

ARTICLE XX
ALCOHOL AND DRUG-FREE WORKPLACE

Section 1. Purpose

The Agency will administer its Alcohol and Drug-free Workplace program in cooperation with the Union in accordance with this Agreement and all applicable laws, regulations, and rules including Executive Order 12564 dated 9/15/1986, EPA Order 3120.3A dated 3/18/1980, and USEPA Drug-free Workplace Plan (1000) dated 1/16/1998.

Section 2. Agency Responsibilities

It is the responsibility of EPA Management to take disciplinary and/or adverse action when the use of alcoholic beverages and/or drugs impairs an employee's performance, attendance or conduct, when an employee uses federally illegal drugs on or off duty, or when an employee possesses federally illegal drugs on duty or in a federal facility.

Disciplinary action is not required if an employee:

- A. Voluntarily admits his/her drug use before being:
 - (1) identified by other means, or
 - (2) notified to report for a drug test; and
- B. Thereafter, obtains counseling or rehabilitation through EAP or other approved healthcare provider; and
- C. Thereafter refrains from illegal drug use. To ensure that such employees do refrain from illegal drug use they will be subject to testing on a more frequent basis as stipulated in §X(C) of the US EPA Drug-Free Workplace Plan dated 1/16/98.

It is the responsibility of the Agency to refer any employee who is found to use federally illegal drugs to an Employee Assistance Program for assessment, counselling, and referral for treatment or rehabilitation as appropriate.

EPA 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 the Employee Assistance Program or other approved rehabilitation program. However, as part of a rehabilitation or counselling program, the head of an Executive agency may, in their 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.

Section 3. Employee Responsibilities

- A. As a condition of continued employment, employees must refrain from the use of federally

illegal drugs, on or off duty, and the possession of federally illegal drugs on duty or in a federal facility. Employees must refrain from the use of alcohol while in a duty status, and/or being under the influence of alcohol while in a duty status. The only exception to this standard is when alcohol consumption is approved by management at an agency-sanctioned event.

- B. Employees who suspect that they have a drug or alcohol problem are encouraged to voluntarily seek information and counselling through the Agency EAP or other approved health care provider on a confidential basis at the earliest opportunity. It is agreed that employees will not be subject to discipline for self-reporting as set forth in Section 2a – c above, unless there has been other misconduct for which discipline would normally be appropriate. An employee's cooperation of availing themselves of professional health care assistance may be considered by the Agency when proposing or deciding disciplinary action related to the conduct or performance of the employee due to the use of drugs and/or alcohol.

Section 4. Random Testing of Employees in a Testing-Designated Position

- A. The Agency will designate positions subject to random drug testing referred to as Testing-Designated Positions (TDP). If an employee's position is changed to a TDP, the employee will be notified in writing at least 30-days prior to the change. Such notices will include at a minimum:
- (1) That the employee is subject to mandatory random testing;
 - (2) The consequences of a positive result or refusal to cooperate, including adverse action;
 - (3) That after any confirmed positive drug test there will be an opportunity for them to submit supplemental medical documentation to support the legitimate use of a specific drug;

- (4) That drug and alcohol abuse counseling and referral services are available through the employee Assistance Program (EAP). The employee can seek counseling and or treatment voluntarily prior to testing without reprisal. The notice will contain information on how to contact the EAP.

- B. Bargaining unit employees selected for random testing will be selected randomly on the basis of neutral criteria. The basic required random testing program shall not be used to single out any individual employee or group of employees for increased frequency of testing.

- C. An employee who is selected to report for random drug testing shall be notified orally two (2) hours prior to the time he/she is to report. Whenever possible, this oral notification will be confirmed promptly by electronic mail. Oral notification will be made as discretely as possible. The employee will be provided the following information at a minimum:
 - D. That he/she was randomly selected and is not under suspicion of taking illegal drugs;
 - (1) Where and when to report for testing;
 - (2) The consequences of refusing to report for testing, including possible removal;
 - (3) The employee will be required to sign in at the collection site and provide a picture identification.

Section 5. Reasonable Suspicion Testing

- A. Reasonable suspicion testing may be required of:
 - (1) Any employee in a testing designated position (TDP) when there is reasonable suspicion that the employee uses federally illegal drugs, whether on or off duty, or
 - (2) Any employee in any position when there is reasonable suspicion of on duty use or on duty impairment.

- B. Prior to directing an employee to testing based on a reasonable suspicion that the employee uses federally illegal drugs, the supervisor ordering such testing will receive concurrence from a higher level official or authorized management official. A written statement will be prepared that will document the concurrence and articulate the reasons for testing.

Section 6. Methods and Procedures for Testing

A. All drug testing will be conducted in accordance with the HHS scientific and technical guidelines. The methods and equipment used will meet the requirements set forth in the guidelines. The Agency agrees that the following procedure will be utilized to assure drugtesting is reliable:

- (1) Affected employees will report to the designated location to be tested;
- (2) Procedures for collecting urine specimens shall allow individual privacy unless there is reason to believe that a particular individual may alter or substitute the specimen to be provided;
- (3) Laboratory analysis will comply with the HHS technical guidelines in effect at the time of testing;
- (4) If sufficient volume of urine is not initially able to be provided the Agency will ensure that collection site personnel allow the employee a reasonable amount of time to produce a sufficient volume;
- (5) The collection, handling and transportation of all specimens will be in accordance with the HHS chain of custody procedures;
- (6) An authorized agent will collect all drug testing specimens.

Section 7. Confidentiality and Safeguarding Information

- A. All samples will be subject to a strict chain of custody in accordance with the HHS technical guidelines.
- B. Employees will be guaranteed confidentiality in all matters relating to drug and alcohol testing as set in Sections XII.A and C of the US EPA Drug-Free Workplace Plan dated 1/16/98.
- C. Employees will be given access to all records relating to their drug and/or alcohol test.

Section 8. Counseling and Rehabilitation

- A. Employees whose tests have been confirmed positive will be referred to the Employee Assistance Program, which provides counseling services at no cost to the employee.

When feasible, the services of the EAP will be offered at no cost to family members of employees with substance abuse problems and offered to employees who have family members with substance abuse problems.

Section 9. Marijuana/Cannabis

- A. The Parties acknowledge that marijuana is a federally illegal drug as of the signing of this MCBA.

- B. As federal law, regulation and/or guidance changes with regard to the use of marijuana and/or cannabis, this Article will be interpreted consistent with these changes.

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