U.S. DEPARTMENT OF AGRICULTURE
FARM PRODUCTION AND CONSERVATION MISSION AREA
BUSINESS CENTER
WASHINGTON, DC 20250

FPAC NOTICE	NUMBER: FPAC-N 4430-001
SUBJECT: Drug-Free Workplace Program and Drug Testing	DATE: February 7, 2019
APPROVING OFFICIAL: Thomas W. Christensen, Deputy Chief Operating Officer	EXPIRATION DATE: December 31, 2019

1. PURPOSE

This Notice informs all FPAC Mission Area employees of the procedures for drug testing.

2. MESSAGE

U.S. Department of Agriculture, Office of Human Resource Management, "Plan for a Drug Free Workplace," dated April 19, 2011, and U.S. Department of Agriculture Departmental Regulation 4430-792-2, "Drug-Free Workplace Program," dated April 14, 2011, provides the requirements for agency drug testing programs.

a. Definitions

(1) Testing Designated Position (TDP). A TDP is a position that has been determined to meet the requirements for drug testing and is noted on an employee's position description. Currently, FPAC positions are considered TDP if the position requires an employee to carry a firearm; requires an employee to maintain a secret or higher security clearance; is a presidential appointee; is an agency head; is an employee whose job it is to transport personnel in passenger carrying vehicles; is an employee who provides direct medical care or has access to scheduled drugs; is an employee in a special-sensitive position, or is an employee required to maintain a commercial driver's license (CDL). A TDP must be drug tested both at initial appointment and upon movement into the position. The TDP is also subject to random testing. NOTE: Excludes FSA State Executive Directors (SED), except for those with a secret or above security clearance; per FSA specific guidance related to SEDs.

(2) Drug-Free Workplace Program Manager (DFWPM). The USDA DFWPM is responsible for directing, administering and managing the USDA plan. The DFWPM is the USDA primary contact with internal and external organizations on all Drug Free Workplace Program matters and is located in the Employee and Labor Relations Division, Office of Human Resources Management.

(3) Agency Drug Testing Liaison (ADTL). The ADTL is the contact for FPAC. The ADTL is responsible for the coordination of all drug testing activities for FPAC employees and is located in the Employee and Labor Relations Section, Human Resources Division, FPAC-Business Center.

(4) Drugs or Categories of Drugs to be Tested. Each drug test will include testing for the following drugs or categories of drugs:

(a) Marijuana

(b) Cocaine

(c) Opiates

(d) Amphetamines

(e) Phencyclidine (PCP)

(5) Types of Drug Testing. The following six types of drug testing will be conducted at FPAC:

(a) Preemployment or Preassignment (including detail)

(b) Random

(c) Reasonable suspicion

(d) Accident or Unsafe act

(e) Voluntary

(f) Follow up

b. Below is an explanation of the drug testing types and the FPAC procedures for each:

(1) Preappointment, or preassignment (including detail) for TDPs only: Prior to initial appointment, detail or assignment, an applicant/employee must undergo a drug test and that result must be negative prior to beginning the position.

(2) Random Drug Testing for TDPs Only

(a) At the beginning of each quarter, a random list of TDPs is generated by edrugtest.com for drug testing to be completed during the quarter. A 30-day notice identifying the employee's position as a TDP is required for newly classified positions. As of the date of this notice, all current TDPs have received and signed their 30-day notice.

(b) Procedures

1 ADTL notifies the immediate supervisor of the required random drug test and advises supervisor to not discuss with the employee.

2 ADTL asks the supervisor for dates when both the employee and supervisor will be available in the office.

3 ADTL coordinates with the supervisor to choose a designated laboratory based on the employee's work site that is within the local commuting area.

4 ADTL arranges for testing supplies to be shipped to the selected testing site.

5 Once supplies are received at the testing site, ADTL selects a date and contacts the supervisor on that day to verify employee is on duty.

6 If employee is on duty, ADTL sends a letter to the supervisor with attachments to be distributed to the employee. The employee will have 2 hours to complete the test.

7 Employee must sign the letter and return it to ADTL and notify same that test has been completed.

8 If employee is not on duty that day, the supervisor must contact the ADTL as soon as the employee reports for duty.

(3) Reasonable Suspicion Drug Testing for All Employees

(a) Reasonable suspicion drug testing may be required for any FPAC employee. The urine sample is provided under observation by the personnel at the certified drug testing collection facility. TDPs may be tested when there is reasonable suspicion that the employee uses illegal drugs when on or off duty. Alternately, reasonable suspicion drug testing may be required for all employees when there is reasonable suspicion that the employee is illegally using drugs on duty or is impaired on duty.

(b) Testing may be required 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 drug-related offense or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking;

4 Information provided either by reliable and credible sources or independently corroborated; or

5 Newly discovered evidence that the employee has tampered with a previous drug test.

(c) Mere "hunches" are not sufficient to meet this standard.

(d) Procedures

1 Supervisor documents the specific dates and actual observations of employee's conduct, erratic behavior or any other suspicion that would lead a reasonable person to believe that the employee is illegally using drugs.

2 Documentation is provided to ADTL.

3 ADTL prepares request and recommendation to the Chief Human Capital Officer (CHCO) for approval.

4 If CHCO does not approve, no test will be scheduled. If CHCO does approve, then go to step (e).

5 ADTL notifies the immediate supervisor of the reasonable suspicion drug test and advises supervisor to not discuss with the employee.

6 ADTL coordinates with the supervisor to choose a designated laboratory based on the employee's work site that is within the local commuting area.

7 ADTL arranges for testing supplies to be shipped to the selected testing site overnight.

8 Once supplies are received at the testing site, ADTL contacts the supervisor to verify the employee is on duty.

9 If employee is on duty that day, ADTL sends a letter to the supervisor with attachments to be distributed to the employee. The employee will have 2 hours to complete the test.

10 Employee must sign the letter and return it to ADTL and notify same that test has been completed.

11 If employee is not on duty that day, the supervisor contacts the ADTL as soon as the employee reports for duty.

(4) Accident/Unsafe Act Drug Testing for All Employees

(a) All employees may be tested for illegal use of drugs after an accident or unsafe act if it meets either of the following criteria:

1 The accident results in a death or personal injury requiring immediate hospitalization.

2 The accident results in damage to government or private property estimated to be in excess of $10,000.

NOTE: Testing must take place within 32 hours of the accident or unsafe act. If not, the delay must be documented and provided to the FPAC CHCO and DFWPM.

(b) Procedures

1 Supervisor notifies ADTL immediately and provides written documentation of the facts and circumstances surrounding the accident or unsafe act.

2 ADTL prepares request and recommendation to CHCO for approval.

3 If CHCO does not approve no test will be scheduled. If CHCO does approve, then go to step (d).

4 ADTL notifies the immediate supervisor of the approval for the drug test and advise supervisor to not discuss with the employee.

5 ADTL coordinates with the supervisor to choose a designated laboratory based on the employee's work site that is within the local commuting area.

6 ADTL arranges for testing supplies to be shipped to the designated testing site overnight.

7 Once supplies are received at the testing site, ADTL contacts the supervisor to verify the employee is on duty that day.

8 If employee is on duty that day, ADTL sends a letter to the supervisor with attachments to be distributed to the employee. The employee will have 2 hours to complete the test.

9 Employee must sign the letter and return it to ADTL and notify same that test has been completed.

10 If employee is not on duty that day, the supervisor must contact the ADTL as soon as the employee reports for duty.

(5) Voluntary Drug Testing for All Employees

In order to demonstrate commitment to USDA's goal of a drug-free workplace and to set an example for others, employees who are not in TDPs may volunteer for drug testing by notifying the ADTL for unannounced random drug testing and be subject to the same conditions and procedures as other TDPs. These employees will remain in the pool of TDPs until such time that they notify the ADTL, who will notify the DFWPM at the Department at least 48 hours prior to a scheduled test.

(6) Follow up Drug Testing for All Employees

An employee who has been referred for counseling or rehabilitation as a result of having previously been found to be illegally using drugs will be subject to follow up, unannounced testing for at least a 2-year period following the completion of such program. The employee will be tested at least three times. The procedures for random drug testing will be followed.

c. Failure to Appear for Testing – All Employees

Employees who fail to appear for testing without an approved deferral from both the Drug Free Workplace Program Manager and the employee's supervisor are considered to be refusing to participate in testing and are subject to removal from Federal service. Applicants who fail to appear for testing without an approved deferral will have their tentative job offer rescinded.

d. Training

(1) All Supervisors: An online training course titled "HHS Drug Testing Regulations for Supervisors," available in AgLearn, will be added to all supervisors' to-do list. All current supervisors of positions designated as TDP will be notified by the FPAC Drug Testing Liaison in the FPAC Human Resources Division. These supervisors must complete the online training by April 30, 2019. Newly appointed supervisors must complete the training as soon as practical after appointment to a supervisory position.

(2) Nonsupervisory Employees in Positions Designated as TDP: An online training course titled "HHS Drug Testing Regulations for Employees," available in

AgLearn, will be added to their to-do list. All nonsupervisory employees in positions designated as TDP must complete the online training by April 30, 2019.

3. CONTACT

Any questions regarding this FPAC Notice or testing activities may be directed to Carol Parker, FPAC Agency Drug Testing Liaison, HR's Employee and Labor Relations Section, at (732) 537-6081 carol.parker@usda.gov.

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