Model Plan for a Comprehensive Federal Drug-Free Workplace Program

Third Edition

HHS Publication No.(ADM)90-1635

Department of Health and Human Services
Substance Abuse and Mental Health Services Administration
Center for Substance Abuse Prevention
Division of Workplace Programs

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Attachment 1: Revision List: Model Plan for a Comprehensive Federal Drug-Free Workplace Program/Third Edition/HHS Publication (ADM)90-1635; March 2026

Acknowledgements

The first edition of this Model Plan was developed by a federal Interagency Coordinating Group (ICG) composed of representatives from the Department of Health and Human Services (HHS), the Office of Personnel Management (OPM), and the Department of Justice (DOJ) and distributed to federal agencies by the former National Drug Policy Board in 1989. It has served as the standard for federal agency drug-free workplace plans and programs ever since. It has also been widely adapted and adopted in the private and non-federal public sectors and incorporated into numerous collectively bargained agreements throughout the American economy.

The Model Plan has proven to be an exceptionally durable document and continues to be the standard for federal agency drug-free workplace plans and programs. The second edition, published in 2022, updated legal citations and terms of art, incorporated the addition of four semi-synthetic opioids to the list of drugs routinely tested for, and added the use of oral fluid in lieu of urine drug testing.

The second edition was shared with the successor group to the National Drug Policy Board, the Interagency Coordinating Group Executive Committee (ICGEC), which was convened by the Office of National Drug Control Policy (ONDCP) and has the same representation as the predecessor group.

This third edition incorporates the addition of Fentanyl to the testing panel, updates terms of art, removes references to the Drug Testing Advisory Board, and includes minor technical edits.

This publication is made available online to federal agencies and the public through the Substance Abuse and Mental Health Services Administration (SAMHSA) website. The Model Plan does not have the force and effect of law and is to be used as guidance for federal agencies when developing their drug testing plans.

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I. Introduction

A. Background

On September 15, 1986, President Reagan signed Executive Order 12564 (hereafter, the "Executive Order"), establishing the goal of a drug-free federal workplace. The Executive Order made it a condition of employment for all federal employees to refrain from using illicit drugs on or off duty. The Executive Order recognized that illicit drug use was 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 had a compelling proprietary interest in establishing reasonable conditions of employment. Prohibiting employee drug use is one such condition.

On July 11, 1987, Congress passed legislation affecting implementation of the Executive Order under Section 503 of the Supplemental Appropriations Act of 1987, Pub. L. 100-71, 101 Stat. 391, 468-471, codified at 5 U.S.C. §7301 note (1987), (hereafter, the "Act"), in an attempt to establish uniformity among federal agency drug testing plans, reliable and accurate drug testing, employee access to drug testing records, confidentiality of drug test results, and centralized oversight of the Federal Government's drug testing program.

The Executive Order and the Act assigned significant responsibilities to HHS, DOJ, and OPM. Representatives of these three agencies came together to form the ICG which authored the original Model Plan in 1989. In 1990, the former General Accounting Office conducted a review of the Federal Drug-Free Workplace Program, concluding that, while the three agencies were fulfilling their responsibilities, no single agency was designated as the lead. On March 5, 1991, President Bush designated the ONDCP as the lead agency for Federal Drug-Free Workplace Program implementation.

The purpose of the [**Agency/Department**] drug-free workplace plan is to set forth objectives, policies, procedures, and implementation guidelines to achieve a drug-free federal workplace, consistent with the Executive Order and Section 503 of the Act.

B. Statement of Policy

The [**Agency/Department**], as a result of its [**describe type of**] responsibilities, as well as the sensitive nature of its work, has a compelling obligation to eliminate unauthorized use of Schedule I and II drugs from its workplace. [**Insert a one-page summary that describes the two or three most significant aspects of your agency's/ Department's mission and the risk posed by an employee's illicit use of Schedule I and II drugs.**]

The success of a drug-free workplace program depends on how well the [**Agency/Department**] informs its employees of the hazards of drug use, and on how much assistance it can provide drug users. Equally important is the assurance to employees that personal dignity and privacy will be respected in reaching the [**Agency's/Department's**] goal of a drug-free workplace. Therefore, this plan includes policies and procedures for: (1) employee assistance; (2) supervisory training; (3) employee education; and (4) drug testing on a carefully controlled and monitored basis.

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

Section 503 of the Act requires the [**Agency/Department**] drug-free workplace plan to specify the nature, frequency, and type of drug testing to be performed. The [**Agency/Department**] plan includes the following types of drug testing: (1) applicant testing; (2) random testing of those employees in sensitive positions selected as testing designated positions (TDPs); (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.

The frequency of random testing, voluntary testing, and follow-up testing is specified in Section XV, Section XII(B), and Section XII(C), respectively. The [**Agency/Department Head**] reserves the right to increase or decrease the frequency of testing based on the [**Agency's/Department'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

On a routine basis, the [**Agency/Department**] will test for the following drugs that are on Schedule I or II of the Controlled Substances Act: Marijuana, Cocaine. [**Agency/Department may, and is encouraged to, also test for the full panel of drugs authorized in the Mandatory Guidelines for Federal Workplace Drug Testing Programs, which currently includes certain Amphetamines (including Amphetamine, Methamphetamine, Methylenedioxymethamphetamine (MDMA), and Methylenedioxyamphetamine (MDA)); and certain Opioids, including 6-Acetylmorphine, Codeine, Fentanyl, Morphine, Hydrocodone, Hydromorphone, Oxycodone, and Oxymorphone; and Phencyclidine (PCP).**]

[**Agencies/Departments**] may also test for additional Schedule I or Schedule II drugs on a case-by-case basis in reasonable suspicion, post-accident, or follow-up testing. If the [**Agency/Department**] desires to test for any other Schedule I or II drug on a routine basis, advance written approval from the Secretary, HHS is required.

E. Scope

Upon certification by HHS in accordance with Section 503 of the Act, this plan shall be effective immediately for all [**list divisions of the agency which will be affected by the plan**].

F. References

1. Authorities

    a. Executive Order 12564, Drug-Free Federal Workplace.

    b. Executive Order 13467, Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information, June 30, 2008, as amended by Executive Order 13764, Amending the Civil Service Rules, Executive Order 13488, and Executive Order 13467 to Modernize the Executive Branch-Wide Governance Structure and Processes for Security

Clearances, Suitability and Fitness for Employment, and Credentialing, and Related Matters, January 17, 2017.

c. Executive Order 13526, Classified National Security Information.

d. Section 503 of the Supplemental Appropriations Act of 1987, Pub. L. 100-71, 101 Stat. 391, 468-471, codified at 5 U.S.C. §7301 note (1987).

e. Mandatory Guidelines for Federal Workplace Drug Testing Programs using Urine [UrMG], which includes scientific and technical requirements and certification of laboratories engaged in urine drug testing, 88 FR 70768 (effective 2024) as amended.

f. Mandatory Guidelines for Federal Workplace Drug Testing Programs using Oral Fluid [OFMG] which includes scientific and technical requirements and certification of laboratories engaged in oral fluid drug testing, 88 FR 70814 (effective 2023).

g. Mandatory Guidelines for Federal Workplace Drug Testing Programs – Authorized Testing Panels, 90 FR 4662 (effective 2025).

h. Civil Service Reform Act of 1978, Pub. L. 95-454.

i. Sections 523 and 527 of the Public Health Service Act and implementing regulations at 42 CFR Part 2, Confidentiality of Substance Use Disorder Patient Treatment Records.

j. The Privacy Act of 1974 (5 U.S.C. §552a), prescribing requirements governing the maintenance of records by agencies pertaining to individuals and access to these records by the individual(s) to whom they pertain.

k. Regulations implementing the Privacy Act of 1974 for the [**Agency**] (**add citation to agency regulations**).

l. Federal Employees Substance Abuse Education and Treatment Act of 1986, Pub. L. 99-570.

m. [**Add any relevant Agency/Department orders, including appropriate personnel orders.**]

2. Guidance

a. Guidance for Selection of Testing Designated Positions, SAMHSA.

b. [**Add any appropriate Agency/Department guidance documents.**]

II. Definitions

A. Applicant

Individuals tentatively selected — [**Agency/Department should choose one of the following:**]

1. For employment with the [**Agency/Department**]

or

2. For a Testing Designated Position (TDP), and who has not, immediately prior to the selection, been subject to random testing.

B. Department of Health and Human Services (HHS)/Substance Abuse and Mental Health Services Administration (SAMHSA)/Center for Substance Abuse Prevention (CSAP)/Division of Workplace Programs (DWP)

The organization given HHS' responsibilities under the Federal Drug-Free Workplace Program, including certification of Agency/Department plans and maintenance of the Mandatory Guidelines for Federal Workplace Drug Testing Programs.

C. Drug Program Coordinator

The Drug Program Coordinator (DPC) is the individual assigned to carry out the purposes of this plan and responsible for implementing, directing, administering, and managing the drug program within the [**Agency/Department or operating unit**].

D. Employee Assistance Program

The Employee Assistance Program (EAP) is an [**Agency**]-based 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. The EAP is not involved in the collection of specimens or the initial reporting of test results.

E. Employee Assistance Program Administrator

The individual responsible for ensuring the development, implementation, and review of the agency EAP.

F. Employee Assistance Program Coordinator

The individual designated by the EAP Administrator to be responsible for implementing and operating the EAP within the [**Agency**] component assigned to provide counseling, treatment, and education services to employees and supervisors regarding the [**component**] EAP.

G. Employees in Sensitive Positions

1. Employees in positions designated by the [**Agency head**] as Special Sensitive, Critical Sensitive, or Noncritical-Sensitive or employees in positions designated by the [**Agency head**] as sensitive in accordance with Executive Order 13467, as amended by Executive Order 13764.

2. Employees granted access to classified information or who may be granted access to classified information pursuant to a determination of trustworthiness by the [**Agency head**] under Executive Order 13526.

3. Individuals serving under Presidential appointments.

4. Law enforcement officers as defined in 5 U.S.C. §8331(20) and 8401(17).

5. Other positions that the [**Agency head**] determines involve law enforcement, national security, the protection of life and property, or public health or safety.

H. Illicit Drug Use

An illicit drug refers to a controlled substance found in Schedule I or II, as defined by section 802(6) of Title 21 of the United States Code, the Controlled Substances Act, the possession of which is unlawful under chapter 13 of that Title. "Illicit drug use" refers to the use of an illicit drug. These terms do not include uses pursuant to a valid prescription or other uses authorized by federal law.

I. Interagency Coordinating Group Executive Committee

The ICGEC is a group chaired by ONDCP and consisting of representatives of HHS, DOJ, and OPM that provides guidance for the Federal Drug-Free Workplace Program when needed.

J. Medical Review Officer

The Medical Review Officer (MRO) is the individual responsible for receiving laboratory results generated from the [**Agency**] drug-free workplace program who is a licensed physician, with knowledge of pharmacology and toxicology of illicit drugs and the appropriate medical training to interpret and evaluate all positive test results together with an individual's medical history and any other relevant biomedical information, and reports a specimen test result to [**Agency**].

K. Random Testing

A system of drug testing imposed without individualized suspicion that a particular individual is using illicit drugs, and may either be:

1. Uniform and unannounced testing of testing designated positions (TDPs) occupying a specified area, unit or position.

2. A statistically random sampling of such employees based on a neutral criterion, such as social security numbers.

L. Supervisor

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 [5 U.S.C. §7103 (a)(10)].

M. Testing Designated Positions

Testing Designated Positions (TDPs) are employment positions within the [**Agency/Department**] that have been designated for random testing under Section IX(B) of this plan.

N. Verified Positive Test Result

A test result that was positive on an initial test, confirmed by a Chromatography/Mass Spectrometry assay, (or other confirmatory tests approved by HHS), and reviewed and verified by the MRO in accordance with this plan and the Mandatory Guidelines for Federal Workplace Drug Testing Programs.

III. Employee Assistance Programs

A. Function

The [**Agency**] Employee Assistance Program (EAP) plays an important role in preventing and resolving employee drug use by: demonstrating the [**Agency's**] commitment to eliminating illicit drug use; providing employees an opportunity, with appropriate assistance, to discontinue their drug use; providing educational materials to supervisors and employees on drug use issues; assisting supervisors in confronting employees who have performance and/or conduct problems and making referrals to appropriate treatment and rehabilitative facilities; and following-up with individuals during the rehabilitation period to track their progress and encourage successful completion of the program.

The EAP, however, shall not be involved in the collection of specimens or the initial reporting of test results.

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 [**Agency/Department**] 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.

3. Ensure that confidentiality of test results and related medical treatment and rehabilitation records is maintained in accordance with Section XIV.

B. Referral and Availability

Any employee found to be using illicit drugs shall be referred to the EAP. The EAP shall be administered separately from the testing program and shall be available to all employees without regard to a finding of drug use. The DPC shall not also serve as the EAP Administrator/Coordinator or in any EAP capacity.

The EAP shall provide counseling or rehabilitation for all referrals, as well as education and training regarding illicit drug use. The EAP shall be available not only to [**Agency/Department**] 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, such employee may seek review of the EAP Counselor's referral by

notifying the EAP Administrator prior to completion of the program. The decision of the EAP Administrator shall be final and shall not be subject to further administrative review.

Regardless of the treatment program chosen, the employee remains responsible for successful completion of the treatment, and assertions that the counselor failed to consider one or more of the factors in Section VI(D)(5) in making a referral shall not constitute either an excuse for continuing illicit drug use or a defense to disciplinary action if the employee does not complete treatment.

C. Leave Allowance

Employees shall be allowed up to one hour (or more as necessitated by travel time) of excused absence for each counseling session, up to a maximum of [**state limit here**], during the assessment/referral phase of rehabilitation. Absences during duty hours for rehabilitation or treatment must be charged to the appropriate leave category in accordance with law and leave regulations.

D. Records and Confidentiality

All EAP operations shall be confidential in accordance with Section XIV of this plan relating to records and confidentiality.

E. Structure

The [**appropriate division of the Agency/Department**] shall be responsible for oversight and implementation of the [**Agency**] EAP, and will provide, with the support of the [**Agency head**], high level direction and promotion of the EAP.

[**Describe more fully the structure of the agency's EAP -- in-house, contracted, regional locations, etc.**]

IV. Supervisory Training

A. Objectives

As supervisors have a key role in establishing and monitoring a drug-free workplace, the [**Agency**] shall provide training to assist supervisors and managers in recognizing and addressing illicit 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 Agency**] EAP.

2. The responsibilities of offering EAP services.

3. How employee performance and behavioral changes should be recognized and documented.

4. The roles of the MRO, medical staff, supervisors, personnel, and EAP personnel.

5. The ways to use [**the Agency/Department**] EAP.

6. The process of reintegrating employees into the workforce.

B. Implementation

The [**appropriate division of the Agency/Department**] shall be responsible for implementing supervisory training and shall develop a training package to ensure that all employees and supervisors are fully informed of the [**Agency/Department**] Drug-Free Workplace Plan.

C. Training Package

Supervisory training shall be required of all supervisors and may be presented as a separate course or be included as part of an ongoing supervisory training program. Training shall be provided as soon as possible after a person assumes supervisory responsibility. Training courses should include:

1. Overall Agency/Department policy.

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 EAP.

4. How to recognize employees with possible problems.

5. Documentation of employee performance or conduct.

6. Skills in confronting employees with possible problems.

7. Agency procedures for referring employees to EAP.

8. Disciplinary action and removals from sensitive positions as required by Section 5(c) of the Executive Order.

9. Reintegration of employees into the workforce.

10. Written materials that the supervisor can use at the work site.

V. Employee Education

A. Objectives

The EAP Administrator shall offer drug education to all [**Agency**] employees. Drug education should include education and training to all levels of the [**Agency**] on:

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 drug testing.

4. Other relevant treatment, rehabilitation, and confidentiality issues.

B. Means of Education

Drug education activities may include:

1. Distribution of written materials.

2. Audio-visual media.

3. Lunchtime employee forums.

4. Employee drug awareness events.

5. Online education.

VI. Special Duties and Responsibilities

[**Smaller agencies may choose to combine several of the duties listed into a single position upon advice from the HHS Division of Workplace Programs. Larger agencies may choose to add a higher level Drug Program Administrator to oversee and coordinate the work of component-level or site Coordinators or Managers. It is recommended that duties/roles be clearly described so that differences among duties/roles are distinct and do not overlap.**]

A. Drug Program Coordinator

Each [**Agency/Department operating unit or other appropriate unit**] shall have a DPC assigned to carry out the purposes of this plan. The DPC shall be responsible for implementing, directing, administering, and managing the drug-free workplace program within the [**Agency/Department or operating unit**]. The DPC shall serve as the principal contact with drug testing service providers or third-party administrators of collection, laboratory, and MRO services contracts. DPCs shall also assure the effective operation of the testing portion of the program. In carrying out these responsibilities, the DPC shall, among other duties:

1. Arrange for all testing authorized under this plan.

2. Ensure that all employees subject to random testing receive individual notice [as described in Section VII(B) of this plan] prior to implementation of the program, and that such employees return a signed acknowledgment of receipt form.

3. Document, through written inspection reports, all results of laboratory and collection site inspections.

4. Coordinate with and report to the [**Agency/Department head**] on DPC activities and findings that may affect the reliability or accuracy of laboratory results.

5. Verify and document that the individual serving as the MRO meets the following Mandatory Guidelines requirements, and ensure that MRO contracts, including those entered into by third-party administrators on the agency's behalf, include the following Mandatory Guidelines requirements:

a. MRO certification documentation.

b. Assurance of independence from any HHS-certified laboratory or Instrumented Initial Testing Facility (IITF) that tests the agency's specimens.

c. Records of training on Mandatory Guidelines revisions prior to their effective date.

d. Five-year MRO requalification training documentation.

e. MRO provides semiannual reports to HHS or designated HHS representative (i.e., NLCP).

f. Assurance that the MRO reports drug test results to [**Agency**] as stipulated in the Mandatory Guidelines.

g. Before allowing MRO to report results electronically, require MRO to send documentation to [**Agency**] that demonstrates that test results reported electronically ensure confidentiality, integrity, and availability of the data and limit access to any data transmission, storage, and retrieval system.

6. In coordination with the EAP Administrator, publicize and disseminate drug program educational materials and oversee training and education sessions regarding drug use and rehabilitation.

7. Coordinate all DPC duties in field offices wherever possible to conserve resources and to efficiently and speedily accomplish reliable and accurate testing objectives.

8. Liaise with the HHS/SAMHSA/CSAP/Division of Workplace Programs to maintain currency of drug program policy and practice and provide Annual Summary Report (ASR) data.

B. Employee Assistance Program Administrator

The EAP Administrator shall:

1. Receive verified positive test results from the DPC or other official designated by [**Agency/Department**] to receive test results from the MRO.

2. Assume the lead role in the development, implementation, and evaluation of the EAP.

3. Supervise and designate the headquarters EAP Coordinator and counselors and assist them in establishing field office EAPs.

4. Advise [**Agency/Department**] components on the submission of annual statistical reports and prepare consolidated reports on the [**Agency/Department's**] EAP activity.

C. Employee Assistance Program Coordinator

The EAP Coordinator shall:

1. Implement and operate the EAP within the [**Agency**] component assigned to the coordinator.

2. Provide counseling and treatment services to all employees referred to the EAP by their supervisors or on self-referral and otherwise offer employees the opportunity for counseling and rehabilitation.

3. Coordinate with the [**Agency head**], the MRO, and the supervisors, as appropriate.

4. Work with the DPC to provide educational materials and training to managers, supervisors, and employees on illicit drug use in the workplace.

5. Assist supervisors with employee performance and/or other personnel problems that may be related to illicit drug use.

6. 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 Substance Use Disorder Patient Treatment Records.

7. Ensure that training is provided to assist supervisors in the recognition and documentation of facts and circumstances that support a reasonable suspicion that an employee may be using illicit drugs.

8. Maintain a list of rehabilitation or treatment organizations that provide counseling and rehabilitative programs, and include the following information on each such organization:

   a. Name, address, telephone number, email(s), and website.

   b. Types of services provided.

   c. Hours of operation, including emergency hours.

   d. Name, telephone number, and email of the contact person.

   e. Fee structure, including insurance coverage.

   f. Client specialization.

   g. Other pertinent information.

9. Periodically visit rehabilitative or treatment organizations to meet administrative and staff members, tour the site, and ascertain the experience, certification, and educational level of staff and the organization's policy concerning progress reports on clients and post-treatment follow-up.

D. Employee Assistance Program Counselors

EAP 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 laws and regulations, including drug treatment and rehabilitation insurance coverage available to employees through the Federal Employee Health Benefits Program.

3. Meet the qualifications as determined by the EAP Administrator 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.

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.

   f. Other special needs, such as transportation and childcare.

   g. The preferences of the employee.

E. Medical Review Officer

The [**Agency/Department or other appropriate unit**] shall have an MRO or an MRO service provider. The MRO or MRO service provider, shall, among other duties:

1. Provide the DPC with:

   a. Documentation of suitable MRO certification as described in the Mandatory Guidelines.

   b. Written confirmation that the MROs used to review agency drug tests are not an employee, agent of, or have any financial interest in an HHS-certified laboratory or an HHS-certified IITF that tests the agency's specimens.

   c. Records of an MRO's training on Mandatory Guidelines revisions prior to their effective date.

   d. Documentation of an MRO's five-year requalification training and passing requalification examination.

2. Provide semiannual reports to HHS or designated HHS representative (i.e., NLCP) according to the Mandatory Guidelines.

3. Receive all laboratory test results.

4. Report test results as stipulated in the Mandatory Guidelines and provide documentation to [**Agency**] that demonstrates that test results reported

electronically ensure confidentiality, integrity, and availability of the data and limit access to any data transmission, storage, and retrieval system.

5. Assure that an individual who has tested positive has been afforded an opportunity to discuss the test result in accordance with Section XIII(D) of this plan.

6. Consistent with confidentiality requirements, refer written determinations regarding all verified positive test results to the appropriate official, including a positive drug test result form indicating that the positive result has been verified, together with all relevant documentation and a summary of findings.

7. Confirm with the appropriate personnel official whether an individual who has been tentatively selected for employment with the [**Agency/Department**] has obtained a verified positive test result.

8. Coordinate with and report to the [**Agency/Department**] as requested on all of the MRO's activities and findings.

9. Coordinate all MROs in field offices wherever possible to conserve resources and to efficiently and speedily accomplish reliable and accurate testing objectives.

F. Supervisors

Supervisors will be trained to recognize and address illicit 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 illicit drugs. Except as modified by the [**Agency/Department head**] to suit specific program responsibilities, first-line supervisors shall:

1. Attend training sessions on illicit drug use in the workplace.

2. Initiate a drug test based on reasonable suspicion as described in Section X.

3. Refer employees to the EAP for assistance in obtaining counseling and rehabilitation upon a finding of illicit drug use.

4. Initiate appropriate disciplinary action upon a finding of illicit drug use.

5. In conjunction with personnel specialists, assist higher-level supervisors and the EAP Administrator in evaluating employee performance and or other personnel problems that may be related to illicit drug use.

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.

G. Implementation

At the direction of the [**appropriate Agency/Department official**], each [**operating unit head**] shall implement the drug-free workplace plan within [**their operating unit**] and ensure that the plan is efficiently and effectively accomplished in accordance with Executive Order 12564 and all other applicable legal authorities.

H. General Program/Structural Provisions

The [**appropriate Agency/Department official**] shall develop implementation procedures to enable [**Agency/Department field offices**] to efficiently and swiftly implement all aspects of this plan, taking into account the unique geographical, personnel, budgetary, and other relevant factors of the field offices. Such procedures will permit field office implementation of the certified plan to proceed independently regardless of the readiness of headquarters implementation. Testing may proceed under this plan as soon as any field office or operating site is prepared to commence testing, and without regard to whether any other field office or operating site or headquarters is prepared to commence with testing. Such procedures shall also encourage cooperation and coordination among components so as to conserve resources and efficiently implement this plan.
[**Agencies/Departments should give careful consideration to overall structures and determine whether additional management analysis provisions should be added.**]

I. Government Contractors

Wherever existing facilities are inadequate to implement this plan, the [**appropriate Agency/Department official**] shall:

1. Act as Contracting Officer Representative for the administration of all related contracts.

2. Ensure that contract laboratories chosen to perform the drug screening tests are duly certified according to the Mandatory Guidelines for Federal Workplace Drug Testing Programs and that any other contracts to implement this plan conform to the technical specifications of the Mandatory Guidelines.

3. Establish, by contract or with [**Agency/Department**] employees as deemed appropriate, the positions and specific responsibilities of the DPC and the MRO as required by the Mandatory Guidelines.

VII. Notice

A. General Notice

A general notice from the [**Agency/Department head**] announcing the testing program, as required by the Executive Order 12564, Section 4(a), will be provided to all employees no later than sixty (60) days prior to the implementation date of the plan. The notices shall be provided immediately upon completion of the congressional certification procedures pursuant to Section 503 of the Act, and shall explain:

1. The purpose of the drug-free workplace plan.

2. That the plan will include both voluntary and mandatory testing.

3. That those who hold positions selected for random testing will also receive an individual notice, prior to the commencement of testing, indicating that their position has been designated a 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 illicit drug.

7. That the laboratory assessment is a series of tests that 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 to the employee, the appropriate EAP administrator, the appropriate management officials necessary to process an adverse action against the employee, or in a court of law or administrative tribunal consistent with applicable law.

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 patient, an authorizing court order, or otherwise as permitted by federal law implemented at 42 CFR Part 2.

B. Individual Notice

In addition to the information provided in the general notice, an individual notice will be distributed to all employees in TDPs explaining:

1. That the employee's position has been designated a TDP.

2. That the employee will have the opportunity to voluntarily admit to illicit drug use and to receive counseling or rehabilitation, [**If there is no safe harbor*, add: "in which case disciplinary action is not required;" If there is a safe harbor, add: "and in which case shall not be subject to disciplinary action."**].

   *Refer to Section VIII(F) for safe harbor option to create an absolute bar to disciplinary action for certain volunteers.

3. That the employee's position will be subject to random testing no sooner than thirty (30) days following the notice.

C. Signed Acknowledgement

Each employee in a TDP shall be asked to acknowledge in writing that the employee has received and read the notice that states that the employee's position has been designated for random drug testing, and that refusal to submit to testing will result in initiation of disciplinary action, up to and including dismissal. If the employee refuses to sign the acknowledgement, the employee's supervisor shall note on the acknowledgement form that the employee received the notice. This acknowledgement, which is advisory only, shall be centrally collected for easy retrieval by the [**operating unit head**]. An employee's failure to sign the notice shall not preclude testing that employee, or otherwise affect the implementation of this plan.

D. Administrative Relief

If an employee believes their position has been wrongly designated a TDP, that employee may file an administrative appeal to [**specify the designated official**] who has authority to remove the employee from the TDP list. The appeal must be submitted by the employee, in writing, to [**the designated official**] within 15 days of notification, setting forth all relevant information. The [**designated official**] shall review the appeal based upon the criteria applied in designating that employee's position as a TDP. The [**official's**] decision is final and is not subject to further administrative review.

VIII. Finding of Drug Use and Disciplinary Consequences

A. Determination

An employee may be found to have used an illicit drug on the basis of any appropriate evidence including, but not limited to:

1. Direct observation.

2. Evidence obtained from an arrest or criminal conviction.

3. A verified positive test result.

4. An employee's voluntary admission.

B. Mandatory Administrative Actions

The [**Agency/Department**] shall refer an employee found to use illicit drugs to the EAP, and, if the employee occupies a sensitive position, immediately remove the employee from that position without regard to whether it is a TDP. At the discretion of the [**Agency/Department head**], however, and as part of an EAP, an employee may return to duty in a sensitive position if the employee's return would not endanger public health or safety or national security.

C. Range of Consequences

Disciplinary action taken against an employee found to use illicit drugs may include the full range of disciplinary actions, including removal. The severity of the action chosen will depend on the circumstances of each case and will be consistent with Executive Order 12564. The [**Agency/Department**] shall initiate disciplinary action against any employee found to use illicit drugs.

[**Insert either**]

provided that such action is not required for an employee who voluntarily admits to illicit drug use and obtains counseling or rehabilitation and thereafter refrains from such use in accordance with subsection VIII(F).

[**or if a safe harbor exists, insert:**] but shall not discipline an employee who voluntarily admits to illicit drug use in accordance with subsection VIII(F) of this plan.

[**In either case, add:**] Such disciplinary action, consistent with the requirements of any governing collective bargaining agreement and the Civil Service Reform Act and other statutes, along with [**Agency/Department**] orders and regulations, may include any of the following measures but some disciplinary action must be initiated:

1. Reprimanding the employee in writing.

2. Temporary suspension.

3. Suspending the employee until the employee successfully completes the EAP or until the [**Agency/Department**] determines that action other than suspension is more appropriate.

4. Removing the employee from service.

5. Reducing the employee's pay or grade.

D. Initiation of Mandatory Removal from Service

The [**Agency/Department**] shall initiate action to remove an employee for:

1. Refusing to obtain counseling or rehabilitation through an EAP as required by the Executive Order after having been found to use illicit drugs.

2. Not refraining from illicit drug use after a first finding of such use.

All letters to propose and decide on a separation action should be worked out in consultation with the [**appropriate servicing personnel office**].

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. A refusal occurs when an employee fails to:

1. Appear or remain at the collection site.

2. Provide a specimen of sufficient quantity for testing without a legitimate medical explanation.

3. Participate in an alternative specimen collection.

4. Undergo a medical examination as directed by the MRO.

5. Cooperate with the collection process.

A refusal also occurs if an employee adulterates, substitutes, or dilutes the specimen; brings materials to the collection site for the purpose of adulterating, substituting, or diluting the specimen; or attempts or admits to adulterating, substituting, or diluting the specimen.

No applicant who refuses to be tested shall be extended an offer of employment.

F. Voluntary Referral

Under Executive Order 12564, the [**Agency/Department**] is required to initiate action to discipline any employee found to use illicit drugs in every circumstance except that such discipline is not required for an employee who: (1) voluntarily admits their drug use; (2) completes counseling or an EAP; and (3) thereafter refrains from drug use.

[**If you do not wish to create an absolute bar to discipline for individuals who voluntarily come forward, insert the following language:**]

The decision whether to discipline a voluntary referral will be made by the [**Agency/Department head**] on a case-by-case basis depending upon the facts and circumstances. Although an absolute bar to discipline cannot be provided for certain positions because of their extreme sensitivity, the [**Agency/Department**], in determining whether to discipline, shall consider that the employee has come forward voluntarily. In coming forward voluntarily, and consistent with Section XII(B), an employee may volunteer for a drug test as a means of identification. The results of this test, however, shall not constitute a second finding of illicit drug use under subsection (D).

[**If you do wish to create an absolute bar to discipline for individuals who voluntarily come forward, insert the following language instead:**]

1. Because Executive Order 12564, Section 5(b) permits an agency to create a "safe harbor" for an employee who meets all three of these conditions, the [**Agency/Department**] 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 [**Agency's/Department's**] drug-free workplace plan is to assist employees who themselves are seeking treatment for drug use. For this reason, the [**Agency/Department**] will not initiate disciplinary action against employees who meet all three of these conditions:

   a. Voluntarily identifies themselves as a user of illicit Schedule I and/or II drugs prior to being identified through other means.

   b. Obtains counseling or rehabilitation through an EAP.

   c. Thereafter refrains from such use.

   This self-referral option allows any employee to step forward and identify him/herself as a user of illicit drugs 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, any safe harbor offered under this provision is not available to an employee who requests protection under this provision after:

a. Being asked to provide a urine or oral fluid specimen in accordance with this plan.

b. Having been found to have used an illicit drug pursuant to Section VIII(A)(1) or VIII(A)(2).

IX. Random Testing

A. Sensitive Positions Designated for Random Testing

Executive Order 12564 requires testing for employees in sensitive positions. As specified in Section XV of this plan, the [**Agency/Department head**] has determined that some of these sensitive positions are TDPs subject to random testing. Position titles designated for random drug testing are listed in Section XV, which also provides a brief description of relevant duties, the justification for designation, and the number of incumbents.

B. Determining TDPs

To determine TDPs, the [**Agency/Department head**] applied the Guidance for Selection of Testing Designated Positions issued by the ICGEC, which identifies the following categories:

1. Presumptive TDPs

   a. Employees Who Carry Firearms

   b. Motor Vehicle Operators Carrying Passengers

   c. Aviation Flight Crew Members and Air Traffic Controllers

   d. Railroad Operating Crews

2. Preferred TDPs

   a. Certain Health and Safety Positions

      1). Employees authorized to carry firearms

      2). Railroad Employees Engaged in Safety Sensitive Tasks

      3). Aviation Personnel

   b. Presidential Appointees Requiring Senate Confirmation (PAS)

   c. Front Line Law Enforcement Personnel

   d. Drug Rehabilitation Employees

   e. Personnel Having Access to "Truly Sensitive Information"

      1). Top Secret and Higher Clearances

2). Secret Clearances

3. Discretionary Designations - Given the unique Agency/Department missions, there are a number of other, non-court tested TDPs that may be appropriate for inclusion within Agency/Department plans.

4. Specifically Disfavored TDPs - Positions which uniformly have been found by the courts not to warrant random testing. If an agency has TDPs based solely on the criteria below, exceptional justifications will be required to be submitted to the ICGEC for consultative review for positions such as:

   a. Positions designated based upon the need to foster public trust or generalized requirements for integrity, honesty, or responsibility.

   b. Positions designated based upon access to sensitive information not meeting the "truly sensitive" criteria [e.g., personnel files, budget and financial information, and grand jury information].

   The [**Agency/Department head**] reserves the right to add or revise the TDP list pursuant to the criteria established in the Guidance for Selection of Testing Designated Positions. The concurrence of [**Agency/Department**] agency legal counsel and of the Division of Workplace Programs will be sought for all new TDPs and TDP list revisions.

   The [**Agency/Department head**] has determined, pursuant to 42 U.S.C. 290dd, that all positions which have been or will be designated as TDPs under this plan are "sensitive positions" and are therefore exempted from provisions prohibiting employment deprivation based on prior substance misuse.

C. Implementing Random Testing

In implementing the program of random testing, the DPC shall:

1. Ensure that the means of random selection remains confidential.

2. Evaluate periodically whether the numbers of employees tested and the frequency with which those tests will be administered satisfy the [**Agency's/Department's**] duty to achieve a drug-free work force.

The number of sensitive employees occupying TDPs and the rate of random tests that will be administered are specified in Section XV.

D. Notification of Selection

An individual selected for random testing, and the individual's first-line supervisor, shall be notified the same day the test is scheduled, preferably within two hours of the scheduled testing. The supervisor shall explain to the employee that the employee is under no suspicion of taking drugs and that the employee's name was selected randomly.

E. Deferral of Testing

An employee selected for random drug testing may obtain a deferral of testing if the employee's first line and higher-level supervisors 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 is about to embark on official travel scheduled prior to testing notification.

3. In an undercover assignment in a law enforcement investigation that would be unduly jeopardized by the requirement to appear for testing.

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

X. Reasonable Suspicion Testing

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 illicit 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.

A. Grounds

Reasonable suspicion testing may be based upon, among other things:

1. Observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms 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.

5. Newly discovered evidence that the employee 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 illicit drugs, the appropriate supervisor will gather all information, facts, and circumstances leading to and supporting this suspicion. [**Agencies/Departments should insert a higher-level approval requirement that is consistent with their organizational structure. In some**

agencies, this may be the next level supervisor or a higher-level individual above the supervisor making the finding that a reasonable suspicion of illicit drug use exists.]

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.

C. Supervisory Training

In accordance with Section IV, supervisors will be trained to address illicit 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 testing.

XI. Applicant Testing

A. Objectives

To maintain the high professional standards of the [**Agency's/Department's**] workforce, it is imperative that individuals who use illicit drugs be screened out during the initial employment process before they are employed by [**Agency/Department**]. Drug testing shall be required of all applicants as defined in Section II.

B. Vacancy Announcements

Every vacancy announcement for positions designated for applicant testing shall state:

"All applicants tentatively selected for this position will be required to submit to screening for illicit drug use prior to appointment."

In addition, each 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.

C. Procedures

The DPC shall 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.

Applicants shall be advised of the opportunity to submit medical documentation that may support a legitimate use for a specific drug and that such information will be

reviewed only by the MRO to determine whether the individual is licitly using an otherwise illicit drug.

D. Personnel Officials

Upon notification that an individual has been tentatively selected for employment with the [**Agency/Department**], the [**Manager of the Personnel Division**] shall assure, after consultation with the MRO, that a drug test has been conducted on that individual and determine whether the test result is a verified positive result.

E. Consequences

The [**Agency/Department**] 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 the [**Agency/Department**] for a period of six months. The Personnel Officer working on the applicant's certificate shall be directed to object to the applicant on the basis of failure to pass the physical, a lack of necessary personal characteristics related to Federal employment, or failure to support the goals of the [**Agency/Department**]. The [**Agency/Department**] shall inform such applicant that a verified positive drug test result may preclude the [**Agency/Department**] from hiring the applicant.

XII. Additional Types of Drug Testing

A. Accident or Unsafe Practice Testing

[**Agency/Department**] 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 results in damage to government or private property estimated to be in excess of $10,000.

If an employee is suspected of having caused or contributed to an accident meeting the above criteria, the appropriate supervisor will present the facts leading to this suspicion to the [**Agency/Department Official**] 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 [**Agency's/Department's**] goal of a drug-free workplace and to set an example for other federal employees, employees not in TDPs may volunteer for unannounced random testing by notifying the DPC. These employees will then be included in the pool of TDPs 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 TDP pool until they withdraw from participation by notifying the DPC of such intent at least 48 hours prior to a scheduled test.

C. Follow-up Testing

All employees referred through administrative channels who undergo a counseling or rehabilitation program for illicit use of Schedule I and/or II drugs through the EAP will be subject to unannounced testing as a part of or following completion of such a program for a period of one year. Such employees shall be tested on an individual case-by-case basis at the frequency stipulated in the abeyance contract with [**Agency/Department**] or, in the alternative, at an increased frequency of [**state frequency: e.g., once a month**] that applies to all cases. This follow-up testing is distinct from additional testing which may be imposed as a component of the EAP.

XIII. Test Procedures in General

A. Mandatory Guidelines for Federal Workplace Drug Testing Programs

Drug testing is used to make significant career decisions for federal civilian employees, and HHS has established exacting scientific and technical standards for its conduct. At the inception of the program, the Department concluded that only urine drug testing met these standards. It published the original Mandatory Guidelines for Federal Workplace Drug Testing Programs on April 11, 1988 [53 FR 11979]. These guidelines were subsequently revised on June 9, 1994 [59 FR 29908], September 30, 1997 [62 FR 51118], November 13, 1998 [63 FR 63483], April 13, 2004 [69 FR 19644], and November 25, 2008 [73 FR 71858], and were ultimately renamed to indicate that they apply only to urine drug testing on January 23, 2017 [82 FR 7920]. The guidelines were updated again, with an effective date of February 1, 2024 [88 FR 70768], to establish a process whereby HHS will publish the authorized drug testing panel separately from the Mandatory Guidelines, along with other updates.

In 2015, HHS concluded that oral fluid drug testing met its standards and could be used in federal workplace drug testing programs. The Mandatory Guidelines for Federal Workplace Drug Testing Programs using Oral Fluid, which authorized the use of this alternative specimen, were published on October 25, 2019 [84 FR 57554] with an effective date of January 1, 2020. These guidelines were subsequently revised, effective on October 10, 2023 [88 FR 70814], to establish a process whereby HHS will publish the authorized drug testing panel separately from the Mandatory Guidelines, along with other updates.

The Mandatory Guidelines for Federal Workplace Drug Testing Programs – Authorized Testing Panels were published in the Federal Register on January 16, 2025 [90 FR 4662], with an effective date of July 7, 2025, and stipulate the panel of Schedule I and II drugs and biomarkers authorized for testing in federal workplace drug testing programs.

A federal agency may use urine, oral fluid, or both in their testing programs. HHS continues to monitor the evolving forensic science of drug testing and to consider

the use of alternative specimens. HHS may publish additional guidelines for alternative specimens and technologies when these meet its standards for use with federal civilian employees.

The [**Agency/Department**] shall adhere to the Mandatory Guidelines for Federal Workplace Drug Testing Programs using Urine, the Mandatory Guidelines for Federal Workplace Drug Testing Programs using Oral Fluid, and the Mandatory Guidelines for Federal Workplace Programs–Authorized Testing Panels promulgated by HHS. The [**Agency/Department's**] drug testing component shall have professionally trained collection personnel, quality assurance requirements for laboratory procedures, and strict confidentiality requirements.

B. Privacy Assurance

1. Urine Collection

Any individual subject to urine testing under this plan shall be permitted to provide specimens in private and in a restroom stall or similar enclosure so that the employee is not observed while providing the specimen. Collection site personnel of the same sex as the individual tested, however, may observe the individual provide the urine specimen when such personnel have reason to believe the individual may adulterate, substitute, or dilute the specimen to be provided. Collection site personnel may have reason to believe that a particular individual may adulterate, substitute, or dilute the specimen to be provided when:

a. The individual:

1). Has previously been found by the [**Agency**] to use illicit drugs.

2). Has previously tampered with a specimen.

b. Facts and circumstances suggest that the individual:

1). Uses illicit drugs.

2). Is under the influence of drugs at the time of the test.

3). Has equipment or implements capable of tampering with or altering urine specimens.

c. The specimen:

1). Has a temperature outside the range established in the Mandatory Guidelines for Federal Workplace Drug Testing Programs – Urine, Section 7.3.

2). Shows signs of contaminants.

2. Oral Fluid Collection

Any individual subject to oral fluid testing under this plan shall provide specimens in a restricted access area with the collector present and in visual

contact throughout the collection procedure. The collector is not required to be the same sex as the donor.

The collector shall inspect the individual's oral cavity to ensure that it is free of any items that could impede or interfere with the collection of an oral fluid specimen (e.g., candy, gum, food, tobacco) or could be used to adulterate, substitute, or dilute the specimen. If an item is present that appears to have been brought to the collection site with the intent to adulterate, substitute, or dilute the specimen, this will be considered a refusal to test.

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 the range of disciplinary actions, including dismissal, 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 DPC to obtain guidance on action to be taken.

D. Opportunity to Justify a Positive Test Result

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. Evidence to justify a positive result may include, but is not limited to:

1. A valid prescription.

2. A verification from the individual's physician verifying a valid prescription.

Individuals are not entitled 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 there is no justification for the positive result, such result will then be considered a verified positive test result. The MRO shall immediately contact the appropriate management official upon obtaining a verified positive test result.

E. Employee Counseling and Assistance

While participating in a counseling or rehabilitation program, and at the request of the program, the employee may be exempted from the random TDP pool for a period not to exceed sixty (60) days, or for a time period specified in an abeyance contract or rehabilitation plan approved by the Agency head. Upon completion of the program, the employee immediately shall be subject to follow-up testing pursuant to Section XII(C).

F. 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 using Urine, the Mandatory Guidelines for Federal Workplace Drug Testing Programs using Oral Fluid, and the Mandatory Guidelines for Federal Workplace Drug Testing Programs – Authorized Testing Panels 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.

XIV. Records and Reports

A. Confidentiality of Test Results

The laboratory may disclose 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 illicit drug use will be treated as a negative test result and may not be released for purposes of identifying illicit 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 42 CFR Part 2, Executive Order 12564, or of the Supplemental Appropriations Act of 1987, Pub. L. 100-71, Section 503.

The MRO may maintain only those records necessary for compliance with this plan. 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 personally identifiable information (PII) on any employee.

In order to comply with Section 503(e) of the Act, the results of a drug test of a [**Agency**] employee may not be disclosed without the prior written consent of such employee, unless the disclosure would be:

1. To the MRO.

2. To the EAP Administrator in which the employee is receiving counseling or treatment or is otherwise participating.

3. To any supervisory or management official within the [**Agency**] having authority to take adverse personnel action against such employee.

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 purposes of this Section, "management official" includes any management, government, security, or personnel official whose duties necessitate review of the test results in order to process adverse personnel action against the employee.

Test results, with all PII removed, shall also be made available to [**Agency/Department**] personnel, including the DPC, for data collection and other activities necessary to comply with Section 503(f) of the Act.

B. Employee or Applicant Access to Records

Any employee or federal applicant who is the subject of a drug test shall, upon written request, have access to any records relating to:

1. Such employee or applicant's drug test.

2. The results of any relevant certification, review, or revocation-of-certification proceedings, as referred to in Section 503(a)(1)(A)(ii)(III) of the Act.

C. Confidentiality of Records in General

All drug testing information specifically relating to individuals is confidential and should 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 DPC shall maintain all records relating to reasonable suspicion testing, suspicion of tampering with evidence, and any other authorized documentation necessary to implement this plan.

All records and information of the personnel actions taken on employees with verified positive test results should be forwarded to the [**Servicing Personnel Office**.] Such shall remain confidential, locked in a combination safe or stored electronically in secure, password-protected files, with only authorized individuals who have a "need-to-know" having access to them.

D. Employee Assistance Program Records

The EAP Administrator shall maintain only those records necessary to comply with this plan. After [**an operating unit head**] refers an employee 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 misuse, 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 patient may authorize the disclosure of those records to the patient's employer for verification of treatment or for a general evaluation of treatment progress.

E. Maintenance of Records

The [**Agency/Department**] shall establish or amend a recordkeeping system to maintain the records of the [**Agency/Department's**] Drug-Free Workplace Program consistent with the [**Agency/Department's**] 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). If necessary, records may be maintained as required by subsequent administrative or judicial proceedings, or at the discretion of the [**Agency/Department head**]. The recordkeeping system should capture sufficient documents to meet the operational and statistical needs of this plan, and include:

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. Anonymous statistical reports.

4. Other documents the DPC, MRO, or EAP Administrator deems necessary for efficient compliance with this plan.

F. Records Maintained by Government Contractors

Any contractor hired to satisfy any part of this plan shall comply with the confidentiality requirements of this plan, and all applicable federal laws, rules, regulations, and guidelines.

G. Statistical Information

The DPC shall 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, and applicant tests administered.

2. Verified positive test results.

3. Voluntary drug counseling referrals.

4. Involuntary drug counseling referrals.

5. Terminations or denial of employment offers resulting from refusal to submit to testing.

6. Terminations or denial of employment offers resulting from alteration of specimens.

7. Terminations or denial of employment offers resulting from failure to complete a drug misuse counseling program.

8. Employees who successfully complete EAP.

These data, along with other pertinent information, shall be compiled for inclusion in the [**Agency's/Department's**] annual report to Congress required by Section 503(f) of the Act. These data shall also be provided to HHS annually to assist in overall program evaluation and to determine whether changes to the Mandatory Guidelines may be required.

XV. Position Titles Designated for Random Testing

[**List position titles designated for random drug testing; indicate relevant duties; explain the justification for inclusion; and provide the current number of incumbents in the position (see Guidance for Selection of Testing Designated Positions). State the random testing rate.**]

APPENDIX A

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Presidential Documents
Vol. 51. No. 180
Wednesday, September 17, 1986

Title 3–The President

Executive Order 12564 of September 15, 1986

Drug-Free Federal Workplace

I, RONALD REAGAN, President of the United States of America, find that:

Drug use is having serious adverse effects upon a significant proportion of the national work force and results in billions of dollars of lost productivity each year;

The Federal government, as an employer, is concerned with the well-being of its employees, the successful accomplishment of agency missions, and the need to maintain employee productivity;

The Federal government, as the largest employer in the Nation, can and should show the way towards achieving drug-free workplaces through a program designed to offer drug users a helping hand and, at the same time, demonstrating to drug users and potential drug users that drugs will not be tolerated in the Federal workplace;

The profits from illegal drugs provide the single greatest source of income for organized crime, fuel violent street crime, and otherwise contribute to the breakdown of our society;

The use of illegal drugs, on or off duty, by Federal employees is inconsistent not only with the law-abiding behavior expected of all citizens, but also with the special trust placed in such employees as servants of the public;

Federal employees who use illegal drugs, on or off duty, tend to be less productive, less reliable, and prone to greater absenteeism than their fellow employees who do not use illegal drugs;

The use of illegal drugs, on or off duty, by Federal employees impairs the efficiency of Federal departments and agencies, undermines public confidence in them, and makes it more difficult for other employees who do not use illegal drugs to perform their jobs effectively. The use of illegal drugs, on or off duty, by Federal employees also can pose a serious health and safety threat to members of the public and to other Federal employees;

The use of illegal drugs, on or off duty, by Federal employees in certain positions evidences less than the complete reliability, stability, and good judgment that is consistent with access to sensitive information and creates the possibility of coercion, influence, and irresponsible action under pressure that may pose a serious risk to national security, the public safety, and the effective enforcement of the law; and Federal employees who use illegal drugs must themselves be primarily responsible for changing their behavior and, if necessary, begin the process of rehabilitating themselves.

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 3301(2) of Title 5 of the United States Code, section 7301 of Title 5 of the United States Code, section 290dd-1 of Title 42 of the United States Code, deeming such action in the best interests of national security, public health and safety, law enforcement and the efficiency of the Federal service, and in order to establish standards and procedures to ensure fairness in achieving a drug-free Federal workplace and to protect the privacy of Federal employees, it is hereby ordered as follows:

Section 1. Drug-Free Workplace.

(a) Federal employees are required to refrain from the use of illegal drugs.

(b) The use of illegal drugs by Federal employees, whether on duty or off duty, is contrary to the efficiency of the service.

(c) Persons who use illegal drugs are not suitable for Federal employment.

Section 2. Agency Responsibilities.

(a) The head of each Executive agency shall develop a plan for achieving the objective of a drug-free workplace with due consideration of the rights of the government, the employee, and the general public.

(b) Each agency plan shall include:

(1) A statement of policy setting forth the agency's expectations regarding drug use and the action to be anticipated in response to identified drug use;

(2) Employee Assistance Programs emphasizing high level direction, education, counseling, referral to rehabilitation, and coordination with available community resources;

(3) Supervisory training to assist in identifying and addressing illegal drug use by agency employees;

(4) Provision for self-referrals as well as supervisory referrals to treatment with maximum respect for individual confidentiality consistent with safety and security issues; and

(5) Provision for identifying illegal drug users, including testing on a controlled and carefully monitored basis in accordance with this Order.

Section 3. Drug Testing Programs.

(a) The head of each Executive agency shall establish a program to test for the use of illegal drugs by employees in sensitive positions. The extent to which such employees are tested and the criteria for such testing shall be determined by the head of each agency, based upon the nature of the agency's mission and its employees' duties, the efficient use of agency resources, and the danger to the public health and safety or national security that could result from the failure of an employee adequately to discharge his or her position.

(b) The head of each Executive agency shall establish a program for voluntary employee drug testing.

(c) In addition to the testing authorized in subsections (a) and (b) of this section, the head of each Executive agency is authorized to test an employee for illegal drug use under the following circumstances:

(1) When there is a reasonable suspicion that any employee uses illegal drugs;

(2) In an examination authorized by the agency regarding an accident or unsafe practice; or

(3) As part of or as a follow-up to counseling or rehabilitation for illegal drug use through an Employee Assistance Program.

(d) The head of each Executive agency is authorized to test any applicant for illegal drug use.

Section 4. Drug Testing Procedures.

(a) Sixty days prior to the implementation of a drug testing program pursuant to this Order, agencies shall notify employees that testing for use of illegal drugs is to be conducted and that they may seek counseling and rehabilitation and inform them of the procedures for obtaining such assistance through the agency's Employee Assistance Program. Agency drug testing programs already ongoing are exempted from the 60-day notice requirement. Agencies may take action under section 3(c) of this Order without reference to the 60-day notice period.

(b) Before conducting a drug test, the agency shall inform the employee to be tested of the opportunity to submit medical documentation that may support a legitimate use for a specific drug.

(c) Drug testing programs shall contain procedures for timely submission of requests for retention of records and specimens; procedures for retesting; and procedures, consistent with applicable law, to protect the confidentiality of test results and related medical and rehabilitation records. Procedures for providing urine specimens must allow individual privacy, unless the agency has reason to believe that a particular individual may alter or substitute the specimen to be provided.

(d) The Secretary of Health and Human Services is authorized to promulgate scientific and technical guidelines for drug testing programs, and agencies shall conduct their drug testing programs in accordance with these guidelines once promulgated.

Section 5. Personnel Actions.

(a) Agencies shall, in addition to any appropriate personnel actions, refer any employee who is found to use illegal drugs to an Employee Assistance Program for assessment, counseling, and referral for treatment or rehabilitation as appropriate.

(b) Agencies shall initiate action to discipline any employee who is found to use illegal drugs, provided that such action is not required for an employee who:

(1) Voluntarily identifies himself as a user of illegal drugs or who volunteers for drug testing pursuant to section 3(b) of this Order, prior to being identified through other means;

(2) Obtains counseling or rehabilitation through an Employee Assistance Program: and

(3) Thereafter refrains from using illegal drugs.

(c) Agencies shall not allow any employee to remain on duty in a sensitive position who is found to use illegal drugs, prior to successful completion of rehabilitation through an Employee Assistance Program. However, as part of a rehabilitation or counseling program, the head of an Executive agency may, in his or her discretion, allow an employee to return to duty in a sensitive position if it is determined that this action would not pose a danger to public health or safety or the national security.

(d) Agencies shall initiate action to remove from the service any employee who is found to use illegal drugs and:

(1) Refuses to obtain counseling or rehabilitation through an Employee Assistance Program; or

(2) Does not thereafter refrain from using illegal drugs.

(e) The results of a drug test and information developed by the agency in the course of the drug testing of the employee may be considered in processing any adverse action against the employee or for other administrative purposes. Preliminary test results may not be used in an administrative proceeding unless they are confirmed by a second analysis of the same specimen or unless the employee confirms the accuracy of the initial test by admitting the use of illegal drugs.

(f) The determination of an agency that an employee uses illegal drugs can be made on the basis of any appropriate evidence, including direct observation, a criminal conviction, administrative inquiry, or the results of an authorized testing program. Positive drug test results may be rebutted by other evidence that an employee has not used illegal drugs.

(g) Any action to discipline an employee who is using illegal drugs (including removal from the service, if appropriate) shall be taken in compliance with otherwise applicable procedures, including the Civil Service Reform Act.

(h) Drug testing shall not be conducted pursuant to this Order for the purpose of gathering evidence for use in criminal proceedings. Agencies are not required to report to the Attorney General for investigation or prosecution any information, allegation, or evidence relating to violations of Title 21 of the United States Code received as a result of the operation of drug testing programs established pursuant to this Order.

Section 6. Coordination of Agency Programs.

(a) The Director of the Office of Personnel Management shall:

(1) Issue government-wide guidance to agencies on the implementation of the terms of this Order;
(2) Ensure that appropriate coverage for drug misuse is maintained for employees and their families under the Federal Employees Health Benefits Program;

(3) Develop a model Employee Assistance Program for Federal agencies and assist the agencies in putting programs in place;

(4) In consultation with the Secretary of Health and Human Services, develop and improve training programs for Federal supervisors and managers on illegal drug use: and

(5) In cooperation with the Secretary of Health and Human Services and heads of Executive agencies, mount an intensive drug awareness campaign throughout the Federal work force.

(b) The Attorney General shall render legal advice regarding the implementation of this Order and shall be consulted with regard to all guidelines, regulations, and policies proposed to be adopted pursuant to this Order.

(c) Nothing in this Order shall be deemed to limit the authorities of the Director of Central Intelligence under the National Security Act of 1947, as amended, or the statutory authorities of the National Security Agency or the Defense Intelligence Agency. Implementation of this Order within the Intelligence Community, as defined in Executive Order No. 12333, shall be subject to the approval of the head of the affected agency.

Section 7. Definitions.

(a) This Order applies to all agencies of the Executive Branch.

(b) For purposes of this Order, the term "agency" means an Executive agency, as defined in 5 U.S.C. 105; the Uniformed Services, as defined in 5 U.S.C. 2101 (3) (but excluding the armed forces as defined by 5 U.S.C. 2101(2)); or any other employing unit or authority of the Federal government, except the United States Postal Service, the Postal Rate Commission, and employing units or authorities in the Judicial and Legislative Branches.

(c) For purposes of this Order, the term "illegal drugs" 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.

(d) For purposes of this Order, the term "employee in a sensitive position" refers to:

(1) An employee in a position that an agency head designates Special-Sensitive, Critical-Sensitive, or Noncritical-Sensitive under Chapter 731 of the Federal Personnel Manual or an employee in a position that an agency head designates as sensitive in accordance with Executive Order No. 10450, as amended;

(2) An employee who has been granted access to classified information or may be granted access to classified information pursuant to a determination of trustworthiness by an agency head under Section 4 of Executive Order No. 12356;

(3) Individuals serving under Presidential appointments;

(4) Law enforcement officers as defined in 5 U.S.C. 8331(20); and

(5) Other positions that the agency head determines involve 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.

(e) For purposes of this Order, the term "employee" means all persons appointed in the Civil Service as described in 5 U.S.C. 2105 (but excluding persons appointed in the armed services as defined in 5 U.S.C. 2102(2)).

(f) For purposes of this Order, the term "Employee Assistance Program" means agency-based counseling programs that offer assessment, short-term counseling, and referral services to employees for a wide range of drug, alcohol, and mental health programs that affect employee job performance. Employee Assistance Programs are responsible for referring drug-using employees for rehabilitation and for monitoring employees' progress while in treatment.

Section 8. Effective Date. This Order is effective immediately.

Ronald Reagan

THE WHITE HOUSE, September 15, 1986.

[FR Doc. 86-21168
Filed 9-15-86: 3:47 pm] Billing code 3195-O1-M

Editorial note: For the President's remarks of September 15 on signing EO 12564, see the Weekly Compilation of Presidential Documents (vol. 22, no. 38).

APPENDIX B

PUBLIC LAW 100-71, Sec. 501-3, July 11, 1987

101 STAT. 468

TITLE V
GENERAL PROVISIONS

Sec. 501.

No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Sec. 502.

Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during fiscal year 1987, limiting the amount which may be expended for personal services, or for purposes involving personal services, or amounts which may be transferred between appropriations or authorizations available for or involving such services, are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

Sec. 503.

(Drugs and drug abuse. Government organization and employees. 5 USC 7301 note. 3 CFR, 1986 Camp., p. 224.)

(a)

(1) Except as provided in subsection (b) or (c), none of the funds appropriated or made available by this Act, or any other Act, with respect to any fiscal year, shall be available to administer or implement any drug testing pursuant to Executive Order Numbered 12564 (dated September 15, 1986), or any subsequent order, unless and until--

(A) the Secretary of Health and Human Services certifies in writing to the Committees on Appropriations of the House of Representatives and the Senate, and other appropriate committees of the Congress, that-

(i) (3 CFR, 1986 Comp., p. 224.)
each agency has developed a plan for achieving a drug-free workplace in accordance with Executive Order Numbered 12564 and applicable provisions of law (including applicable provisions of this section);

(ii) the Department of Health and Human Services, in addition to the scientific and technical guidelines dated February 13, 1987, and any subsequent amendments thereto, has, in accordance with paragraph (3), published mandatory guidelines which–

(I) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out Executive Order Numbered 12564, including standards which require the use of the

best available technology for enduring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

(II) specify the drugs for which Federal employees may be tested; and

(III) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out Executive Order Numbered 12564; and

(iii) all agency drug-testing programs and plans established pursuant to Executive Order Numbered 12564 comply with applicable provisions of law, including applicable provisions of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), title 5 of the United States Code, and the mandatory guidelines under clause (ii);

(B) the Secretary of Health and Human Services has submitted to the Congress, in writing, a detailed, agency-by-agency analysis relating to–

(i) the criteria and procedures to be applied in designating employees or positions for drug testing, including the justification for such criteria and procedures;

(ii) the position titles designated for random drug testing; and

(iii) the nature, frequency, and type of drug testing proposed to be instituted; and

(C) the Director of the Office of Management and Budget has submitted in writing to the Committees on Appropriations of the House of Representatives and the Senate a detailed, agency-by-agency analysis (as of the time of certification under subparagraph (A)) of the anticipated annual costs associated with carrying out Executive Order Numbered 12564 and all other requirements under this section during the 5-year period beginning on the date of the enactment of this Act.

(2) Notwithstanding subsection (g), for purposes of this subsection, the term "agency" means–

(A) the Executive Office of the President;

(B) an Executive department under section 101 of title 5, United States Code;

(C) the Environmental Protection Agency;

(D) the General Services Administration;

(E) the National Aeronautics and Space Administration;

(F) the Office of Personnel Management;

(G) the Small Business Administration;

(H) the United States Information Agency; and

(I) the Veteran's Administration;

except that such term does not include the Department of Transportation or any other entity (or component thereof) covered by subsection (b).

(3)

(Federal Register, publication. 5 USC 500 et seq.)

Notwithstanding any provision of chapter 5 of title 5, United States Code, the mandatory guidelines to be published pursuant to subsection (a)(l)(A)(ii) shall be published and made effective exclusively according to the provisions of this paragraph. Notice of the mandatory guidelines proposed by the Secretary of Health and Human Services shall be published in the Federal Register, and interested persons shall be given not less than 60 days to submit written comments on the proposed mandatory guidelines. Following review and consideration of written comments, final mandatory guidelines shall be published in the Federal Register and shall become effective upon publication.

(b)

(1) Nothing in subsection (a) shall limit or otherwise affect the availability of funds for drug testing by–

(A) the Department of Transportation;

(B) Department of Energy, for employees specifically involved in the handling of nuclear weapons or nuclear materials;

(C) any agency with an agency-wide drug-testing program in existence as of September 15.1986; or

(D) any component of an agency if such component had a drug-testing program in existence as of September 15, 1986.

(2) The Departments of Transportation and Energy and any agency or component thereof with a drug-testing program in existence as of September 15, 1986–

(A) (3 CFR, 1986 Comp., p. 324.)
shall be brought into full compliance with Executive Order Numbered 12564 no later than the end of the 6-month period beginning on the date of the enactment of this Act; and

(B) shall take such actions as may be necessary to ensure that their respective drug-testing programs or plans are brought into full compliance with the mandatory guidelines published under subsection (a)(1)(A)(ii) no later than 90 days after such mandatory guidelines take effect, except that any judicial challenge that affects such guidelines should not affect drug-testing programs or plans subject to this paragraph.

(c) In the case of an agency (or component thereof) other than an agency as defined by subsection (a)(2) or an agency (or component thereof) covered by subsection (b), none of the funds appropriated or made available by this Act, or any other Act, with respect to any fiscal

year, shall be available to administer or implement any drug testing pursuant to Executive Order Numbered 12564, or any subsequent order, unless and until–

(1) the Secretary of Health and Human Services provides written certification with respect to that agency (or component) in accordance with clauses (i) and (iii) of subsection (a)(1)(A);

(2) the Secretary of Health and Human Services has submitted a written, detailed analysis with respect to that agency (or component) in accordance with subsection (a)(1)(B); and

(3) the Director of the Office of Management and Budget has submitted a written, detailed analysis with respect to that agency (or component) in accordance with subsection (a)(1)(C).

(d) Any Federal employee who is the subject of a drug test under any program or plan shall, upon written request, have access to–

(1) any records relating to such employee's drug test; and

(2) any records relating to the results of any relevant certification, review, or revocation-of-certification proceedings, as referred to in subsection (a)(1)(A)(ii)(III).

(e) (Classified information.)
The results of a drug test of a Federal employee may not be disclosed without the prior written consent of such employee, unless the disclosure would be–

(1) to the employee's medical review official (as defined in the scientific and technical guidelines referred to in subsection (a)(l)(A)(ii));

(2) to the administrator of any Employee Assistance Program in which the employee is receiving counseling or treatment or is otherwise participating;

(3) to any supervisory or management official within the employee's agency having authority to take the adverse personnel action against such employee; or

(4) pursuant to the order of a court of competent jurisdiction where required by the United States Government to defend against any challenge against any adverse personnel action.

(f) (Reports. 3 CFR, 1986 Comp., p. 224.)
Each agency covered by Executive Order Numbered 12564 shall submit to the Committees on Appropriations of the House of Representatives and the Senate, and other appropriate committees of the Congress, an annual report relating to drug-testing activities conducted by such agency pursuant to such executive order. Each such annual report shall be submitted at the time of the President's budget submission to the Congress under section 1105(a) of title 31, United States Code.

(g) For purposes of this section, the terms "agency" and "Employee Assistance Program" each has the meaning given such term under section 7(b) of Executive Order Numbered 12564, as in effect on September 15, 1986.

Attachment 1: Revision List

MODEL PLAN FOR A COMPREHENSIVE FEDERAL DRUG-FREE WORKPLACE PROGRAM

Third Edition / HHS Publication (ADM)90-1635

Dated: March 2026

NOTE: *New text is in* ***bold*** *typeface. Deleted text is shaded in [grey and enclosed in brackets].*

Paragraph/ Page	Revision
NOTE: Minor editorial revisions have been made throughout the document to improve clarity, readability, and consistency. These changes are non-substantive and not listed individually.	
Cover	
Cover	Changed to: **Third** Edition
Cover	Publication date changed **to March 2026**
Table of Contents	
Page i	**Appendix F**: **Mandatory Guidelines for Federal Workplace Testing Programs – Authorized Testing Panels**
Page i	**Attachment 1: Revision List: Model Plan for a Comprehensive Federal Drug-Free Workplace Program / Third Edition / HHS Publication (ADM)90-1635; March 2026**
Acknowledgements	
Paragraph 2 / Page ii	The second edition **published in 2022,** [2023,] updat**ed**[s] legal citations and terms of art**,** incorporat**ed**[s] the addition of four semi-synthetic opiates to the list of drugs routinely tested for**,** and add**ed**[s] the use of oral fluid**...**
Paragraph 3 / Page ii	… [has been] **was** shared with the successor group **to the National Drug Policy Board** … which [is] **was**…
Paragraph 4 / Page ii	**This** [second] **third edition** [was updated in 2025 to reflect] **incorporates the addition of Fentanyl to the testing panel, updates terms of art,** [and] **removes references to the Drug Testing Advisory Board, and** [makes] **includes minor technical edits.**
Paragraph 5 / Page ii	This publication is made available online to federal agencies and to the public through the Substance Abuse and Mental Health Services Administration **(SAMHSA)** website. **The Model Plan does not have the force and effect of law and is to be used as guidance for federal agencies when developing their drug testing plans.**
Paragraph 7 / Page ii	Suggested citation: *Model Plan for a Comprehensive Federal Drug-Free Workplace Program- [Second]* ***Third*** *Edition: ([2022]* ***2026)***
Footer / Page ii	HHS Publication No.(ADM)90-1635 Printed 1989; Reprinted 1990 Second Edition: January 2023 [Updated] **Third Edition:** [July] **March 2026**
Section I: Introduction	
A. Background Paragraph 1 **Page 1**	On September 15, 1986, President Reagan signed Executive Order 12564 **(hereafter, the "Executive Order"),** establishing the goal of a **d**rug-**f**ree **f**ederal **w**orkplace. The **Executive** Order…from using [illegal] **illicit** drugs on or off duty. The Executive Order recognized that [illegal] **illicit** drug use…
A. Background Paragraph 3 **Page 1**	The Executive Order and [Public Law] **the Act...**Representatives of these three agencies came together to form the [Interagency Coordinating Group] **ICG**… [ONDCP subsequently convened the three agencies as the Interagency Coordinating Group Executive Committee to become the policy-setting body for the program and

Paragraph/ Page	Revision
	to offer concurrence on substantive changes in agency plans and on addition of positions designated for random testing, a role that it continues to play.]
B. Statement of Policy Paragraph 1 **Page 1**	**…**eliminate [illegal] **unauthorized** use of Schedule I and II drugs… **…**an employee's [illegal] **illicit drug** use of Schedule l and II drugs.]
D. Drugs for Which Individuals Are Tested Paragraph 1 **Page 2**	[Section 503 of the Act requires the Agency/Department to specify the drugs for which individuals shall be tested.] On a routine basis, the [Agency/Department] will test for the following drugs [listed by the Drug Enforcement Administration] **that are on Schedule I** [and/] **or** II of the Controlled Substance**s** Act: Marijuana, Cocaine. …**which** currently **includes certain** Amphetamines (including…(MDA)); **and certain** Opioids, including….**F**entanyl…
F. Union Cooperation Previously Paragraph 1 on **Pages 2 & 3**	[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, will include union representatives in general orientation programs, and will continue to meet its obligations under Title VII of the Civil Service Reform Act of 1978.]
F. References 1. Authorities 1.e 1.f 1.h 1.i 1.j 1.k 1.l 1.m **Pages 3 & 4**	**F.** References **e.** Mandatory Guidelines for Federal Workplace Drug Testing Programs using Urine [UrMG], which includes scientific and technical requirements and certification of laboratories engaged in urine drug testing, **88 FR 70768** [82 FR 7920] (**effective 2024**) [2017] as amended. **f.** Mandatory Guidelines for Federal Workplace Drug Testing Programs using Oral Fluid [OFMG] which includes scientific and technical requirements and certification of laboratories engaged in oral fluid drug testing, **88 FR 70814** [88 FR 70814] (**effective 2023**). [2019] **g**. **Mandatory Guidelines for Federal Workplace Drug Testing Programs – Authorized Testing Panels, 90 FR 4662 (effective 2025).** **h.** Civil Service Reform Act of 1978, Pub. L. 95-454. **i.** Sections 523 and 527 of the Public Health Service Act and implementing regulations at 42 CFR Part 2, Confidentiality of **Substance Use Disorder** [Alcohol and Drug Abuse] Patient Treatment Records. **j.** The Privacy Act of 1974 (5 U.S.C. §552a), prescribing requirements governing the maintenance of records by agencies pertaining to individuals and access to these records by the individual(s) to whom they pertain. **k.** Regulations implementing the Privacy Act of 1974 for the [Agency] (**add citation to agency regulations**). **l.** Federal Employees Substance Abuse Education and Treatment Act of 1986, Publ. L. 99-570. **m**. [Add any relevant Agency/Department orders, including appropriate personnel orders.]

Paragraph/ Page	Revision
Section II: Definitions	
I. Interagency Coordinating Group Executive Committee **Page 5**	I. Interagency Coordinating Group Executive Committee [(ICGEC)] The **ICGEC is a** group chaired by ONDCP and consisting of representatives of HHS, DOJ, and OPM that [sets policy] **provides guidance** for the Federal Drug-Free Workplace Program **when needed.** [and offers concurrence on substantive changes in Agency/Department plans and on addition of positions designated for random testing.]
N. Verified Positive Test Result **Page 6**	A test result that was positive on an initial [FDA approved immunoassay] test, confirmed by a [Gas] Chromatography/Mass Spectrometry assay, (or other confirmatory tests approved by HHS), and reviewed and verified by the **MRO** [Medical Review Officer] in …
Section V: Employee Education	
B. Means of Education **Page 9**	**5. Online education.**
Section VI: Special Duties and Responsibilities	
A. Drug Program Coordinator **Pages 9 & 10**	…shall have a **DPC** [Drug Program Coordinator (DPC)] assigned to… The DPC shall be responsible for implementing, directing, administering, and managing the drug**-free workplace** program… The DPC shall serve as the principal contact with [providers of collection, the laboratory, and services contracts and for collection activities in assuring] **drug testing service providers or third-party administrators of collection, laboratory,** [and providers of collection, the laboratory**,**] **and Medical Review Officer services contracts in assuring** the effective operation of the testing portion of the program. In carrying out these responsibilities, the DPC shall, among other duties: **1.** Arrange for testing authorized under this [order] **plan**… **5. Verify and document that the individual serving as the MRO meets the following Mandatory Guidelines requirements, and ensure that MRO contracts, including those entered into by third-party administrators on the agency's behalf, include the following Mandatory Guidelines requirements:** **a. MRO certification documentation.** **b. Assurance of independence from any HHS-certified laboratory or Instrumental Initial Testing Facility (IITF) that tests the agency's specimens.** **c. Records of training on Mandatory Guidelines revisions prior to their effective date.** **d. Five-year MRO requalification training documentation.** **e. MRO provides semiannual reports to HHS or designated HHS representative (i.e., NLCP).** **f. Assurance that the MRO reports drug test results to [Agency] as stipulated in the Mandatory Guidelines.** **g. Before allowing MRO to report results electronically, require MRO to send documentation to [Agency] that demonstrates that test results reported electronically ensure confidentiality, integrity, and availability**

Paragraph/ Page	Revision
	of the data and limit access to any data transmission, storage, and retrieval system. **6**. In coordination with the EAP Administrator, publicize and disseminate drug program educational materials, and oversee training and education sessions regarding drug use and rehabilitation. **7.** Coordinate all DPC duties in field offices wherever possible to conserve resources and to efficiently and speedily accomplish reliable and accurate testing objectives. **8.** Liaise with the HHS/SAMHSA/CSAP/Division of Workplace Programs to maintain currency of drug program policy and practice and provide Annual Summary Report (ASR) data.
E. Medical Review Officer **Pages 12 & 13**	[Each] **The** [Agency/Department or other appropriate unit] shall have a**n MRO or an MRO service provider** [assigned to carry out the purposes of this Order plan]. The MRO shall, among other duties: **1. Provide the DPC with documentation of:** **a. MRO certification.** **b. Assurance of MRO independence from any HHS-certified laboratory or IITF that tests the agency's specimens.** **c. Records of training on Mandatory Guidelines revisions prior to their effective date.** **d. Five-year MRO requalification training.** **2. Provide semiannual reports to HHS or designated HHS representative (i.e., NLCP) according to the Mandatory Guidelines.** **3. Receive all laboratory test results.** **4. Report test results as stipulated in the Mandatory Guidelines and provide documentation to [Agency] that demonstrates that test results reported electronically ensure confidentiality, integrity, and availability of the data and limit access to any data transmission, storage, and retrieval system.** [1. Receive all laboratory tests results.] 2. **5**. Assure that an individual who has tested positive has been afforded an opportunity to discuss the test result in accordance with Section XIII(D) of this plan. 3.**6**. Consistent with confidentiality requirements, refer written determinations regarding all verified positive test results to the appropriate official, including a positive drug test result form indicating that the positive result has been verified, together with all relevant documentation and a summary of findings. 4.**7**. Confirm with the appropriate personnel official whether an individual who has been tentatively selected for employment with the [Agency/Department] has obtained a verified positive test result. 5. **8**. Coordinate with and report to the [Agency/Department] [head] as requested on **all of the MRO's** activities and findings [on a regular basis].

Paragraph/ Page	Revision
	6. **9**. Coordinate all MROs in field offices wherever possible to conserve resources and to efficiently and speedily accomplish reliable and accurate testing objectives.
Section VII. Notice	
A. General Notice **Pages 14 & 15**	8. … or **in** a court of law or administrative tribunal [in any adverse personnel action] **consistent with applicable law.**
C. Signed Acknowledgement **Page 15**	Each employee in a **TDP** [Testing Designated Position] shall be… An employee's failure to sign the notice shall not preclude testing that employee, or otherwise affect the implementation of this [order] **plan. [**since the general 60-day notice, assuming it remains accessible and available for review by employees, will also provides previously have notified notice to all agency employees of the requirement to be drug-free.]
Section VIII: Finding of Drug Use and Disciplinary Consequences	
Section IX: Random Testing	
B. Determining TDPs **Pages 19 & 20**	4. Specifically Disfavored **TDPs** [Testing Designated Positions] – …will be required to be submitted to the ICG**EC** [Executive Committee] for… …The concurrence of [Agency/Department] [general] **agency legal** counsel and of the [Interagency Coordinating Group Executive Committee] **Division of Workplace Programs** will be sought for all new TDPs and TDP list revisions.
Section XIII: Test Procedures in General	
A. Mandatory Guidelines for Federal Workplace Drug Testing Programs Paragraphs 1-5 **Pages 24 & 25**	A. Mandatory Guidelines for Federal Workplace Drug Testing Programs Paragraph 1: … [82 FR 7920]. **The guidelines were updated again, with an effective date of February 1, 2024 [88 FR 70768], to establish a process whereby HHS will publish the authorized drug testing panel separately from the Mandatory Guidelines, along with other updates.** Paragraphs 2 &3: … [84 FR 57554] **with an effective date of January 2, 2020. These guidelines were subsequently revised, effective on October 10, 2023 [88 FR 70814], to establish a process whereby HHS will publish the authorized drug testing panel separately from the Mandatory Guidelines, along with other updates.** **The Mandatory Guidelines for Federal Workplace Drug Testing Programs – Authorized Testing Panels were published in the Federal Register on January 16, 2025 [90 FR 4662] with an effective date of July 7, 2025, and stipulate the panel of Schedule I and II drugs and biomarkers authorized for testing in federal workplace drug testing programs.** Paragraph 4: …or both in their testing programs. HHS continues to monitor the evolving forensic science of drug testing and **to** consider the use of alternative specimens**.** [in consultation with its Drug Testing Advisory Board and with the review and comment of the public, the scientific community, the drug testing industry, and other federal agencies. The Department] **HHS** may… Paragraph 5: …using Urine**,** [and] the Mandatory Guidelines for Federal Workplace Drug Testing Programs using Oral Fluid, **and the Mandatory Guidelines for Federal Workplace Programs – Authorized Testing Panels** promulgated by HHS.
B. Privacy Assurance	1. Urine Collection … personnel of the same **sex** [gender] as the…

Paragraph/ Page	Revision
Pages 25	2. Oral Fluid Collection … The collector is not required to be the same **sex** [gender] as the donor.
F. Savings Clause **Page 26 & 27**	To the extent that any…**and the Mandatory Guidelines for Federal Workplace Programs –Authorized Testing Panels**…
Section XIV: Records and Reports	
B. Employee **or Applicant** Access to Records **Page 28**	B. Employee **or Applicant** Access to Records Any employee **or federal applicant** who is the subject of a drug test shall, upon written request, have access to any records relating to: 1. Such employee **or applicant's** drug test. 2. The results of any relevant certification, review, or revocation-of-certification proceedings, as referred to in Section 503(a)(1)(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.]
Appendix B	
Public Law 100-71, Section 501-3	Replaced original Public Law 100-71, Section 503, with reformatted Public Law 100-71, Section 503. Content remains the same.