

Marketing and Regulatory Programs
DRUG FREE WORKPLACE PROGRAM HANDBOOK
MRP 4792.1

Animal and Plant Health Inspection Service (APHIS)

Agricultural Marketing Service (AMS)

APRIL 2001

TABLE OF CONTENTS

I. What is the purpose of the MRP Drug Free Workplace Program?	1
II. What is MRP policy on drug testing?	1
III. Who is subject to testing?	2
IV. What are the responsibilities of MRP management and employees under the MRP Drug Free Workplace Program?	4
V. Who must be tested?	7
VI. What are the procedures for drug testing?	13
VII. Is the testing and reporting confidential?	14
VIII. What personnel actions is an employee subject to if the test results are positive for drugs or if the employee refuses to submit to drug testing?	15
IX. What resources are available to supervisors and employees?	16
X. How is the agency billed for drug testing?	18
XI. If I have more questions on the MRP Drug Testing Program, whom can I contact?	18
APPENDIX A Definitions	19
APPENDIX B Position Titles Designated for Random Testing	21
APPENDIX C Random Drug Testing Procedures for Supervisors and Employees	26

I. What is the purpose of the MRP Drug Free Workplace Program?

The MRP has a responsibility to provide a safe and secure environment for employees. To ensure that such an environment exists, MRP is implementing a drug free workplace program which prohibits possession or use of illegal drugs and alcohol in the workplace. MRP will identify illegal drug and alcohol use through drug testing on a carefully controlled and monitored basis.

MRP is committed to providing a safe, efficient, and productive work environment for all employees. Using or being under the influence of drugs or alcohol on the job may pose serious safety and health risks. To help ensure a safe and healthful working environment, job applicants and employees may be asked to provide a collection sample (such as urine and/or blood) to determine the illicit or illegal use of drugs and alcohol. Refusal to submit to drug testing may result in denial of employment for job applicants or disciplinary action, up to and including termination of employment for employees.

The purpose of this Handbook is to provide the policies and procedures to implement the MRP drug free workplace program. The Handbook only contains policies and procedures for employees located within the United States and its territories. International employees are exempt until drug collection sites have been established.

II. What is MRP policy on drug testing?

A. It is MRP policy to provide a drug-free, healthful, and safe workplace. To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner.

B. While on MRP premises and while conducting business-related activities off MRP premises (including leased property and government vehicles), no employee may use, possess, distribute, sell, or be under the influence of alcohol or illegal drugs. The legal use of prescribed drugs is permitted on the job only if it does not impair an employee's ability to perform the essential functions of the job effectively and in a safe manner that does not endanger other individuals in the workplace.

C. Violations of this policy may lead to disciplinary action, up to and including immediate termination of employment, and/or required participation in a substance abuse rehabilitation or treatment program. Such violations may also have legal consequences.

D. Employees with drug or alcohol problems that have not resulted in, and are not the immediate subject of, disciplinary action may request approval to take time off to participate in a rehabilitation or treatment program through their health insurance benefit coverage. Annual and sick leave or leave without pay (LWOP) may be granted if the employee agrees to abstain from use of the problem substance; if the employee abides by all MRP policies, rules, and prohibitions relating to conduct in the workplace; and if granting the leave will not cause MRP any undue hardship.

E. MRP employees will be tested for the presence of marijuana, cocaine, opiates, amphetamines, and phencyclidines (PCP). Employees being tested for reasonable suspicion of using one drug can be tested for additional illegal drugs in their system.

F. MRP will provide supervisory training and employee education on illegal drugs and the impact on the work environment.

III. Who is subject to testing?

On September 15, 1986, the President signed Executive Order (EO) 12564, Drug-Free Federal Workplace, establishing the goal of a drug-free workplace in the federal government. The EO made it a condition of employment for all federal employees to refrain from using illegal drugs on or off-duty, and required all federal agencies to implement a drug-free workplace program.

The EO recognized that illegal drug use is seriously impairing a portion of the national workforce, resulting in the loss of billions of dollars each year. As the largest employer in the nation, the federal government has a compelling proprietary interest in establishing reasonable and necessary conditions of employment. Prohibiting employee drug use and possession of illegal drugs is one such condition.

The Secretary of Agriculture on October 10, 1986, expressed the support of the United States Department of Agriculture (USDA) for a Drug-Free Federal Workplace. USDA is concerned with the well-being of its employees, the successful accomplishment of agency missions, and the need to maintain employee productivity. The intent of the policy is to offer a helping hand to those who need it, while sending a clear message that any illegal drug use is, quite simply, incompatible with Federal service.

On July 11, 1987, legislation was signed implementing the EO under Section 503 of the Supplemental Appropriations Act of 1987, P.L. 100-71, 101 Stat. 391, 468-471, codified at 5 U.S.C. Section 7301 (referred to as the "Act"). The Act established uniformity among federal agency drug testing plans creating reliable and accurate drug testing programs ensuring confidentiality of drug testing results, and centralized oversight of the federal government's drug testing program. Employees were also given the right to have access to their drug testing records.

This plan includes the Department of Transportation (DOT) requirements for employees with commercial drivers licenses (CDL). DOT guidelines require all drivers with a CDL to be periodically tested for alcohol and drug use.

Employees who are in Designated Testing Positions, as identified in Table 1, will receive an individual notice informing them of the Drug Free Workplace Program and its requirements.

Table 1**MRP Drug Free Workplace Program****Drug Testing Job Series**

Title	Series	Subject to Applicant Testing	APHIS	AMS
Administrator			x	x
Aircraft Mechanic	GS-1670 WG-8853	x	x	
Aircraft Operator	AD-404 GS-486 GS-2181 GM-2150	x	x	
Boat Operator	WG-5723	x	x	
Criminal Investigator	GS-1811	x	x	x
Drug Free Workplace Program Personnel	All		x	
Employees authorized to carry firearms	All	x	x	
Employees with Top Secret Security clearances	All		x	x
Veterinary Services - FADDL bio-containment laboratories	All	x	x	
Health Technician	All	x	x	
Motor Vehicle Operator	WG-5703	x	x	x
Nurse, Nursing Assistant, Practical (Vocational) Nurse	GS-610 GS-621 GS-620	x		
Personnel with access to controlled substances	All	x	x	
Presidential appointees	All		x	x
Special sensitive positions	All		x	
Commercial Drivers License	All	x	x	x

IV. What are the responsibilities of MRP management and employees under the MRP Drug Free Workplace Program?

A. APHIS Administrator must:

(1) Designate in writing to the Director, USDA Safety, Health and Employee Welfare Division (SHEWD), an MRP Drug Testing Liaison.

B. AMS and APHIS Administrators must:

(1) Ensure that a drug free workplace program is established and implemented in their respective Agencies.

(2) Ensure that an EAP Coordinator is appointed in APHIS and AMS, and that EAP is implemented within their agency in accordance with this plan and other applicable laws, regulations and guidelines.

(3) Make recommendations for additional job series to be included for applicant testing (if any) within MRP to the Assistant Secretary for Administration.

(4) Make recommendations to the Director, USDA, SHEWD, for exemption of positions from drug testing on the basis of hardship due to remote location, unavailability of on site testing, or the lack of an appropriate site for the test to be administered

C. AMS and APHIS Deputy Administrators must:

(1) Ensure that supervisory training and employee education, on drug testing and illegal drug usage, is delivered within their program units or divisions.

(2) Ensure that each program unit or division establishes a Drug Testing Contact (DTC) who is responsible for entering the drug testing requests, tracking and following up on the requests. Entering a request takes only a few minutes and is done electronically by accessing the contractor's internet web site.

D. MRP Agency Personnel Officer must make determinations of reasonable suspicion and post accident testing based on facts and circumstances that have been documented. This authority can only be re-delegated one level below the MRP HR Director.

E. MRP Drug Testing Liaison (DTL) will:

(1) Coordinate the drug testing requests (new applicant, random, reasonable suspicion, post accident and follow-up), with the selected USDA contractor and ensure that all notices are delivered to employees subject to random testing.

- (2) Provide support to the Agency Heads.
- (3) Forward notification of verified positive test results to the Employee Relations Staff.
- (4) Establish a user ID and password for the DTC to schedule drug testing requests. The DTL will ensure that the DTC has a copy of the contractor access manual and basic instructions to access the system.
- (5) Ensure that employees in the Designated Testing Positions receive a 30-day notification of drug testing requirements.

F. Employee Relations Specialists (ERS) will:

- (1) After receiving notification from the DTL, inform and consult with supervisors and management on appropriate disciplinary actions on employees who have been identified with positive drug test results or employees who have refused to submit to testing.
- (2) Initiate the appropriate disciplinary action as identified in Section VIII of this Manual.
- (3) Inform the DTL, in writing, of the disciplinary actions taken for employees who have been identified with positive drug test results.

G. Human Resources Staff will:

1. Provide training for supervisors/managers covering drug and alcohol use and abuse.
2. Provide employees who are applying for top secret security clearance the Drug Testing Notification Form (Table 2) which verifies the employee is aware of the drug testing requirements once top secret security clearance is obtained.

H. Employee Assistance Program (EAP) Coordinators will:

- (1) Implement the EAP within the agencies, ensuring that EAP services are available to all employees, and assuring that supervisors and employees know how to access the program.
- (2) Serve as liaison with the USDA EAP Coordinator to provide educational materials and training on illegal drugs to managers, supervisors and employees.
- (3) Coordinate with supervisors, ERS, and union representatives on drug testing issues and EAP services that are available to employees with problems that may be related to illegal drug use.

Table 2

MRP Drug Free Workplace Program

Drug Testing Notification Form

On September 15, 1986, President Ronald Reagan signed Executive Order (EO) 12564, Drug-Free Federal Workplace, establishing the goal of a drug-free workplace in the federal government. The EO made it a condition of employment for all federal employees to refrain from using illegal drugs on or off-duty, and required all federal agencies to implement a drug-free workplace program.

On October 10, 1986, the Secretary of Agriculture endorsed EO 12564 for a Drug-Free Federal Workplace. The United States Department of Agriculture (USDA) is concerned with the well-being of its employees; the successful accomplishment of agency missions; and the need to maintain employee productivity. The intent of the policy is to offer a helping hand to those who need it, while sending a clear message that illegal drug use is not acceptable.

The USDA Drug-Free Workplace Program includes random drug testing for employees whose positions are characterized by critical safety or security responsibilities as related to the mission of USDA. Furthermore, job functions associated with these positions that directly and immediately affect public health and safety, the protection of life and property, and law enforcement or national security require a drug-free environment.

All employees that occupy positions requiring a top secret security clearance are subject to random drug testing. Your signature acknowledges that you have received notification and understand you will now be subject to random drug testing conducted by USDA.

Full Name (printed)

Signature

Date

Return this form to:

Denise Coleman, Drug Testing Liaison
USDA/MRP/ASEU/SHES
4700 River Road, Unit 124
Riverdale, MD 20737

I. Supervisors must:

- (1) Ensure that new applicants in applicable drug testing series have testing conducted as soon as a position is offered with MRP.
- (2) Assure that employees have knowledge of EAP services and the toll free number.
- (3) Refer employees to the EAP for counseling and rehabilitation when an employee's test results are reported positive.
- (4) Initiate procedures for reasonable suspicion or post-accident testing.

J. Employees must:

- (1) Submit to drug testing as required.
- (2) Participate in employee education when offered.
- (3) Use the EAP services for counseling and rehabilitation referral for illegal drug use and alcohol abuse, if desired.

V. Who must be tested?

The MRP Drug Free Workplace program consists of several components of drug testing: (1) applicant testing; (2) random testing of employees in designated positions; (3) reasonable suspicion testing; (4) post-accident testing; (5) voluntary testing, and (6) follow-up.

A. Applicant Testing

The MRP, in collaboration with the USDA, determined that certain positions with MRP are either safety or security sensitive positions. This means that if an employee who occupies a safety or security sensitive position used an illegal drug, the employee could jeopardize the safety or security of the employee, co-workers and the Agency. [Table 1](#) identifies the title, job series and agency with positions in these categories, and if the positions require applicant testing.

Applicant testing can only be conducted when a job applicant has been offered a position with MRP. This is done to screen out potential drug problems before they enter the workplace. After an applicant has accepted the position and drug testing has occurred with negative results (no drug use detected), the applicant can be placed in the safety or security sensitive position.

B. Random Drug Testing

The USDA, as a part of its Drug-Free (DF) Workplace plan, set a goal to randomly test 10% of USDA employees in the designated positions, every year. The USDA DF Coordinator randomly selects employees from all USDA agencies quarterly to be tested. The information is distributed to the DTL, who coordinates the testing with supervisors.

Employees are a part of the random drug testing program if the position they occupy is identified in Table 1. Based on a 1989 court decision (National Treasury Employees Union, vs, Richard Lyng, Secretary of Agriculture, U.S. District Court #88-2515, 88-2668), PPQ officers in the 0436 series are exempt from random testing unless they occupy a position that requires a top secret security clearance.

MRP supervisors do not have the authority to request an employee to submit to random drug testing.

C. Reasonable Suspicion

The EO states that the determination for illegal drug use testing can be made on the “basis of any appropriate evidence, including direct observation, criminal conviction, administrative inquiry or the results of an authorized testing program.” Reasonable suspicion must be clearly documented before an employee can be tested. Written and factual evidence to support reasonable suspicion testing must be obtained, and before testing can occur the MRP Human Resources Director must authorize testing. To ensure the safety of employees Table 3 provides a checklist for supervisors and Employee Relations Staff to utilize when an employee has been referred for reasonable suspicion.

D. Post - Accident Testing

The National Institute of Drug Abuse has found that users of illegal drugs have a higher incidence of accidents and injuries on the job. Therefore, the EO requires that accidents resulting in death or personal injury, or results in damage to property in excess of \$10,000 must be investigated. Additionally, the Federal Property Management Regulations state that all vehicle accidents must be investigated. Supervisors may obtain assistance for accident investigations from the MRP Safety, Health, Environmental and Security Team.

If during an accident investigation, the supervisor determines that an employee has been negligent and at fault, causing injury, death or property or equipment damage in excess of \$10,000, the supervisor will request that the employee be tested for illegal drug use.

The supervisor must submit all documentation to the Employee Relations Staff, who will forward it to the Personnel Officer to make a determination. Table 4 provides a checklist for supervisors to use when investigating an accident.

It is imperative that the post accident test be conducted within 32 hours, as some drugs only stay in the body for a limited time. If the employee is hospitalized, the contractor can contact the hospital and obtain collection.

E. Follow - up

Follow up testing is conducted on employees who have positive drug test results and have completed counseling/rehabilitation. Employees are subject to unannounced testing for 2 years, for no more than 3 drug screens during that time. If the employee at any time tests positive for drug use, the employee is subject to further disciplinary action, including removal from service.

Table 3

**MRP Drug Free Workplace Program
Reasonable Suspicion Checklist**

- Pro-cause indicators ¹ (specific instances and behavior must be well documented):
 - Excessive unscheduled absenteeism
 - Frequent absences on Monday, Fridays and the days after pay day
 - Frequent accidents
 - Observance of drug paraphernalia or suspected contraband at an employee's work station
 - Erratic behavior
 - Declining performance
 - Evidence obtained from an arrest or criminal conviction²
 - Employee's voluntary admission
 - Current use on the job³

- Written documentation that substantiates the need for drug testing has been completed and reviewed by the designated MRP Agency Personnel Officer or the delegated authority.
 - Documentation for any of the pro-cause indicators

 - Witness statements confirming use. Witnesses should also be able to state their reason for being in the location where drug use/alcohol use was observed.

- A written statement has been prepared to go to the employee explaining the reason that the testing is being requested.
 - A list of the specific drugs for which the employee is to be tested is attached to the written document given to the employee.

 - If a bargaining unit employee, the Union has been notified and will be present when employee is given written notification of a drug testing request.

- The Drug Testing Liaison (DTL) has been contacted to request drug testing. The DTL must have the following information to submit the request:
 - Employee Name
 - Social Security Number
 - City, State and Zip Code
 - Requester's name and phone number

¹ Mark A de Bernardo, Drug Testing in the Workplace; Institute for a Drug-Free Workplace, 1992.

² USDA Drug Free Work Plan, 1996

³ Mark A. De Bernardo, Drug and Alcohol Abuse Prevention and the ADA, An Employer's Guide; Institute for a Drug-Free Workplace; 1992.

MRP Drug Free Workplace Program

Personnel Officer Certification Reasonable Suspicion

This is to certify that I have reviewed the documentation on _____
submitted from _____, supervisor, and
_____ Employee Relations Specialist.

Based upon the review, I have determined that _____

Should _____

Should not _____

submit to drug testing for reasonable suspicion.

The employee must be notified of testing within 2 days of signature of this form.

MRP Personnel Director

Date

**MRP Drug Free Workplace Program
Post Accident Checklist**

_____ was involved in an accident on _____, at _____.

1. The accident resulted in:

- _____ employees and/or _____ private citizens being hospitalized.
- Death of _____ employees and/or _____ private citizens.
- Property damage (government and/or private) exceeding \$10,000.

2. Attached with this statement are the following documents:

- A copy of the police report, determining fault with the employee.
- A detailed report which identifies:
 - Date and time of accident
 - Location of the accident
 - An explanation as to how the accident occurred
 - Any persons involved
 - The extent of injuries and if anyone was hospitalized
 - The location and approximate amount of damage
 - The names and addresses of witnesses
 - Action taken

I certify that the information contained in this report is factual and true. Based on the findings of the accident investigation, I am recommending that _____ be tested for illegal drugs and/or alcohol.

Supervisor Signature

Date

Supervisor Title

Telephone Number

**MRP Drug Free Workplace Program
Personnel Officer Certification Post-Accident**

This is to certify that I have reviewed the documentation on _____
submitted from _____, supervisor, and
_____ Employee Relations Staff.

Based upon the review, I have determined that _____

Should _____

Should not _____

submit to post accident drug testing.

The employee must be notified of testing within 2 days of signature of this form.

MRP Personnel Director

Date

VI. What are the procedures for drug testing?

A. New Applicant Drug Testing

- (1) Supervisors/managers must contact the DTC after selecting an applicant who is in the designated series for drug testing. New applicants in the designated series must be drug tested before reporting to duty. The supervisor/manager must provide the DTC with the Applicant's first and last name; Social Security Number; home phone number and city, state and zip code.
- (2) The DTC will enter the request within 24 hours of receiving the information from the supervisor/manager into the contractor's web site to request drug testing. Once a request has been entered, it can be tracked through the reports section in the web-site.
- (3) When notifying the applicant, the DTC should advise the applicant of the right and opportunity to submit medical documentation that may support a legitimate use of a specified drug. Such information will be reviewed only by the contracted Medical Review Officer to determine the presence of illegal drugs.
- (4) The applicant should report to the collection site within 48 hours of being notified of employment. If an applicant fails to appear or refuses testing, he/she will not be extended an offer of employment. Attempts to alter or substitute the specimen are deemed a refusal to test.
- (5) The USDA DF Coordinator will contact the DTC with the applicant's test results. A final offer of employment will not be extended to any applicant with a positive result and the applicant may not reapply for any MRP position for 6 months.

B. Random Drug Testing

Each quarter, the USDA DF Coordinator will contact the DTL with a list of the employees selected for random drug testing. The USDA DF Coordinator compiles a random list representing 10% of all USDA employees eligible for drug testing. Each agency is then provided a specific list detailing the employees from their respective agency who were selected for the random drug test. Once the DTL receives the list, he/she will:

- (1) Verify the list, ensuring that all applicants are within the designated series and not located internationally.
- (2) Select a clinic for the employees to report for testing from the contractor's web site.
- (3) Send out notifications to supervisor/ managers that employees have been selected for random drug testing, with the clinic location and phone number, with a deadline for testing to be completed.
- (4) Work with the contractor to establish clinics within a 50 mile radius of all employees to be tested or closer when requested by supervisors/managers.

(5) Notify the USDA DF Coordinator of all employees deferred for testing and the reason for the deferment.

C. Reasonable Suspicion Drug Testing

If a supervisor or manager has reasonable suspicion that an employee is using alcohol or illegal drugs in the workplace, the supervisor must complete the Reasonable Suspicion Checklist (Table 3), working with the Employee Relations Staff. Testing must be approved by the Personnel Officer before an employee is notified to submit to testing.

D. Post Accident Drug Testing

If a supervisor or manager determines through an accident investigation that an employee is at fault and caused injury, death or property damage over \$10,000, the supervisor must complete the Post Accident Checklist (Table 4) and submit it to the Employee Relations Staff. Testing must be approved by the Personnel Officer before an employee is notified and submits to drug testing.

E. Volunteer Drug Testing

(1) Volunteers who wish to be tested must contact their supervisor/manager and request the drug test.

(2) Supervisors/managers must contact the DTC after a volunteer has requested the drug testing and provide the DTC with the volunteer's first and last name; Social Security Number; home phone number and city, state and zip code.

(3) The DTC will enter the request within 24 hours of receiving the information from the supervisor/manager into the contractor's web site to request drug testing. Once a request has been entered, it can be tracked through the reports section in the web-site.

(4) The USDA DF Coordinator will contact the DTC with the volunteer's test results.

VII. Is the testing and reporting confidential?

A. All test results and counseling are protected under the provisions of the Privacy Act. This means that any samples, records, and counseling are considered confidential information and cannot be released to MRP personnel. However, the contracted Medical Review Officer will inform the USDA DF Coordinator of the results of all drug tests, and for positive results will submit a copy of the clinic report.

B. To ensure the integrity of the collection process, employees will be asked to leave all personal items with the attendant prior to collection. Employees will be observed only when facts and circumstances suggest that the employee has equipment or implements capable of tampering with or altering the urine sample, or the individual has previously tampered with a sample. In all cases of observation, the collection site personnel must be of the same gender as the individual providing the sample. See Appendix C for detailed procedures for the supervisor and employee.

C. All records and information on employees with positive test results will be maintained by the Employee Relation Staff as confidential records, and will be kept in a locked and secure area with access only by authorized staff. Records must be disposed of in accordance with the Record Management guidelines .

VIII. What personnel actions is an employee subject to if the test results are positive for drugs or if the employee refuses to submit to drug testing?

A. According to the EO, employees should be referred to EAP for counseling and/or referral for rehabilitation. Employees who are found to be using illegal drugs and are referred to EAP, but do not obtain counseling or rehabilitation, and do not refrain from using illegal drugs can be removed from Federal service.

B. Disciplinary action will be initiated against any employee found to use illegal drugs or refusing to submit to drug testing, with the exception of voluntary admissions. Disciplinary action will depend on the circumstances of each case, but will be consistent with the Executive Order and the Civil Service Reform Act of 1978. Disciplinary action includes:

- (1) Reprimanding the employee in writing,
- (2) Placing the employee in enforced leave status,
- (3) Suspending the employee without pay,
- (4) Suspending the employee without pay until the employee successfully completes rehabilitation, or until it is determined that action other than suspension is more appropriate;
- (5) Reducing the employee's grade or rate of pay,
- (6) Reassigning the employee to another position if the employee is not performing essential duties of the current position.
- (7) Removal from service. Employees can be removed from Federal service if they:
 - (a) Refuse to obtain counseling or rehabilitation,
 - (b) Continue to use illegal drugs after the first finding of illegal drug use,
 - (c) Refuse required testing,
 - (d) Attempt to alter or substitute specimens during collection, or
 - (e) Distribute or sell illegal drugs.

C. An employee who occupies a sensitive position may not be allowed to remain on duty until they successfully complete counseling or rehabilitation.

- (1) Employees may be detailed to another position or may use annual or sick leave or LWOP.

(2) Employees can be allowed to return to work in sensitive position if it will not endanger public health or safety or national security. A written determination must be placed in the employee's personnel file clearly indicating the reason for returning to the position. Only the individuals identified in the table below have the authority to approve returning to work in a sensitive/top secret security position.

Re-appointment Authority	Positions
Secretary of Agriculture	Presidential appointees
Assistant Secretary for Administration	Senior Executives
USDA Director, Office of Human Resources Management	Schedule C employees and GS/GM/14 and above
Agency Head (cannot be re-delegated)	All other positions

IX. What resources are available to supervisors and employees?

A. Employee Assistance Program (EAP)

MRP cares about the health and well-being of its employees and recognizes that a variety of personal problems can disrupt their personal and work lives. While many employees solve their problems either on their own or with the help of family and friends, sometimes employees need professional assistance and advice.

Through the Employee Assistance Program (EAP), MRP provides confidential access to professional counseling services for help in confronting such personal problems as alcohol and other substance abuse, marital and family difficulties, financial or legal troubles, and emotional distress. The EAP is available to all employees and their immediate family members offering problem assessment, short-term counseling, and referral to appropriate community and private services.

The EAP is strictly confidential and is designed to safeguard employees' privacy and rights. Personal information concerning employee participation in the EAP is maintained in a confidential manner. No information related to an employee's participation in the program is entered into the personnel file. Information given to the EAP counselor may be released only if requested by the employee in writing.

There is no cost for employees to consult with an EAP counselor. If further counseling is necessary, the EAP counselor will outline community and private services available. The counselor will also let employees know whether any costs associated with private services may be covered by their health insurance plan. Costs that are not covered are the responsibility of the employee.

Supervisors may grant employees 1 hour of administrative leave during the initial assessment and referral phase of counseling, which cannot exceed 6 visits and 12 hours of administrative leave. The supervisor can use his/her discretion to allow employees an additional hour of travel time (½ hour to and from the counseling session).

B. Supervisory Training

(1) Supervisory training is required within 2 years of implementation of this program. Supervisors must be provided with information about drug and alcohol use and abuse, EAP and how to recognize and address illegal drug use. The training can be conducted by EAP and/or Human Resources Staff and must include the following areas:

(a) EAP

- (1) Prevalence of various problems with respect to alcohol and drugs.
- (2) How to recognize employees with possible problems.
- (3) The roles of medical staff, supervisors, and EAP.
- (4) Reintegration of employees into the workforce.
- (5) Written materials that can be used at the work site.
- (6) EAP pamphlets and wallet cards.

(b) Human Resources Staff

- (1) How to document employee performance behavior.
- (2) How to approach the problems and the employee.
- (3) How to initiate disciplinary action.
- (4) How to arrange for details from sensitive positions.

C. Employee Education

(1) The DTCs are responsible for providing employee education within the program unit, at least quarterly, to employees subject to drug testing. To the greatest extent possible employee education should be made available to all employees, as they are subject to post-accident testing and reasonable suspicion. The DTC should contact the DTL for assistance and can schedule training sessions through the EAP. The employee education should cover:

- (a) Types and effects of drugs,
- (b) Symptoms of drug use and the effects on performance and conduct,
- (c) Relationship of EAP to the drug testing program, and
- (d) Treatment, rehabilitation and confidentiality issues.

(2) The employee education can be conducted in several ways. Approved training methods are:

- (a) Lunch time employee forums,
- (b) Employee Drug Awareness Days,
- (c) Videotapes,
- (d) Distribution of written materials, and
- (e) Formal training sessions.

X. How is the agency billed for drug testing?

USDA has an interagency agreement with the Department of Interior, to “ride” on the established contract with PharmChem, a private corporation that provides drug testing collection sites, analysis of findings and reports.

PharmChem bills, to USDA for collection kits and analysis, are charged back to the USDA agencies. The collection kits mailed from PharmChem have a chain of custody form and billing instructions. Clinics should not be charging the employee or the program units/divisions for drug testing.

- (1) The DTL must provide the USDA DF Coordinator the accounting codes for the programs that have employees in the drug testing program.
- (2) The USDA DF Coordinator will send the DTL a report of the amount charged to the accounting codes.
- (3) The DTL will provide copies of the bills to AMS Deputy Administrator and APHIS Budget and Accounting Service Enhancement so the charges can be tracked and accounting codes can be properly adjusted for the charges.

XI. If I have more questions on the MRP Drug Testing Program, whom can I contact?

Questions concerning this policy or its administration should be directed to the Drug Testing Liaison on (301) 734-8350.

Deputy Administrator
MRP Business Services

APPENDIX A

DEFINITIONS

Agency Personnel Officer. The Director of Human Resources Services Enhancement Unit (HRSEU), in the Marketing Regulatory Programs, Business Services. The Director, HRSEU, can re-delegate his/her authority one level below to a Personnel Officer.

Applicant. Any individual tentatively selected for employment with MRP in a Testing Designated Position or any individual within MRP tentatively selected for movement into a Testing Designated Position who has not, immediately prior to the selection, been subject to random testing.

Drug Testing Liaison (DTL). The person appointed to provide the liaison to the USDA DF Coordinator, with Agency Heads, and the supervisors, and employees of their agencies on the Drug-Free Workplace Program.

Drug Testing Contact. An employee who is responsible for entering new applicant drug testing requests, tracking and following up on the requests by using the established secure web-site, and for ensuring that employees in the required job series are trained on the drug free workplace requirements.

Employee Assistance Program (EAP). The MRP 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.

Employee Assistance Program Coordinator. The individual designated in MRP to be responsible for implementing and operating the EAP within their agency.

Illegal Drug. A controlled substance 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, unless possessed or used pursuant to a valid prescription or other lawful means.

Medical Review Officer (MRO). A licensed physician with appropriate medical training in substance abuse disorders to evaluate and interpret all positive test results received from the drug testing laboratory together with an individual's medical history and any other relevant biomedical information.

Random Testing. A system of drug testing imposed without individualized suspicion that a particular individual is using illegal drugs. Random testing may either be uniform unannounced testing of employees occupying Testing Designated Positions in a specified area, organizational element or position, or may be a statistically random sampling of a percentage of such employees based on a neutral criterion, such as social security numbers.

Sensitive Position. A position:

- (1) Designated as Special-Sensitive, Critical-Sensitive, or Noncritical-Sensitive, or designated as sensitive in accordance with Executive Order No. 10450, as amended;
- (2) In which employees have either been or will be granted access to classified information pursuant to a determination of trustworthiness under Section 4 of Executive Order No. 12356;
- (3) Filled by a Presidential appointment with the advice and consent of the Senate;
- (4) Entailing law enforcement as defined in 5 U.S.C. Section 8331 (20) and 8401 (17); or
- (5) Which the Secretary of Agriculture determines involves law enforcement, national security, the protection of life and property; public health or safety, or other functions requiring a high degree of trust and confidence.

Supervisor . An employee who has the authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove 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.

Testing Designated Position. A position within USDA which has been designated for random testing under Section V of this Plan.

Verified Positive Test Result. A test result that has been screened positive by a Food and Drug Administration approved immunoassay test, confirmed by a Gas Chromatography/Mass Spectrometry assay, (or other confirmatory test approved by the Department of Health and Human Services (HHS), evaluated by the Medical Review Officer and which has been determined to be unjustifiable.

APPENDIX B

POSITION TITLES DESIGNATED FOR RANDOM TESTING

Agency Heads (Not subject to applicant testing)

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

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

Aircraft Mechanic (GS-1670, WG-8852 or any other occupational series in which the incumbent may perform the duties described below) (Subject to applicant testing)

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

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

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

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

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

Boat Operator (WG-5723 or any other occupational series in which the incumbent may perform the duties described below) (Subject to applicant testing)

Incumbents are required to operate vessels which average approximately 30 feet in length. The vessels are used to move people, supplies and equipment including high level state and Federal officials. Vehicles must be operated in a safe manner in order not to endanger lives or to risk loss of property.

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

Criminal Investigator (GS-1811) (Subject to applicant testing)

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

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

Drug usage could result in loss of life or injury and improper adjudication of criminal or administrative actions. For example, if criminal investigators fail to obtain key data, ascertain witness veracity, follow legal procedures, or execute rules of evidence properly, sensitive and costly investigations could be compromised. Additionally, improper or unauthorized use of weapons could result in a loss of life. The high level of personal integrity required of criminal investigators is inconsistent with the use of illegal drugs.

Drug-Free Workplace Program Personnel (Not subject to applicant testing)

Incumbents who hold the positions of Employee Assistance Program Manager and Agency Drug Testing Liaison are directly involved in the administration and day-to-day operation of the Drug-Free Workplace Program. As such they are in positions having access to sensitive employee and drug testing program information.

Drug usage by the incumbents could result in incorrect decisions, embarrassment to USDA, or the release of information which could undermine the program. Therefore, the incumbents have a responsibility to demonstrate the absence of use of illegal drugs to maintain the credibility and employee confidence in the program.

Employees authorized to carry firearms (Subject to applicant testing)

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

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

Employees Required to have a Commercial Drivers License (CDL) (Subject to applicant drug testing - not applicant alcohol testing)

As required by the Department of Transportation (DOT) Regulations (49 CFR et al.), all applicants for and employees of positions in which they are required to have a CDL to perform their duties are subject to random alcohol and drug testing. See DOT Regulation 49 CFR et. al. for justification.

Employees stationed at Plum Island Animal Disease Center with special access to the biocontainment laboratories. (Subject to applicant testing)

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

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

Employees with Top Secret Security Clearances (Not subject to applicant testing)

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

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

Motor Vehicle Operator (WG-5703) (Subject to applicant testing)

Incumbents operate motor vehicles such as buses, trucks, passenger vans, and other passenger carrying vehicles as their predominant duty and responsibility. The vehicles are used to move people and equipment including providing chauffeur services to high level officials. Vehicles must be operated in a safe manner to avoid endangering lives of the public or passengers, or risking the loss of property.

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

Other Personnel With Access to Controlled Substances (Not subject to applicant testing)

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

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

Presidential Appointees (Not subject to applicant testing)

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

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

Special-Sensitive Positions (Not subject to applicant testing)

Incumbents of these positions are designated as such under criteria of the Federal Personnel Manual Chapters 731 and 732. Individuals serve in positions of the highest level of sensitivity with the potential for greatest degree of damage to the national security. Most occupants of these positions require access to Top Secret national security information in accordance with E.O. 10450, or access to sensitive compartmented information under authority of Director of Central Intelligence Handbook No. 1/14. These positions also include any ADP-Computer position that meets the above criteria or is determined by the head of a USDA agency to impose a risk in terms of ADP-Computer security above that at the critical-sensitive level.

Incumbents are in positions that have potential for inestimable impact involving duties especially critical to the agency mission. They have broad scope and authority (e.g. overall direction of a major Federal program) or other extremely important responsibilities which affect the overall efficiency of the service.

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

APPENDIX C

MRP Drug Free Workplace Program Random Drug Testing

Checklist for Supervisors

- The names of your employees who have been selected for random drug testing under the Drug Free Workplace Program are provided in Enclosure 3. This information is confidential. This list also contains the name, address, and phone number of the collection site where these employees are to report.
- Prior to sending the employee for collection, contact the collection site and schedule the date and time of the employees collection. Identify yourself and the employee(s) being tested as Department of Agriculture employees and indicate that the supplies for the collection were provided by PHARMCHEM Laboratories, Inc (1-800-563-3053).
- The collection will be performed by a Government contractor, who will ensure the process is properly administered.
- The following procedures should be followed when notifying employee(s) of the collection process:
 - Approximately 2 hours prior to the actual collection, inform the employee verbally, and privately, that he/she has been identified through a random selection process for drug testing urinalysis. Clearly inform the employee as to the time and exact location to report for testing and instruct him/her to take photo identification.
 - Give the employee the attached Checklist for Employees (Enclosure 2). This provides the employee with helpful information about the collection process.
 - Advise employees to be prepared to provide a urine specimen at the scheduled time. If an employee is unable to provide a sufficient quantity of urine, he/she will be given a reasonable period of time to provide a specimen, by the collection site. As a general rule, the employee will be allowed to drink water and allowed until the end of their tour of duty that day (or a reasonable period of time if this is inappropriate) to supply a sample. Failure to do so would be presumed to be a refusal to take the test and a proposal for removal would result, unless satisfactory medical documentation is furnished to support their actions.

- When an employee selected for random tests is unavailable for legitimate reasons (e.g. working different shift, travel leave) you must inform Denise Coleman, the Agency Drug Testing Liaison, on (301) 734-8350. An employee whose random drug test is deferred will be subject to an unannounced test within the following 60 days.
- In no instance will an employee not identified on the official test list, maintained by the DTL during collection, be tested. Do not make any unilateral changes.
- An employee who fails to appear for testing and has not been deferred, will be considered as having refused to participate in testing and will be subject to a proposal for removal from service.
- Immediately report any problems encountered during employee notification to the DTL. Employees who fail to cooperate with the collection procedures will be subject to disciplinary actions consistent with the Department's Plan for a Drug Free Workplace (available on the web at <http://www.usda.gov.da/shmd/dfwp.htm>).
- If you have any questions or concerns, you should share them with the DTL.
- DTL: Denise Coleman
USDA/APHIS/SHES
4700 River Road, Unit 124
Riverdale, MD 20737
301-734-8350
301-734-3271 (FAX)

APPENDIX C

MRP Drug Free Workplace Program Random Drug Testing

Checklist for Employees

You have been identified through a process of random selection for drug testing by urinalysis. Please be assured that your selection and the selection of other employees in your agency for such drug testing in no way reflects that the agency has any specific cause to suspect the usage of illegal drugs. Please take a few minutes to read the following information which describes your role in the collection process.

- Please arrive at the collection site on time.
- Collection site personnel will ask you to verify your social security number and provide a photo ID such as a driver's license or agency badge. Collection site personnel are required to contact USDA for guidance if proper identification is not obtained. You will be asked to verify your social security number and provide your initials/signature at several stages throughout the collection process. These precautions are for your protection and will help ensure that all specimens are labeled correctly.
- Collection site procedures will be explained by a technician. Personnel will also be available to answer questions you might have or they will refer you to the appropriate individual from your agency.
- You will be asked to remove outer garments such as overcoats and suit jackets. You may not take a carrying bag into the collection room, but you may take your wallet with you.
- Your technician will provide you with a sample collection container and instructions.
- You must wash and dry your hands before entering the collection room.
- Unless otherwise directed by the agency, you may provide the specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy. It will be necessary for you to provide a specimen of at least 30 milliliters for the agency sample. If you are unable to provide a sufficient quantity, you will be given a reasonable period of time to provide an adequate specimen. As a general rule, you will be provided water to drink and allowed until the end of your day's tour of duty (or a reasonable period of time if this is inappropriate) to supply a sample. Failure to do so will be presumed to be a refusal to take the test and a proposal for removal will result, unless satisfactory medical documentation is furnished to support the inability to supply the sample.

- Do not flush the toilet at any time while you are in the collection process.
- You will give the collection container to the technician who, after checking the temperature (within four (4) minutes of collection) and general appearance of the sample, will transfer the sample to a sealed shipping bottle. If the temperature reading is found to be outside the acceptable range (90-100 F) you may request that the collector take an oral temperature. The technician will tighten the bottle cap and place the prepared evidence tape over the cap and down the sides of the bottle. You should then initial the seal and the label confirming that it is your sample in the bottle and that the social security number and other information is correct. You must observe this process continuously.
- If the collector has reason to believe that the urine specimen has been altered or substituted he/she will notify a higher level supervisor. Should you tamper, adulterate or in any other manner attempt to alter the specimen, the collector will request authorization from your agency to collect a second specimen under direct observation by a same gender collection site individual. Both specimens will be sent to the laboratory for analysis.
- You may then wash your hands.
- You may elect to have a second sample collected at the same time as the USDA sample and have it submitted by the sample collector to the Department's contract laboratory for storage. The collection site personnel will assist you in this determination.
- Failure to appear for testing without a deferral from your supervisor and the USDA Director Safety Health and Employee Welfare Division, will be considered a refusal to participate in testing, and will result in a proposal for removal from the Federal service. Additionally, failure to cooperate with the collection procedures will result in disciplinary action consistent with the Department's Plan for a Drug Free Workplace. This plan is available on the internet at <http://www.usda.gov.da/shmd/dfwp.htm>.
- If you have any questions or concerns, you should share them with the Drug Testing Liaison (DTL).
- DTL: Denise Coleman
USDA/MRP/SHES
4700 River Road, Unit 124
Riverdale, MD 20737
(301) 734-8350
(301) 734-7828 (FAX)