of Agriculture announcing the testing program, as required by the Executive Order was provided by the Secretary of Agriculture in **Secretary's Memorandum 4430-1 dated July 1, 1988**. The notice indicated:

1. The purpose of the Drug Free Workplace Plan;
2. The Plan includes both voluntary and mandatory testing;
3. That employees who hold positions selected for random testing will also receive an individual notice, not less than 30 days prior to the commencement of testing, indicating that their position has been designated as a Testing Designated Position (TDP);
4. The availability and procedures necessary to obtain counseling and rehabilitation through the EAP;
5. The circumstances under which testing may occur;
6. That opportunity will be afforded to submit medical documentation of lawful use of an otherwise illegal drug;
7. That the laboratory assessment is a series of tests which are highly accurate and reliable, and that, as an added safeguard, laboratory results are reviewed by the MRO;
8. That positive test results verified by the MRO may only be disclosed in accordance with Section XIV of this Plan;
9. That all medical and rehabilitation records in an EAP will be deemed confidential "patient" records and may not be disclosed without the prior written consent of the employee;

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10. That employees with a positive test result will have the opportunity to request the MRO submit bottle “b” of the split specimen collection to another HHS certified laboratory to verify result reported by first laboratory, in accordance with Section XIII of this Plan; and,
11. That employees will have the opportunity to voluntarily identify themselves as users of illegal drugs and to receive counseling or rehabilitation, and shall not be subject to disciplinary action as long as they remain drug-free.

B. Individual Notice

In addition to the general notice, an individual notice was distributed to all employees in Testing Designated Positions in 1988 explaining, in addition to the information provided above:

1. That the employee’s position has been designated a “Testing Designated Position” and the basis for that determination;
2. That employees will have an opportunity to voluntarily identify themselves as users of illegal drugs and to receive counseling or rehabilitation, and that they shall not be subject to disciplinary action as long as they remain drug-free; and
3. That the employee’s position will be subject to random testing no sooner than thirty days after receipt of the notice.

In the future all current employees in positions that are reclassified as TDP and are then subject to random testing will receive individual notices as described above.

C. Appeals

If an employee believes his or her position has been wrongly designated a Testing Designated Position (TDP), that employee may file an administrative appeal to the Assistant Secretary for Administration (ASA) through the employee’s Agency Head. The appeal must be submitted by the employee, in writing, within 15 days of notification, setting forth all relevant information. The ASA shall review the appeal based upon the criteria applied in designating that employee’s position as a TDP. The ASA’s decision is final and is not subject to further administrative review.

VIII. FINDING OF DRUG USE AND DISCIPLINARY CONSEQUENCES

A. Findings of Illegal Drug Use

It may be determined that an employee is using illegal drugs on the basis of any appropriate evidence including, but not limited to:

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1. Direct observation of use or possession of illegal drugs;
2. Evidence obtained from an arrest or criminal conviction;
3. A verified positive test result; or
4. An employee's voluntary admission.

B. Mandatory Administrative Actions

USDA will refer an employee found to use illegal drugs to the EAP. An employee who occupies a sensitive position may not be allowed to remain on duty in a sensitive position, without regard to whether it is a Testing Designated Position, prior to successful completion of rehabilitation through the EAP. Appropriate action, such as detailing the employee from the sensitive position or voluntary use of leave by the employee, is therefore necessary. An employee may be allowed to return to duty in a sensitive position if the employee's return would not endanger public health or safety or national security as determined in writing by the following officials:

1. For Presidential appointees: Secretary of Agriculture;
2. For Senior Executives: Assistant Secretary for Administration;
3. For Schedule C employees and GS/GM – 14's and above: USDA Director of Human Resources Management;
4. For all other positions: Agency Head (not to be redelegated).

The reasons for the determination must be documented for the record. In all positions requiring a security clearance, the Employee Relations Officer, OHRM and Chief, Personnel and Document Security Division, must concur before the employee may be allowed to return to the position.

C. Range of Consequences

The severity of the disciplinary action taken against an employee found to use illegal drugs will depend on the circumstances of each case; will be consistent with the Executive Order and the Civil Service Reform Act of 1978; and will include the full range of disciplinary actions, including removal. Disciplinary action will be initiated against any employee found to use illegal drugs with the exception of voluntary admissions in accordance with Section VIII (E) of this Plan.

Such disciplinary action may include any of the following measures but a proposal for some disciplinary action must be initiated:

1. Reprimanding the employee in writing;

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2. Placing the employee in enforced leave status;
3. Suspending the employee without pay;
4. Suspending the employee without pay until the employee successfully completes rehabilitation, or until it is determined that action other than suspension is more appropriate;
5. Reducing the employee in grade or rate of pay; and
6. Removing the employee from service.

D. Initiation of Mandatory Removal from Service

A proposal to remove employees will be initiated for:

1. Refusing to obtain counseling or rehabilitation through the EAP, or through a private or alternative counseling/rehabilitation program approved by the EAP Manager, as required by Executive Order after having been found to use illegal drugs; or
2. Having been found not to have refrained from illegal drug use after a first finding of such use; or
3. Refusing to be tested when so required. No applicant who refuses to be tested shall be extended an offer of employment; or
4. Attempting to alter or substitute specimens; or
5. Distributing or selling of illegal drugs.

E. Refusal to Take Drug Test When Required

An employee who refuses to be tested when so required will be subject to the full range of disciplinary action, including dismissal. No applicant who refuses to be tested shall be extended an offer of employment. Attempts to alter or substitute the specimen provided will be deemed a refusal to take the drug test when required.

F. Voluntary Admission

Under Executive Order 12564, USDA is required to initiate action to discipline any employee found to use illegal drugs in every circumstance except one. That exception is where an employee (1) voluntarily admits drug use; (2) obtains and completes counseling and rehabilitation through the EAP; and (3) thereafter refrains from illegal drug use.

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1. Because the Order permits an agency to create a “**Safe Harbor**” for an employee who meets all three of these conditions, the USDA has decided to create such a “safe harbor” and will not initiate disciplinary action against employees who satisfy the provisions of this Section.
2. A fundamental purpose of the USDA’s Drug-Free Workplace Plan is to assist employees who themselves are seeking treatment for drug use. For this reason, the USDA will not initiate disciplinary action against any employee who meets all three of these conditions:
 - a. Voluntarily admits drug use to appropriate supervisors or management officials before being identified through other means;
 - b. Obtains and completes counseling and rehabilitation through the EAP; and,
 - c. Thereafter refrains from illegal drug use.

This self referral option allows any employee to step forward and identify him/herself as an illegal drug user, for the purpose of entering a drug treatment program under the EAP. In stepping forward, and consistent with Section XII (B), an employee may volunteer for a drug test as a means of identification. Although this self-identification test may yield a verified positive test result, such result shall not subject an employee to discipline assuming the three safe harbor requirements are met.

3. Since the key to this provision’s rehabilitative effectiveness is an employee’s willingness to admit their problem to themselves and to others is of prime importance, this provision **is not available** to an employee who requests protection under this provision after:
 - a. Being asked to provide a urine sample in accordance with this plan; or
 - b. Having been found to have used illegal drug pursuant to Sections VIII (A) (1) or VIII (A) (2) and who thereafter requests protection under this provision. This provision, moreover, would not protect an employee from disciplinary action in cases where there is misconduct, beyond illegal drug use.

IX. RANDOM TESTING

A. Sensitive Positions Designated for Random Drug Testing

The Executive Order requires random testing for employees in sensitive positions subject to agency criteria. As specified in Appendix A of this Plan, the Secretary of Agriculture has determined that some of these sensitive positions are Testing Designated Positions

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subject to random drug testing. The position titles designated for random drug testing are listed in Appendix A, along with the criteria and procedures applied in designating such positions for drug testing, including the justification for such criteria and procedures. All incumbents in these positions were tested during the first year of the operation of this Plan and ten percent (10%) will be tested in future years.

B. Determining the Testing Designated Positions

Among the factors the Secretary of Agriculture has considered in determining a Testing Designated Position, is the extent to which USDA:

1. Considers its mission inconsistent with illegal drug use;
2. Is engaged in law enforcement;
3. Fosters public trust by preserving employees' reputations for integrity, honesty, and responsibility;
4. Has national security responsibilities;
5. Has drug interdiction responsibilities; or

The extent to which the position considered:

1. Authorizes employees to carry firearms;
2. Gives employees access to sensitive information;
3. Authorizes employees to engage in law enforcement;
4. Requires employees, as a condition of employment, to obtain security clearance;
5. Requires employees to engage in activities affecting public health or safety;
6. Requires employees to have access to drugs subject to abuse; or
7. Requires the highest degree of trust and confidence.

These positions are characterized by critical safety or security responsibilities as related to the mission of USDA. The job functions associated with these positions directly and immediately relate to public health and safety, the protection of life and property, law enforcement, or national security.

The Secretary reserves the right to add or delete positions determined to be Testing Designated Positions pursuant to the criteria established in the Executive Order and this

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Plan. Moreover, pursuant to 42 U.S.C. 290ee-1 (b) (2) (B), that positions under this Plan are “sensitive positions,” and are therefore exempted from coverage under 42 U.S.C. 290ee-1(C) (1) which provides, unless so exempted, that no person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the basis of prior drug use.

C. Implementing Random Testing

In implementing the program of random testing the DFWP Manager will:

1. Ensure that information which would allow employees to anticipate the scheduling of tests remains confidential: and
2. Evaluate periodically whether the numbers of employees tested and the frequency with which those tests will be administered satisfy USDA’s goal to achieve a drug-free work force.

D. Testing During the Probationary Period

The post-appointment probationary period (usually one year in length) is considered to be the last step of the examining process during which the suitability, qualifications and performance of the new applicant are being evaluated. It is important that employees using illegal drugs be screened out during this period.

New incumbents of Testing Designated Positions who are subject to a post-appointment probationary period (not supervisory probationary period) will be tested without notice at some point during that period. An employee in a Testing Designated Position testing positive will be terminated during the probationary period.

E. Notification of Selection

Individuals selected for random testing will be notified the same day the test is scheduled, preferably, within two hours of the scheduled testing. The employee will be told that he or she is under no suspicion of taking drugs and that their name was selected randomly.

F. Deferral of Testing

An employee selected for random drug testing may obtain a deferral of testing if the Employee Relations Officer, OHRM and/or the Drug Free Workplace Program Manager, and the employee’s supervisor concur that a compelling need necessitates a deferral on the grounds that the employee is:

1. In a leave status (sick, annual, administrative or leave without pay);
2. In official travel status away from the test site or about to embark on official travel scheduled prior to testing notification; or

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3. Unable to be released from the work site for other compelling reasons.

An employee whose random drug test is deferred will be subject to an unannounced test within the following 60 days.

G. Vacancy Announcements

Every vacancy announcement for a Testing Designated Position will state:

“Incumbents of this position will be required to submit to a pre-employment or pre-assignment urinalysis to screen for illegal drug use and on an ongoing basis after appointment, as directed.”

Failure of the vacancy announcement to contain this notice will not preclude testing. Additional vacancy announcement requirements for applicant testing are listed in Section XI (C) of this Plan.

X. REASONABLE SUSPICION TESTING

A. Grounds

Reasonable suspicion testing may be required of any employee in a position which is designated for random testing when there is a reasonable suspicion that the employee uses illegal drugs whether on or off duty. Reasonable suspicion testing may also be required of any employee in any position when there is a reasonable suspicion of on-duty use or on-duty impairment. In addition there shall be grounds for reasonable suspicion testing of any employee if the employee is the focus of a criminal investigation into the illegal use, possession, distribution or trafficking of controlled substances.

Reasonable suspicion testing may be conducted for the drugs listed in Appendix B or for any drug listed in Schedule I or II of the Controlled Substances Act as specified in the HHS Guidelines (Mandatory Guidelines for Federal Workplace Drug Testing Programs: (April 13, 2004, Notices Subpart B. Section 2.1 (a) (3) and November 25, 2008, Notices Subpart B Section 3.2 (a)), contained in Appendix C of this Plan. Testing may be based upon, among other things:

1. Observable phenomena, such as direct observation of drug use or possession and/or the physical symptom(s) of being under the influence of a drug;
2. A pattern of abnormal conduct or erratic behavior;
3. Arrest or conviction for a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking;

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4. Information provided either by reliable and credible sources or independently corroborated; or
5. Newly discovered evidence that the employee has tampered with a previous drug test.

Although reasonable suspicion testing does not require certainty, mere “hunches” are not sufficient to meet this standard.

B. Procedures

If an employee is suspected of using illegal drugs, the appropriate supervisor or management official will gather all information, facts, and circumstances leading to and supporting this suspicion. Mission Area Personnel Officers may make the determination of reasonable suspicion in cases involving employees within their jurisdiction. This authority may be delegated to Personnel Officers (or equivalent administrator) one level below the Mission Area Personnel Officer. Competent medical and legal authorities may be consulted if necessary.

C. Obtaining the Sample

The employee may be required to provide the urine sample under observation in accordance with the criteria in Section XIII (B).

D. Documentation

When higher-level concurrence of a reasonable suspicion determination has been made, the appropriate supervisor will promptly prepare a written report detailing the circumstances which formed the basis to warrant the testing. This report should include the appropriate dates and times of reported drug related incidents, reliable/credible sources of information, rationale leading to the test, and the action taken.

E. Supervisory Training

In accordance with Section IV, supervisors will be trained to address illegal drug use by employees, to recognize facts that give rise to a reasonable suspicion, and to document facts and circumstances to support a finding of reasonable suspicion. Failure to receive such training, however, shall not invalidate otherwise proper reasonable suspicion.

XI. APPLICANT TESTING (Pre-Employment or Pre-Assignment)

A. Objectives

To maintain the high professional standards of the USDA workforce, it is imperative that individuals who use illegal drugs be screened out during the initial employment process

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before they are placed on the employment roles of USDA. This procedure will have a positive effect on reducing instances of illegal drug use by employees working within the USDA, and will provide for a safer work environment. For these reasons, drug testing shall be required of all applicants as defined in Section II of this Plan.

B. Intent of Testing

Drug testing will be required of individuals tentatively selected for employment with USDA in a Testing Designated Positions, or movement within the service to a Testing Designated Position as indicated in Appendix A. Selections will be contingent upon receipt of a negative drug test result. Agency Heads may recommend to the Assistant Secretary for Administration applicant testing for other positions within their agency. With approval of the Assistant Secretary, additional groups may be covered by applicant testing.

C. Vacancy Announcements

Every vacancy announcement for a testing designated position will state:

“Incumbents of this position will be required to submit to a pre-employment or pre-assignment urinalysis to screen for illegal drug use and on an ongoing basis after appointment, as directed.”

In addition, the applicant will be notified that appointment to the position will be contingent upon a negative drug test result. Failure of the vacancy announcement to contain this notice will not preclude applicant testing, if advance written notice is provided to applicants in some other manner. Additional vacancy announcement requirements for Testing Designated Positions are listed in IX (G) of this Plan.

D. Procedure

The Personnel Officer, through the agency drug testing liaison, will direct applicants to an appropriate collection facility. The drug test must be undertaken as soon after notification as possible, **and no later than 48 hours after notice to the applicant.** Where appropriate, applicants may be reimbursed for reasonable travel expenses. No applicant, subject to applicant testing, who refuses to be tested, shall be extended an offer of employment. Attempts to alter or substitute the specimen provided will be deemed a refusal to take the drug test when required. When being tested, applicants will be advised of:

1. The opportunity to submit medical documentation that may support a legitimate use of a specific drug; and
2. That such information will be reviewed only by the MRO to determine whether the individual is licitly using an otherwise illegal drug.

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E. Personnel Official

Upon notification that an individual has been tentatively selected for employment or movement within the service to a TDP position, the servicing personnel officer shall ensure, after receipt of documentation from the MRO, that a drug test has been conducted on that individual and determination was made whether the test result is a verified positive result.

F. Consequences

Agencies will decline to extend a final offer of employment to any applicant with a verified positive test result, and such applicant may not reapply to USDA for a period of six months. Agencies will inform applicants that a confirmed presence of an illegal drug in the applicant's urine precludes the Department from hiring the applicant.

In cases involving hiring from a certificate of eligibles, the Personnel Officer shall object to the applicant on the basis of failure to meet physical requirements, a lack of personal characteristics necessary for public employment, and failure to support the goals of USDA.

In cases involving internal applicants, the employee will be referred to the EAP and will be subject to disciplinary and adverse actions in accordance with Section VIII (C) & (D). An internal applicant cannot reapply for a TDP position for a period of six months after completion of rehabilitation.

XII. ADDITIONAL TYPES OF DRUG TESTING

A. Accident or Unsafe Practice Testing

USDA is committed to providing a safe and secure working environment. It also has a legitimate interest in determining the cause of serious accidents so that it can undertake appropriate corrective measures. Post-accident drug testing can provide invaluable information in furtherance of that interest. Accordingly, employees may be subject to testing when, based upon the circumstances of the accident, their actions are reasonably suspected of having caused or contributed to an accident that meets the following criteria:

1. The accident results in a death or personal injury requiring immediate hospitalization; or
2. The accident result in damage to government or private property estimated to be in excess of \$10,000.

Certain drugs stay in a person's system for a limited time. Therefore, all tests must be completed within **32 hours** of the accident. If this is not done, documentation as to why the test was not accomplished will be provided to the Agency Head and the DFWP Manager.

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If an employee is suspected of having caused or contributed to an accident meeting the above criteria, the appropriate supervisor will present the facts and circumstances leading to and supporting this suspicion to the Mission Area Personnel Officer or delegated Personnel Officer (or equivalent administrator) for approval. Once approval has been obtained and arrangements made for testing, the supervisor will prepare a written report detailing the facts and circumstances that warranted the testing.

B. Voluntary Testing

In order to demonstrate their commitment to the USDA's goal of a drug-free workplace and to set an example for other Federal employees, employees not in testing designated positions may volunteer for unannounced random testing by notifying the Drug Free Workplace Program Coordinator. These employees will then be included in the pool of testing designated positions subject to random testing, and be subject to the same conditions and procedures, including the provisions of Section VIII (F). Volunteers shall remain in the testing designated positions pool until they withdraw from participation by notifying the DFWP Manager of such intent at least 48 hours prior to a scheduled test.

C. Follow-up Testing

All employees referred by administrative officials to a counseling or rehabilitation program for illegal drug use through the EAP as a result of having previously been found to be illegally using drugs will be subject to follow-up unannounced testing for a period of at least two years following completion of such a program. During that period, the employee will be tested at least three (3) times. Such testing is distinct from testing which may be imposed as a component of the EAP.

XIII. TEST PROCEDURES IN GENERAL

A. Mandatory Guidelines for Drug Testing

USDA will adhere to the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Appendix C) promulgated by the Department of Health and Human Services consistent with the authority granted by Executive Order 12564, and to the requirements of Section 503 of the Act. As provided in the HHS guidelines, the USDA drug testing program will have trained collection personnel, a laboratory certification program, rigorous analytical standards and quality assurance requirements for urinalysis procedures, and strict confidentiality requirements.

B. Privacy Assured

Any individual subject to testing under this Plan will be permitted to provide urine specimens in private and in a rest room stall or similar enclosure so that the employee is not observed while providing the sample. Collection site personnel, however, may observe the individual provide the urine specimen when there is reasonable, articulable,

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and individualized suspicion that the employee may tamper with the specimen to be provided and when directed to do so by the DFWP Manager. In all such cases, the collection site personnel must be of the same sex as the individual providing the sample.

Collection site personnel or the DFWP Manager may have reason to believe that a particular individual may alter or substitute the specimen to be provided when:

1. The individual—
 - a. Is being tested pursuant to Section X relating to reasonable suspicion testing;
 - b. Has previously been found by USDA to be an illegal drug user; or
 - c. Has previously tampered with a sample; or
2. Facts and circumstances suggest that the individual—
 - a. Is an illegal drug user;
 - b. Is under the influence of drugs at the time of the test; or
 - c. Has equipment or implements capable of tampering with or altering urine samples; or
3. The specimen—
 - a. Has a temperature outside the range of 32.5-37.7 degrees C/90.5-99.8 degrees F; or
 - b. Shows signs of contaminants.

In cases of observation, the reasons therefore must be documented by the collection site personnel (on the Chain of Custody) or the DFWP Manager and submitted to the MRO. Submission of the documentation will normally be completed after the observed collection has been approved.

C. Failure to Appear for Testing

Failure to appear for testing without a deferral will be considered refusal to participate in testing, and will subject an employee to a proposal for removal from the service, and an applicant to the cancellation of an offer of employment. If an individual fails to appear at the collection site at the assigned time, the collector shall contact the DFWP Manager to obtain guidance on action to be taken.

D. Opportunity to Justify a Positive Test Result

Many employees may properly be taking prescribed medications. Therefore, when a confirmed positive result has been returned by the laboratory, the MRO shall perform the duties set forth in the Mandatory Guidelines. For example, the MRO may choose to conduct employee medical interviews, review employee medical history, or review any other relevant biomedical factors. The MRO must review all medical records made available by the tested employee when a confirmed positive test could have resulted from legally prescribed medication. To justify a positive result, the employee may provide any information which may include but is not limited to:

1. A valid prescription; or
2. A verification from the individual's physician of a valid prescription.

The employee should be allowed a reasonable amount of official time to obtain supplemental medical documentation to support the legitimate use of a specific drug. Individuals are not entitled, however, to present evidence to the MRO in a trial-type administrative proceeding, although the MRO has the discretion to accept evidence in any manner deemed most efficient or necessary. If the MRO determines that there is no justification for the positive result, such result will then be considered a verified positive test result. Consistent with Sections VIII and XIV, the MRO will immediately contact the DFWP Manager upon obtaining a verified positive result. The DFWP Manager will immediately contact the appropriate management official who is empowered to recommend or take administrative action.

E. Employee Assistance Program

Employees with a verified positive test result will be referred to the EAP. While participating in a counseling or rehabilitation program, and at the request of the DFWP Manager, the employee may be exempted from the Testing Designated Position pool for a period not to exceed 60 days, or for a time period specified in an abeyance contract or rehabilitation plan approved by the agency. Upon completion of the program, the employee immediately shall be subject to follow-up testing pursuant to Section XII (C).

F. Split Specimen Collection/Testing

In accordance with the Mandatory Guidelines for Federal Workplace Drug Testing Subpart B Section 2.3, 2.4 & 2.5, an agency is required to use a split specimen method of collection. This will require the donor to provide, at a minimum, 45ml of urine of which 30ml will be placed in Bottle A (primary specimen) and 15ml in Bottle B (split specimen). Both specimens will be sent to the laboratory that is testing the primary (Bottle A) specimen. If the test of the primary specimen is verified positive, adulterated, or substituted by the MRO, the MRO shall report the result to the agency. The employee may request through the MRO that the split (Bottle B) specimen be tested by a second certified laboratory¹ to verify the positive, adulterated, or substituted result reported by

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the primary laboratory. (This is not authorized for outside applicants). The MRO shall honor this request if it is made within 72 hours after informing the donor that a positive, adulterated, or substituted result was being reported to the agency. The second laboratory shall test the split specimen in accordance with the requirements in the Mandatory Guidelines for Federal Workplace Drug Testing that pertain to retesting for drugs, adulterants, or substitution and report the results in accordance with Subpart N Section 14.1 – 14.8. The cost of testing the split specimen will be borne by the agency and the agency reserves the right to be reimbursed by the employee for frivolous (i.e. the employee has admitted to the MRO of drug use) requests.

¹An MRO normally has contractual arrangements with several certified laboratories based on their client agreements. The MRO normally has one certified laboratory to do the reanalysis based on factors such as: cost, electronic transfer of data, and turn-around time for testing. If the employee wants to use a different certified laboratory then all costs and coordination of testing will be borne by the employee.

G. Savings Clause

To the extent that any of the procedures specified in this section are inconsistent with any of those specified in the Mandatory Guidelines for Federal Workplace Drug Testing Programs promulgated by HHS, or any subsequent amendment thereto, such Mandatory Guidelines or amendment shall supersede the procedures specified in this section, but only to the extent of the inconsistency. Every attempt will be made to reflect such changes in this section as soon as possible.

XIV. RECORDS AND REPORTS

A. Confidentiality of Test Results

Information regarding confirmed laboratory results will be tightly controlled. The laboratory may disclose confirmed laboratory test results only to the MRO or the staff of the MRO. Any positive result which the MRO justifies by acceptable and appropriate medical or scientific documentation to account for the result as other than the intentional ingestion of an illegal drug will be treated as a negative test result and may not be released for purposes of identifying illegal drug use. Test results will be protected under the provisions of the Privacy Act, 5 U.S.C. 552a, et seq. and Section 503 (e) of the Act, and may not be released in violation of either Act. The MRO may maintain only those records necessary for compliance with this order. 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, except that the disclosure of the results of any audit may not include personal identifying information on any employee.

Verified positive, adulterated, or substituted test results will be sent by the MRO to the DFWP Manager for appropriate action in accordance with Section VIII. Also, in order to comply with Section 503 (e) of the Act, the results of a drug test of a USDA employee

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may not be disclosed without the prior written consent of such employee, unless the disclosure would be --

1. To the MRO; or
2. To the EAP Administrator in which the employee is receiving counseling or treatment or is otherwise participating; or
3. To any supervisory, administrative, or management official having authority to take adverse personnel action against such employee; or
4. Pursuant to the order of a court of competent jurisdiction, or where required by the United States Government to defend against any challenge against any adverse personnel action.

For purpose of this section, “management official” includes any management or government official whose duties necessitate review of the test results in order to process adverse personnel action against the employee. In addition, test results with all identifying information removed shall be made available to USDA personnel, including the DFWP Manager for data collection and other activities necessary to comply with Section 503 (f) of the Act.

B. Employee Access to Records

Any employee subject to drug testing will, upon written request, have access to any records relating to –

1. Such employee’s drug test; and
2. The results of any relevant certification, review, or revocation-of-certification proceedings, as referred to in Section 503 (a)(I)(A)(ii)(III) of the Act.

Except as authorized by law, an applicant who is the subject of a drug test, however, shall not be entitled to this information.

C. Confidentiality of Records in General

Drug testing information specifically relating to individuals is confidential and will be treated as such by anyone authorized to review or compile program records. In order to efficiently implement this Plan and to make information readily retrievable, the DFWP Manager will maintain all records in locked, secure locations including those records relating to reasonable suspicion testing, evidence of tampering with a drug test and any other authorized documentation necessary to implement this order.

All records and information of the personnel actions taken on employees with verified positive test results will be maintained by the Department or agency Employee Relations

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Officers. Such records will remain confidential, locked in a secure location with only authorized individuals who have a “need-to-know” having access to them. Summaries of this information will be used by the DFWP Manager for reporting purposes.

D. Employee Assistance Program Records

The EAP Manager will maintain only those records necessary to comply with the Executive Order. After an employee is referred to an EAP, the EAP will maintain all records necessary to carry out its duties. All medical and/or rehabilitation records concerning the employee’s drug abuse, including EAP records of the identity, diagnosis, prognosis, or treatment are confidential and may be disclosed only as authorized by 42 CFR Part 2, including the provision of written consent by the employee. With written consent, the employee may authorize the disclosure of those records for verification of treatment or for a general evaluation of treatment progress. (42 CFR 2.1 et. seq. (1986), revised regulations promulgated at 52 F.R. 21796, June 9, 1987.

E. Maintenance of Records

USDA will establish or amend its record keeping system to maintain the records of the USDA Drug-Free Workplace Program consistent with the USDA Privacy Act System of Records and with all applicable Federal laws, rules and regulations regarding confidentiality of records including the Privacy Act 5 U.S.C 552a and Section 503 of the Act. Records must be maintained as required by subsequent administrative or judicial proceedings, and may be supplemented at the discretion of the Secretary of Agriculture. The record keeping system should capture sufficient documents to meet the operational and statistical needs of this Plan, and include at a minimum:

1. Notices of verified positive test results referred by the MRO;
2. Written materials justifying reasonable suspicion testing or evidence that an individual may have altered or tampered with a specimen;
3. Statistical reports; and
4. Other documents the MRO, or DFWP Manager (EAP Manager) deem necessary for efficient compliance with this Plan.

F. Records Maintained by Government Contractors

Any contractor hired to satisfy any part of this Plan will be required to comply with the confidentiality requirements of this Plan, and all applicable Federal laws, rules, regulations, and guidelines.

G. Statistical Information

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The DFWP Manager will collect and compile anonymous statistical data for reporting the number of:

1. Random tests, reasonable suspicion tests, accident or unsafe practice tests, follow-up tests, or applicant tests administered;
2. Verified positive test results;
3. Voluntary drug counseling referrals;
4. Involuntary drug counseling referrals;
5. Terminations and denial of employment offers resulting from refusal to submit to testing;
6. Terminations and denial of employment offers resulting from alteration of specimens;
7. Terminations resulting from failure to complete a drug abuse counseling program; and
8. Employees who successfully complete treatment programs they are referred to by the EAP.

This data along with other pertinent information shall be compiled for inclusion in USDA's annual report to Congress required by Section 503 (f) of the Act. This data shall also be provided annually to HHS through an electronic reporting system to assist in overall program evaluation and to determine whether changes to the Mandatory Guidelines may be required.

END

APPROVED:


PEARLIE S. REED
ASSISTANT SECRETARY
for ADMINISTRATION

DATE: 4/19/11

APPENDIX A

POSITION TITLES DESIGNATED FOR RANDOM TESTING

1. Agency Heads

Incumbents serve as the top cadre of management personnel of USDA in both career and non-career positions. They manage and supervise agencies of the Department, participate at the highest levels in policy formulation and direction, and make extremely complex and sensitive decisions requiring a high degree of public trust and confidence.

Drug usage could result in actions and decisions which could lead to a failure to implement laws and program delivery which could negatively impact the protection of life and property or public health and safety or lead to the waste of public funds. This could lead to a loss of trust and confidence in USDA and the American Government by the public and foreign governments.

2. Aircraft Mechanic

(GS-1670, WG-8852 or any other occupational series in which the incumbent may perform the duties described below)

Incumbents are involved in the overhaul, installation, maintenance, modification, test, and/or repair of aircraft systems, electronic equipment, instrumentation, flight control, and survival equipment. These duties require keen sensory perception and neuromuscular coordination. Incumbents must exercise sound judgment to ensure aircraft safety and operation.

Drug usage could result in loss of life, injury or destruction of property. For example, if an aircraft mechanic failed to properly conduct pre-flight inspections, mechanical failure could result and cause a crash endangering the pilot, passengers, and other personnel on the ground and in the surrounding airspace.

3. Aircraft Operator

(AD-404, GS-486, GS-2181, GM-2150 or any other occupational series in which the incumbent may perform the duties described below)

Incumbents are required to operate aircraft used in agricultural programs for such purposes as crop spraying, fire fighting, insect control, animal damage control, and aerial surveillance and photography. Aircraft operators make critical judgments which are substantially more demanding than what would be required of operators of aircraft carrying only passengers. Flying in agricultural situations usually requires operating in and out of less developed airfields, over rural and mountainous terrain, and at low altitudes necessitating acute awareness and instantaneous decision making.

Drug usage produces diminished mental and neuromuscular coordination which could lead to the inability to properly operate the aircraft. Inability to properly operate aircraft could in turn result in the loss of life and damage to, or destruction of property. Drug usage could endanger the aircraft operator, as well as all other passengers and pilots in the airspace and personnel on the ground.

4. Small Craft Operator

(WG-5786 or any other occupational series in which the incumbent may perform the duties described below)

Incumbents are required to operate small oar, sail or mechanically propelled craft, generally under 55 meters (180 feet) in length, to transport personnel including high level state and Federal officials, supplies, and equipment. They also control harbor pollution, remove aquatic plants, conduct hydrographic surveys of rivers and harbors, or carry out similar functions. The operations are characterized by regular daily tours of duty followed by employees' physical departure from the boat rather than watch and watch, which is characteristic of maritime industry practices. This work requires the ability to steer and navigate the small craft, operate the engines and, in some assignments, to make operating repairs to the engines and the boat itself. Vessels must be operated in a safe manner in order not to endanger lives and/or to risk loss of property.

Drug usage diminishes the mental and neuromuscular capacity necessary to operate vessels of this size. This, in turn, leads to the operator's inability to properly control the vessel leading to a possible loss of life, personal injury, or destruction of property.

5. Criminal Investigator

GS-1811

Incumbents perform, advise on, and administer investigations concerning suspected violations of Federal statutes and regulations. Close coordination must be maintained with U.S. Attorneys, military security, and local, state and Federal law enforcement officials. Incumbents interrogate witnesses and suspects, serve subpoenas, testify before grand juries, administer oaths, and conduct searches for physical and documentary evidence.

Some incumbents carry and use firearms in the performance of their duties. The conduct of these duties requires the highest level of personal integrity and credibility since it involves investigating and charging others who are accused of wrongdoing or violation of the law. These duties also require extensive exercise of sound personal judgment.

Drug usage could result in loss of life or injury and improper adjudication of criminal or administrative actions. For example, if criminal investigators fail to obtain key data, ascertain witness veracity, follow legal procedures, or execute rules of evidence properly, sensitive and costly investigations could be compromised. Additionally, improper or unauthorized use of weapons could result in loss of life. The high level of personal integrity required of criminal investigators is not consistent with the use of illegal drugs.

6. Departmental Medical Director or other like positions

GS-602

The incumbents, as the Chief Medical Officer of the Department, or other GS-602 medical officers, are responsible for a variety of functions including operation of the Health Units, dispensing medications, and emergency treatment of patients. The incumbent must recognize patients' adverse signs and symptoms and react swiftly. This includes taking resuscitative measures in case of cardiac or respiratory arrest. These duties require keen sensory perception, judgment, and neuromuscular coordination.

Drug usage could result in the loss of the patients' life or injury to the patient. Additionally, the incumbent's access to medication and participation in assessing the drug usage of USDA employees requires the utmost personal integrity. Improper or illegal drug usage is not consistent with these responsibilities.

7. Employees authorized to carry firearms

Incumbents preserve and protect government employees and property. They also are authorized to carry firearms for self protection in remote locations such as U.S. Forests.

Illegal drug use calls to doubt the integrity and credibility of the employee and their ability to perform their duties of protecting persons, property or themselves. Drug usage produces diminished mental and neuromuscular capacity. This could lead to life-threatening lapses in judgment or ability.

8. Employees directly involved in drug-interdiction duties

Incumbents are involved in: (1) detecting cannabis cultivation activity occurring on National Forest lands; (2) investigating cannabis and other controlled substance violations; (3) apprehending and prosecuting offenders; (4) eradicating cannabis plants and cultivating sites; and (5) cooperating with other Federal, State and local law enforcement agencies in controlled substance investigations where there is a mutual interest.

Illegal drug use could have serious effects on the agency's interdiction responsibilities. A drug user's indifference to the agency's basic responsibility and mission or activity complicity with malefactors can facilitate illicit drug activity on National Forest lands. The employee may suffer from impaired perception and judgment leading to possible loss of life, personal injury, or destruction of property.

9. Employees with Top Secret Security Clearances

Incumbents have access to national security information with Top Secret classification, serve in sensitive Foreign Service or overseas positions which require a Top Secret security clearance, or are involved in duties demanding the highest degree of public trust.

Drug usage could result in inability to properly perform the duties of their positions, indiscretions while under the influence of drugs, or susceptibility to financial considerations which could cause an incumbent to be susceptible to releasing the classified information or otherwise compromising national security for personal gain.

10. Employees stationed at Plum Island Animal Disease Center with special access to the biocontainment laboratories (a Biocontainment Science Lab Level 3 – BSL3) or employees with special access at other BSL3 laboratories.

Incumbents with special access to the biocontainment laboratories either work within the confines of the biocontainment laboratories, or have frequent access to the biocontainment laboratories, although their primary work site may be in other buildings. This special access authorizes the incumbents to move freely without supervision or escort throughout the entire biocontainment facility (approximately 250,000 sq. ft. of Laboratory/Mechanical space and Animal Rooms), which allows them access to dangerous and exotic disease agents which pose a high individual risk of life-threatening disease. United States law mandates that certain etiologic microorganisms which are foreign to the United States may only be studied at the Plum Island Animal Disease Center. The microorganisms included exhibit varying degrees of pathogenicity/infectivity for man (in some cases unknown). The risk of extensive damage to the United States livestock industry by exposure to these disease agents is extremely high.

Drug use could result in accidental or deliberate violation of biological safety regulations and procedures which could be potentially disastrous to human safety and economic welfare of the United States.

11. Wildland Firefighters

Incumbents are engaged in wildland fire management perform duties involving the suppression of fires and operate highly specialized fire control equipment and apparatus under critical and hazardous conditions. They work long hours in physically and emotionally demanding situations and are called upon to make quick decisions in order to save lives. These firefighting personnel perform direct-line firefighting duties engaging in the full range of initial attack and suppression duties. While these employees may have distinct firefighting duties, each employee in this category is vital to the mission of controlling and suppressing fires. Additionally, because of the very nature of this mission, each employee in this category must be prepared to respond at any time to an emergency situation. Although some firefighters occupy positions that reflect their other non-fire related duties, only employees with fire management/fire suppression duties are included in this category. In other words, other employees who do not perform fire management/fire suppression duties may nevertheless have the same job titles as those who do perform such duties and are not included in this category.

Primary firefighter positions are in those positions that are specifically established to perform direct-line firefighting duties, usually in the Forestry Technician & Forestry Aid, GS-0462 series, Forester, GS-0460 series, Natural Resources, GS-0401 series. There are a wide variety of duties and responsibilities within the group of employees engaged in wildland fire management/fire

suppression. Fire Management Officers (0401) supervise fire management organizations comprised of numerous and varied types of resources, and are required to make decisions regarding the proper use of those resources in responding to wildland fires. At the fire scene, for example, supervisory firefighters can act with a great deal of autonomy to begin immediate fire suppression activities and direct firefighting crews, equipment, and aircraft. Incident commanders establish a command post, assess the magnitude of the emergency, determine whether or not to call for additional support, and have complete authority while assigned to that incident. Dispatchers (0462) play a crucial role in firefighting command centers, directing personnel and equipment to fires, contacting interagency cooperators and coordinating emergency medical evacuations. Dispatchers must continually monitor the progress of fires and suppression activities; often the lives of those actually at the scene depend on the dispatchers' performance of their duties. Operations Section personnel (0460, 0462, & 0401) direct government and private firefighting crews at fire emergencies, but also develop and implement specialized fire suppression strategies to protect federal, state and private lands and property. Lead firefighters perform fire suppression operations, first aid, rescue operations, fire prevention activities, and training in fire suppression. First line firefighters (0462) may drive initial response units such as wildland fire engines to the fire scene. They also operate pumps and foam generators, and closely monitor water supply and pressure. Smoke jumpers (0462) parachute from low flying aircraft into remote, often treacherous, terrain to provide a critical initial attack capability. Helitack (0462) personnel use helicopters to deploy to initial attack fires, as well as to move cargo, water, firefighters, and fire retardant to areas of need. There are also key personnel responsible for a range of support activities, such as properly mixing fire suppression chemicals, loading this material on air tankers and large trucks, driving vehicles, or coordinating logistic and air operations to suppress wildland fires.

Firefighters are often trained as medical technicians, providing emergency medical aid to other individuals affected by the fires. All personnel responding to emergency incidents, regardless of job duties, may be required at any time to drive a vehicle or rapidly evacuate a location.

The only personnel engaged in fire management/fire suppression activities that would not be included under the Executive Order are those who operate motor vehicles requiring a commercial drivers' license since these personnel are covered by Department of Transportation regulations on drug and alcohol testing.

Firefighting jobs are truly sensitive positions from the standpoint of public safety. Illegal drug use by employees engaged in wildland fire management operations could result directly in loss of life or severe physical injury to the public, the employee, and fellow employees. Fire management activities require employees to be physically and mentally alert to face emergencies and unexpected challenges. The drug impaired employee in an emergency situation places the lives of coworkers and the public in jeopardy and may cause the destruction of Federal and private property. Fire management is a team effort; an error in judgment by any employee, whether operating equipment, sending resources to a fire, working with aircraft, rescuing individuals or performing other support functions at an emergency incident, can have unacceptable, even disastrous consequences.

Because Wildland Firefighters who need random drug testing cannot be identified by civil service series, the Forest Service has identified the Wildland Firefighters needing testing (see spreadsheet below) through a “primary” retirement code for their positions which is triggered by the position duties. “Primary” position duties of such a position are to perform work directly connected with controlling and extinguishing fires or maintaining and using firefighter apparatus and equipment. The identification of such position is based on the following definition, which comes from **5 CFR 831.902**. Firefighter means an employee, whose duties are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment. Also included in this definition is an employee engaged in this activity that is transferred to a supervisory or administrative position. (See 5 U.S.C. 8331(21)). An employee whose primary duties are the performance of routine fire prevention inspection is excluded from this definition.

TESTING DESIGNATED POSITIONS

SERIES	POSITION/GRADE LEVEL(S)	DUTIES	JUSTIFICATION	#INCUMBENTS
DISCRETIONARY TESTING DESIGNATED POSITIONS (include either justification for or for not including position)				
0401	APPLIED FIRE ECOLOGIST	Leader in applied fire ecology	On the fireline.	1
0401	ASSISTANT DIRECTOR OPERATIONS	Provides direction for fire program	On the fireline.	1
0401	ASST DIR	Develops fire management programs	On the fireline.	1
0401	ASST FIRE MGMT OFCR	Develops fire management programs	On the fireline.	7
0401	BIOLCL SCNTST	Expert in the field of wild fire suppression	On the fireline.	4
0401	BIOLGST	Provides technical advice for fire prevention	On the fireline.	1
0401	DEP DIRECTOR, F&AM	Assistant Director for fire management	On the fireline.	1
0401	DIR, AVIAT & FIRE MGMT	Coordinates all fire management activities	On the fireline.	1
0401	FIRE ECOLOGIST	Evaluates fire/fuel management conditions	On the fireline.	1
0401	FIRE MANAGEMENT OFFICER	Directs administration of fire suppression	On the fireline.	2

0401	FIRE MANAGEMENT SPECIALIST (TR	Implements fire planning policies	On the fireline.	1
0401	FIRE MGMT OFCR	Evaluates an integrated fire mgmt program	On the fireline.	48
0401	FIRE MGMT PLANNER	Serves as Forest fire and fuels planner	On the fireline.	2
0401	FIRE MGMT SPECLST	Directs suppression and fire use incidents,	On the fireline	23
0401	FIRE MGMT SPECLST (DISPATCH)	Supervises mobilization of wild fire suppression	On the fireline.	1
0401	FIRE MGMT SPECLST(PRESCRIB FIR	Fuels and smoke management	On the fireline.	21
0401	FIRE PLANNING SPECIALIST	Fire management.	On the fireline	1
0401	FIRE TECHNLOGY TRNSFR SPECLST	Identifies fire management needs	On the fireline.	2
0401	FUELS COORD	Primary fuels representative	On the fireline.	2
0401	FUELS MGMT SPECLST	Prescribed fire, hazardous fuels reduction	On the fireline.	2
0401	FUELS SPECIALIST	Prescribed fire, hazardous fuels reduction	On the fireline.	1
0401	FUELS VEGETATION MGMT SPECLST	Serves as a fuels/prescribed fire specialist	On the fireline.	1
0401	NATL FIRE USE PROG MGR	Serves as a fuels/prescribed fire specialist	On the fireline.	1
0401	NATRL RESOURCE MGR	Serves as a fuels/prescribed fire specialist	On the fireline.	1
0401	NATRL RESOURCE SPECLST	Serves as a fuels/prescribed fire specialist	On the fireline.	10
0401	NATRL RESOURCE SPECLST (FIRE M	Fire suppression and prevention	On the fireline.	6
0401	NATRL RESOURCE SPECLST (RECR)	Fire suppression and prevention	On the fireline.	1
0401	REGIONAL FIRE OP SAFETY MGR	Responsible for fire management training	On the fireline.	1

0401	SUPERVISORY BIOLOGICAL SCIENTI	Advisor and liaison on complex wildland fire	On the fireline.	1
0401	SUPV FIRE MGMT OFF	Coordinates, & evaluates fire mgmt program	On the fireline.	2
0401	SUPVY ASST FIRE MGMT OFCR	Coordinates, & evaluates fire mgmt program	On the fireline.	1
0401	SUPVY BIOLCL SCNTST	Advisor and liaison on complex wildland fire	On the fireline.	2
0401	SUPVY FIRE MGMT OFCR	Duties and responsibilities for fire, fuels	On the fireline.	22
0401	SUPVY NATRL RESOURCE SPECLST	Fire suppression and prevention	On the fireline.	7
0401	SUPVY NATRL RESOURCE SPECLST (Fire suppression and prevention	On the fireline.	1
0401	SUPVY STAFF OFCR	Fire Management Operations, Fuels	On the fireline.	1
0460	FORSTR	Wild fire prevention	On the fireline.	21
0460	FORSTR (SILVCLTR)	Plans and develops silvicultural methods	On the fireline.	1
0460	SUPVY FORSTR	Plans and implements timber program	On the fireline.	5
0462	FIRE PREVENTION OFFICER	Develops plan for prevention and detection	On the fireline.	2
0462	FORESTRY TECH	Fire suppression and prevention	On the fireline.	1
0462	FORESTRY TECH (AIRTANKER BASE	Maintains vehicles and equipment	On the fireline.	1
0462	FORESTRY TECHNICIAN (PREVENTIO	Fire suppression and prevention	On the fireline.	2
0462	FRSTRY AID	Firefighter crewmember	On the fireline.	19
0462	FRSTRY TECHNCN	Fire suppression and prevention	On the fireline.	1554
0462	FRSTRY TECHNCN (ASST FMO)	Presuppression/Suppression, Fuels Management	On the fireline.	15

0462	FRSTRY TECHNCN (DSPTCH)	Fire dispatcher in suppression of wild fire	On the fireline.	27
0462	FRSTRY TECHNCN (FIRE DSPTCH)	Fire dispatcher in suppression of wild fire	On the fireline.	66
0462	FRSTRY TECHNCN (FIRE ENGINE OP	Engine operation in suppression of wild fire	On the fireline.	532
0462	FRSTRY TECHNCN (FIRE MGMT OFCR	Fuel management	On the fireline.	20
0462	FRSTRY TECHNCN (FIRE)	Smoke management	On the fireline.	140
0462	FRSTRY TECHNCN (FUELS MGMT)	Fire and fuel management	On the fireline.	1
0462	FRSTRY TECHNCN (FUELS)	Assesses fire and fuel management	On the fireline.	99
0462	FRSTRY TECHNCN (HELIACK)	Helicopter Operations	On the fireline.	143
0462	FRSTRY TECHNCN (HOTSHOT/HANDCR	Fire suppression	On the fireline.	384
0462	FRSTRY TECHNCN (PREVENTION)	Initial fireline attack	On the fireline.	54
0462	FRSTRY TECHNCN (RECR)	Fire suppression and prevention	On the fireline.	18
0462	FRSTRY TECHNCN (RES)	Fire suppression and prevention	On the fireline.	2
0462	FRSTRY TECHNCN (SENIOR FF)	Fire suppression and prevention	On the fireline.	1
0462	FRSTRY TECHNCN (TIMB SALE ADM)	Fire suppression and prevention	On the fireline.	5
0462	FRSTRY TECHNCN (TIMB SALE PREP	Fire suppression and prevention	On the fireline.	6
0462	FRSTRY TECHNCN (TIMB STAND IMP	Fire suppression and prevention	On the fireline.	2
0462	FRSTRY TECHNCN (WILDERNESS)	Fire suppression and prevention	On the fireline.	1
0462	FRSTRY TECHNCN (WILDERNESS/TRA	Fire suppression and prevention	On the fireline.	1
0462	FRSTRY TECHNCN FIREFIGHTING	Fire suppression and prevention	On the fireline.	1

0462	FRSTRY TECHNCN SMKJMPR	Smokejumper, on fireline	On the fireline.	147
0462	LEAD FORESTRY TECHNICIAN (FEO)	Fire Engine Operator on fireline	On the fireline.	1
0462	LEAD FRSTRY TECHNCN	Fire suppression and prevention	On the fireline.	307
0462	LEAD FRSTRY TECHNCN (FEO)	Fire Engine Operator on fireline	On the fireline.	5
0462	LEAD FRSTRY TECHNCN (FIRE ENGI	Fire Engine Operator on fireline	On the fireline.	333
0462	LEAD FRSTRY TECHNCN (FIRE)	Fire suppression, on fireline	On the fireline.	3
0462	LEAD FRSTRY TECHNCN (HELIACK)	Helicopter Operations	On the fireline.	39
0462	LEAD FRSTRY TECHNCN (HOTSHOT/H	Fire suppression and prevention	On the fireline.	155
0462	LEAD FRSTRY TECHNCN (RECR)	Fire suppression and prevention	On the fireline.	1
0462	LEAD FRSTRY TECHNCN SMKJMPR	Smokejumper, on fireline	On the fireline.	13
0462	LEAD LEAD FRSTRY TECHNCN (HLTK	Assists in training of firefighting forces	On the fireline.	4
0462	SENIOR FRSTRY TECHNCN	Makes initial fire evaluation	On the fireline.	32
0462	SENIOR FRSTRY TECHNCN (FIRE EN	Makes initial fire evaluation	On the fireline.	33
0462	SENIOR FRSTRY TECHNCN (HOTSHOT	Fire suppression and prevention	On the fireline.	11
0462	SENIOR FRSTRY TECHNCN (PREVENT	Initial fireline attack	On the fireline.	1

0462	SPVY FRSTRY TECHNCN (FIRE ENGI	Makes initial fire evaluation	On the fireline.	14
0462	SUPERV. FOREST TECHN. (FIRE)	Fire suppression, on fireline	On the fireline.	1
0462	SUPVY FRSTRY TECHNCN	Oversees fireline implementation	On the fireline.	890
0462	SUPVY FRSTRY TECHNCN (ASST FMO	Oversees fireline implementation	On the fireline.	60
0462	SUPVY FRSTRY TECHNCN (DSPTCH)	Oversees fireline equipment implementation	On the fireline.	11
0462	SUPVY FRSTRY TECHNCN (FIRE DSP	Oversees fireline equipment implementation	On the fireline.	4
0462	SUPVY FRSTRY TECHNCN (FIRE ENG	Makes initial fire evaluation	On the fireline.	312
0462	SUPVY FRSTRY TECHNCN (FIRE MGM	Makes initial fire evaluation	On the fireline.	45
0462	SUPVY FRSTRY TECHNCN (FIRE)	Makes initial fire evaluation	On the fireline.	132
0462	SUPVY FRSTRY TECHNCN (HELIACK)	Helicopter Operations	On the fireline.	5
0462	SUPVY FRSTRY TECHNCN (HOTSHOT/	Fire suppression	On the fireline.	120
0462	SUPVY FRSTRY TECHNCN (PREVENTI	Initial fireline attack	On the fireline.	9
0462	SUPVY FRSTRY TECHNCN (RECR)	Initial fireline attack	On the fireline.	1
0462	SUPVY FRSTRY TECHNCN SMKJMPR	Smokejumper, on fireline	On the fireline.	50

12. Guard

GS-085

Incumbents preserve and protect government employees and property. They must maintain a high standard of conduct at all times, must be mentally alert and aware of their surroundings, and be ready to act to provide protective measures at any time. A high level of integrity and credibility are necessary in discharging the duties of the position. Incumbents are expected to remain calm under pressure, think rationally, and respond intelligently, despite adverse circumstances, and deal effectively in interpersonal confrontations. They often carry firearms in the line of duty.

Illegal drug use calls to doubt the integrity and credibility of the employee and their ability to perform their duties of protecting persons and property. Drug usage produces diminished mental and neuromuscular capacity. This could lead to life-threatening lapses in judgment or ability. For example, if a guard failed to exercise sound observation powers and judgment and used a weapon improperly, needless injury or death could result.

13. Job Corps Center Staff (Includes any occupational series in which the incumbent may perform the duties described below)

Each Center staff member sees students every day, and each staff member is responsible for the safety of every student, including administering CPR and/or first aid whenever needed. Each staff member is required to receive training in CPR and first aid. In addition, staff members may be required to operate motor vehicles to transport students for both routine and emergency purposes, as students are prohibited from possessing privately owned vehicles on campus. These staff members are required to possess a valid driver's license. Staff members who are not in such positions in practice almost always possess a valid driver's license due to the remote location of Centers and their absence of staff housing. These staff members also in practice frequently are called upon to drive students for a wide variety of purposes.

Drug usage by Center staff members could result in the loss of students' lives or injury to the students. Also, all Center staff personnel are responsible for administering the Zero Tolerance for Drug Policy. Improper or illegal drug use is inconsistent with assisting others in becoming and remaining drug-free.

14. Motor Vehicle Operator, Includes only operators of passenger carrying vehicles

(WG-5703 or any other occupational series in which the incumbent may perform the duties described below)

Incumbents operate motor vehicles such as buses, trucks, passenger vans, and other passenger carrying vehicles as their predominant duty and responsibility. The vehicles are used to move people and equipment including providing chauffeur services to high level officials. Vehicles

must be operated in a safe manner to avoid endangering lives of the public or passengers, or risking the loss of property.

Drug usage produces diminished mental and neuromuscular capacity. This could in turn lead to the operators' inability to properly control the vehicle, leading to the possible loss of life, personal injury, or destruction of property. For example, if the driver of a passenger carrying shuttle failed to notice a traffic light, death or serious injury could result to USDA employees and the general public. The use of illegal drugs is therefore inconsistent with the responsibility of safe vehicle operation.

15. Nurse, Practical (Vocational) Nurse, Health Technician, Nursing Assistant

GS-610, GS-620, GS-699, & GS-621

Excluding those positions not having responsibility for patient care, drug testing or access to controlled substances

Incumbents provide care to people with injuries and illnesses, administer injections, and must be able to recognize patients; adverse signs and symptoms to be able to react swiftly in emergency situations. This includes taking resuscitative measures in case of cardiac or respiratory arrest when a physician is not present or immediately available. They must be able to provide emergency treatment to accident victims. These duties require keen sensory perception and neuromuscular coordination.

Drug usage could result in the loss of patients' lives or injury to the patient. Additionally, the incumbent's access to medication requires the utmost personal integrity on their part concerning drug usage.

16. Other Personnel with Access to Controlled Substances

Incumbents have access to controlled substances. As a result, incumbents must maintain the highest level of personal integrity in order that full confidence can be placed in the integrity of the agency.

Drug abuse could result in diminished mental capacity, or personal use of the controlled substance to which incumbents have access. Additionally, incumbents who are drug users are highly vulnerable to extortion, which could result in the unauthorized release of these substances.

17. Presidential Appointees

These are individuals appointed by the President with the advice and consent of the Senate. They serve the American public in the highest levels of the Department in positions such as Secretary of Agriculture, Deputy Secretary of Agriculture, Assistant and Under Secretaries and Agency Heads. They participate with the President and the Congress in developing public policy in the many areas within the scope of USDA, make the most complex and sensitive decisions, and require the highest degree of public trust and confidence.

Drug usage could result in loss of trust and confidence by the American public and governments throughout the world. In addition, drug usage by incumbents in these positions will have a direct and negative effect on USDA and the American Government, national security, and the efficiency, effectiveness, and cost of USDA programs.

18. Special-Sensitive Positions

Incumbents of these positions are designated as such under criteria found at 5 CFR 732.201 and the Office of Personnel Management position sensitivity designation guidance. Individuals serve in positions of the highest level of sensitivity with the potential for the greatest degree of damage to the national security. Most occupants of these positions require access to Top Secret national security information in accordance with Executive Orders 10450 and 12968, or access to sensitive compartmented information under authority of Director of Central Intelligence Directive 6/4.

These positions also include any ADP-Computer position that meets the above criteria or is determined by the head of a USDA agency to impose a risk in terms of ADP-Computer security above that at the critical-sensitive level. Incumbents are in positions that have potential for inestimable impact involving duties especially critical to the agency mission. They have broad scope and authority (e.g., overall direction of a major Federal program) or other extremely important responsibilities which affect the overall efficiency of the service.

Drug usage could result in one's inability to properly perform the duties of their position or indiscretions while under the influence of drugs. Drug usage could cause incumbents to be subject to increased financial need which may cause them to be susceptible to compromising national security information or otherwise compromising national security for personal use.

19. Employees required to have a Commercial Drivers License (CDL)

As required by the Department of Transportation (DOT) Regulations (49 CFR e. al.), all applicants for and employees of positions in which they are required to have a CDL to perform their duties are subject to random alcohol and drug testing. (Not subject to applicant alcohol testing).

See DOT Regulation 49 CFR e. al. for justification.

http://www.dot.gov/ost/dapc/NEW_DOCS/part40.html?proc

APPENDIX B

DRUGS FOR WHICH INDIVIDUALS ARE TESTED

The following drugs or categories of drug constitute the basis of the USDA drug testing program, and will be tested for in each sample:

1. Marijuana
2. Cocaine
3. Opiates
4. Amphetamines
5. Phencyclidine (PCP)

When conducting reasonable suspicion, post accident, or unsafe practice testing, a Federal agency may have a urine specimen tested for any drug listed in Schedule I or II of the Controlled Substances Act.

Federal agency drug testing programs shall have validity tests performed on urine specimens as, provided in section 3.1(c) of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (November 25, 2008).

APPENDIX C

MANDATORY GUIDELINES for FEDERAL WORKPLACE DRUG TESTING PROGRAMS

LINKS TO GUIDELINES

<http://edocket.access.gpo.gov/2008/pdf/e8-26726.pdf>

<http://edocket.access.gpo.gov/2008/pdf/z8-26726.pdf>

<http://edocket.access.gpo.gov/2010/pdf/2010-10118.pdf>

APPENDIX D

EMPLOYEE ASSISTANCE PROGRAM GUIDELINES

A. General Duties

Under the supervision of the Employee Relations Officer, Office of Human Resources Management (OHRM), USDA and its component agencies will have Employee Assistance Programs (EAP) which comply with all laws, rules and regulations including 5 CFR Part 792 as well as the Executive Order 12564. The EAP counselors providing assessments, short-term counseling, and referral services will not be involved in sample collection or the initial reporting of test results. Specifically, with regard to the Drug-Free Workplace Program (DFWP), the EAP will:

1. Provide counseling and assistance to employees who refer themselves for treatment, whose drug tests have been confirmed positive, or who have been identified as users of illegal drugs through other means, and monitor the employee's progress through treatment and rehabilitation;
2. Provide needed education and training to all levels of USDA on types and effects of drugs, symptoms of drug use and its impact on performance and conduct, relationship of the EAP with the drug testing program, and related treatment, rehabilitation, and confidentiality issues;
3. Ensure that confidentiality of test results and related medical treatment and rehabilitation records under its control are maintained in accordance with applicable laws and regulations.

B. Employee Assistance Program Counselors

The EAP will be managed by the DFWP Manager, and will be handled in USDA component agencies by the Employee Assistance Program Coordinators. The actual counseling will be provided by qualified Counselors who will:

1. Serve as the initial point of contact for employees who ask or are referred for counseling;
2. Be familiar with all applicable laws and regulations, including drug treatment and rehabilitation and insurance coverage available to employees through the Federal Employee Health Benefits Program;
3. Be qualified by the DFWP Manager, and be trained in counseling employees in the occupational setting and identifying drug use;

4. Document and sign the treatment plan prescribed for each employee referred for treatment, after obtaining the employee's signature on the treatment plan;
5. Make referrals for rehabilitation, considering the:
 - a. Nature and severity of the problem;
 - b. Location of the treatment;
 - c. Cost of the treatment;
 - d. Intensity of the treatment environment;
 - e. Availability of inpatient/outpatient care;
 - f. Other special needs, such as transportation and child care; and
 - g. The preferences of the employee.
6. Maintain a list of rehabilitation or treatment organizations which provide counseling and rehabilitation programs, and include the following information on each organization:
 - a. Name, address and phone number;
 - b. Types of services provided;
 - c. Hours of operation, including emergency hours;
 - d. The contact person's name and phone number;
 - e. Fee structure, including insurance coverage;
 - f. Client specialization; and
 - g. Other pertinent information.
7. When appropriate, visit rehabilitation or treatment organizations to meet administrative and staff members, tour the site, and ascertain the experience, certifications and educational level of staff, and the organization's policy concerning progress reports on clients and post-treatment follow-up;
8. Provide information, when requested to the EAP Manager or Coordinator; the Employee Relations Officer; or agency Employee Relations Officers on the progress of employees referred for drug abuse. Information provided will include:
 - a. Verification that the employee is still actively participating in EAP;

- b. The general prognosis as to likely outcome of counseling and rehabilitation;
and
- c. That treatment is completed, and the employee is ready to return to duty.

APPENDIX E:

DRUG TEST RESULTS MONTHLY REPORT

REPORT EXAMPLE FOR FOREST SERVICE (E-2)

REPORT EXAMPLE FOR ALL AGENCIES EXCEPT FS (E-3)

APPENDIX E
MONTHLY REPORT OF DRUG TESTING ACTIVITIES

AGENCY NAME

MONTH

Name	ID (last 5)	MODE DOT/NDOT	TEST FOR D, A	TEST TYPE	FOR ORG/LEVEL	POSITION	TESTED	REASON NOT TESTED
DOE, JOHN	12345	DOT	D,A	RAN	01-00-0009	FORESTRY TECH	Y	
DOE, JANE	56789	NDOT	D,A	PRE	01-02-0000	ENGR EQUIP OPR	Y	
MAJOR, MAJOR	12347	NDOT	D,A	RAN	01-02-0000	MTR VEH OPR	N	TDY-WILL BE TESTED UPON RTN
GATOR, ALI	12348	DOT	D,A	RAN	01-15-0005	SUPVY FOR TECH	N	ON FIRE LINE - TESTED UPON RTN

REPORT EXAMPLE FOR FOREST SERVICE
USE FOR BOTH NDOT AND DOT TESTING

APPENDIX E
MONTHLY REPORT OF DRUG TESTING ACTIVITIES

AGENCY NAME

MONTH

Name	ID (last 5)	MODE DOT/NDOT	TEST FOR D, A	TEST TYPE	POSITION	TESTED	REASON NOT TESTED
DOE, JOHN	12345	DOT	D,A	RAN	MTR VEH OPR	Y	
DOE, JANE	56789	NDOT	D	PRE	WLDF BIOLGST	Y	
MAJOR, MAJOR	12347	NDOT	D	RAN	BIOL SCI TECH (WLDF	N	TDY-WILL BE TESTED UPON RTN
GATOR, ALI	12348	NDOT	D	RAN	BIOL SCI TECH (WLDF	N	SEASONAL EMPLOYEE

REPORT EXAMPLE FOR ALL AGENCIES EXCEPT FS
USE FOR BOTH NDOT AND DOT TESTING