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Subject: Plan for a Drug-Free Workplace (REVALIDATED w/Change 1 12/06/06)

Responsible Office: Office of Human Capital Management

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Chapter 1. Introduction

1.1 Background

1.1.1 On September 15, 1986, President Reagan signed EO 12564, Drug-Free Federal Workplace, which established the goal of a drug-free workplace and made it a condition of employment for all Federal employees to refrain from using illegal drugs on or off duty.

1.1.2 On July 11, 1987, Congress passed Public Law 100-71, the Supplemental Appropriations Act of 1987 (hereafter, "the Act"). Section 503 of the Act affects implementation of EO 12564 by requiring the following:

- a. Uniformity among agency drug-testing plans.
- b. Reliable and accurate drug testing.
- c. Employee access to drug-testing records.
- d. Confidentiality of drug-testing results.
- e. Centralized oversight of the Federal Government's drug-testing program.

1.1.3 NASA was established by the National Aeronautics and Space Act of 1958, as amended, wherein Congress declared the following:

- a. It is the policy of the United States that activities in space be devoted to peaceful purposes for the benefit of all mankind.
- b. The general welfare and security of the United States require that adequate provision be made for aeronautical and space activities.

1.1.4 By the Space Act, Congress also decreed that the aeronautical and space activities of the United States shall be conducted so as to contribute materially to one or more of the following objectives:

- a. The expansion of human knowledge of the Earth and of phenomena in the atmosphere and space.

- b. The improvement of the usefulness, performance, speed, safety, and efficiency of aeronautical and space vehicles.
- c. The development and operation of vehicles capable of carrying instruments, equipment, supplies, and living organisms through space.
- d. The establishment of long-range studies of the potential benefits to be gained from, the opportunities for, and the problems involved in the utilization of aeronautical and space activities for peaceful and scientific purposes.
- e. The preservation of the role of the United States as a leader in aeronautical and space science and technology and in the application thereof to the conduct of peaceful activities within and outside the atmosphere.
- f. The making available to agencies directly concerned with national defense of discoveries that have military value or significance, and the furnishing by such agencies, to the civilian agency established to direct and control nonmilitary aeronautical and space activities, of information as to discoveries that have value or significance to that agency.
- g. Cooperation by the United States with other nations and groups of nations in work done pursuant to the National Aeronautics and Space Act of 1958, as amended, and in the peaceful application of the results thereof.
- h. The most effective utilization of the scientific and engineering resources of the United States, with close cooperation among all interested agencies of the United States, in order to avoid unnecessary duplication of effort, facilities, and equipment.

1.2 Policy

1.2.1 It is a well-established fact that employees who use illegal drugs, on or off duty, tend to be less productive, less reliable, and prone to greater absenteeism, thereby impairing their ability to perform tasks that are critical to the Agency's mission and resulting in the potential for accidents on duty and failures that can pose serious threats to national security and the safety and health of the public, our partners, our people, and our valued national assets. Illegal drug use is detrimental to the functioning of NASA employees in accomplishing such unique missions as developing and operating vehicles capable of carrying instruments, equipment, supplies, and living organisms through space and making available to agencies, directly concerned with national defense, discoveries that have military value or significance. Due to NASA's scientific and research missions and responsibilities and the sensitive nature of its work, NASA has a compelling obligation to eliminate illegal drug use from the workplace.

1.2.2 It is NASA's policy to ensure a workplace that is free of illegal drugs and to eliminate illegal drug use by all employees in the NASA workplace, including, to the extent possible, contractor employees (see paragraph 1.2.2g). To achieve this policy and as a deterrence to illegal drug use, NASA has established a comprehensive drug-prevention program that emphasizes the following:

- a. Any NASA employee who is using illegal drugs should be offered the opportunity for rehabilitation.
- b. NASA provides drug education and training, employee counseling and assistance, and voluntary drug testing for all employees.
- c. NASA employees will be treated with personal dignity, and their privacy will be respected in reaching NASA's goal of a drug-free workplace.
- d. NASA guarantees that disciplinary action for illegal drug use will not be taken against an employee who voluntarily identifies himself/herself as a user of illegal drugs and who otherwise complies with the provisions of this Plan.
- e. While it is NASA's intent to help an employee overcome a drug-related problem, it must be clear to all that illegal drug use will not be tolerated.

f. Active participation and support of labor organizations can contribute to the success of this program. NASA 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. NASA will include union representatives in general employee orientation programs and will continue to meet its obligations under Title VII of the Civil Service Reform Act of 1978.

g. While EO 12564 mandated that this Plan cover only Federal civil service employees, on March 28, 1996, NASA implemented a requirement for NASA contractors to institute and maintain a program for achieving a drug-free workforce by providing for pre-employment, reasonable-suspicion, random, post-accident, and follow-up testing of contractor employees responsible for safety-sensitive, security, or national security functions as required by the Civil Space Employee Testing Act of 1991. These requirements may be found in 48 CFR 1852.223.

1.2.3 It is NASA's policy that its workplace be free from the illegal use, possession of, or distribution of controlled substances, (as specified in Schedules I and II, as defined in 21 U.S.C. §802(6), and listed in Part B, Subchapter 13 of that Title) by the officers and employees of NASA. The possession and distribution of controlled substances will be dealt with promptly in accordance with legal and administrative disciplinary procedures. However, the policy's primary goal is to ensure that illegal drug use is eliminated and that NASA's workplace be safe, healthy, productive, and secure.

1.3 Coverage

1.3.1 A drug-free workplace can best be achieved when all personnel who are at the worksite participate in a comprehensive drug-prevention program. This is especially true for NASA, due to its unique operational setting. Since its inception, NASA has benefited from the Government-industry-university team concept in which the nature of NASA's operations in the workplace is such that, in many instances, civil service and contractor employees work in close cooperation.

1.3.2 In accordance with EO 12564, this Plan applies to all NASA employees, including individuals:

- a. On Intergovernmental Personnel Act (IPA) assignments to NASA.
- b. Appointed as experts and consultants.
- c. Appointed to an Excepted Service position.
- d. Detailed to NASA from another Federal agency or department.

1.3.3 The Civil Space Employee Testing Act of 1991 required NASA to prescribe regulations for periodic testing of contractor employees for use of alcohol or controlled substances in violation of applicable law or Federal regulation (48 CFR Parts 1823.5 and 1852.223-74).

1.4 Nature, Frequency, and Type of Drug Testing to be Instituted

1.4.1 Section 503 of the Act requires the NASA Plan to specify the nature, frequency, and type of drug testing to be instituted. The NASA Plan includes the following types of drug testing:

- a. Pre-employment Testing.
- b. Random testing of employees in Testing Designated Positions (TDPs). The TDP criteria are contained in Appendix A, and the TDPs are listed in Appendix B. NASA management reserves the right to make changes, additions, and deletions to the TDP list, pursuant to the Guidance for Selection of TDPs established by the Interagency Coordinating Group (ICG) Executive Committee and this Plan.

- c. Reasonable-suspicion testing.
- d. Accident or unsafe practice testing.
- e. Voluntary testing.
- f. Testing as part of and as a follow up to counseling or rehabilitation.

1.4.2 The frequency of testing shall depend on the type of testing to be conducted.

1.4.2.1 Random Testing. Generally, 25 percent of the TDP pool shall be subject to random testing at least four times a year.

1.4.2.2 Follow-up Testing. Follow-up testing shall be unannounced and conducted at least four times per year for a period of at least one year or as agreed to in a last chance agreement.

1.4.3 NASA management reserves the right to increase or decrease the frequency and testing percentage of any category of drug testing, consistent with the duty to achieve a drug-free workplace under EO 12564.

1.5 Drugs for which Individuals will be Tested

Section 503 of the Act requires the NASA Plan to specify the drugs for which individuals will be tested. NASA will test for the following drugs: Marijuana, Cocaine, Amphetamines, Opiates, and Phencyclidine (PCP).

1.6 Definitions

1.6.1 Applicant -- any individual tentatively selected for a TDP who has not, immediately prior to the selection, been subject to random testing by NASA.

1.6.2 Adulterated Specimen -- a urine specimen containing either a substance that is not a normal constituent or containing an endogenous substance at a concentration that is not a normal physiological concentration.

1.6.3 Collection Site -- a place designated by the Agency where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.

1.6.4 Collector -- a person who has successfully completed training to instruct and assist individuals at a collection site and who receives and makes an initial examination of the urine specimen provided by those individuals.

1.6.5 Days -- calendar days unless specified otherwise.

1.6.6 Drug Program Coordinator (DPC) -- the individual who is responsible for managing the Agency's Drug-Free Workplace Program at each Center.

1.6.7 Dilute Specimen -- a urine specimen with less than normal physiological constituents.

1.6.8 Drug Program Manager (DPM) -- the individual at NASA Headquarters who is responsible for overseeing the Drug-Free Workplace Program on an Agency-wide basis.

1.6.9 Employee Assistance Program (EAP) -- the NASA program that offers short-term counseling and referral services to employees for a wide range of drug, alcohol, mental health, and related problems and monitors their progress while in treatment.

1.6.10 EAP Administrator -- the Director, Occupational Health, serves as the EAP Administrator for NASA and is responsible for ensuring the development, implementation, and review of the EAP on an Agency-wide basis.

1.6.11 EAP Coordinator -- the individual designated at each Center who is responsible for implementing and operating the Center's EAP.

1.6.12 Employees in Sensitive Positions means the following:

- a. Employees in positions designated as Special Sensitive, Critical Sensitive, or Non-critical Sensitive.
- b. Employees in positions designated as sensitive in accordance with EO 10450, as amended.
- c. Employees who have been granted access to classified information or who may be granted access to classified information pursuant to a determination of trustworthiness in accordance with EO 12356.
- d. Individuals serving under Presidential appointments requiring Senate confirmation.
- e. Law enforcement officers as defined in 5 U.S.C. §§8331(20) and 8401(17).
- f. Other positions that 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.

1.6.13 Follow-up Test -- a specimen collected from an employee to ensure that the employee remains drug-free after being reinstated to a TDP.

1.6.14 Illegal Drug -- a controlled substance included in Schedule I or II, as defined by 21 U.S.C. §802(6), 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.

1.6.15 Invalid Result -- a result reported by an HHS-certified laboratory to a Medical Review Officer for a urine specimen that contains an unidentified adulterant, contains an unidentified interfering substance, has an abnormal physical characteristic, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing testing or obtaining a valid drug test result.

1.6.16 Last Chance Agreement -- an agreement between NASA and an employee that contains terms under which the employee will be given a last opportunity to maintain employment with NASA.

1.6.17 Management Official -- an employee required or authorized by NASA to formulate, determine, or influence NASA policies (5 U.S.C. §7103(a)(11)).

1.6.18 Medical Review Officer (MRO) -- the Special Assistant on Quality Assurance and Aerospace Medicine serves as the Agency MRO. Each Center's MRO is responsible for receiving laboratory results generated from the NASA Drug-Free Workplace Program and for consulting with the Agency MRO, as needed. Each MRO must be a licensed physician and certified as an MRO with knowledge of substance abuse disorders 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.

1.6.19 Nonnegative Result -- a result reported by an HHS-certified laboratory when a specimen is adulterated, substituted, positive (for a drug or drug metabolite), or invalid.

1.6.20 Positive Result -- a result reported by an HHS-certified laboratory when a specimen contains a drug or drug metabolite.

1.6.21 Post-Accident or Unsafe Practice Test -- a specimen collected from an employee after the employee is involved in a job-related accident or who engaged in unsafe on-duty, job-related activities that posed a danger to others or the overall operation of the Agency.

1.6.22 Pre-employment Test -- a specimen collected from an applicant tentatively selected for a TDP the result of which must be negative prior to appointment to the position.

1.6.23 Random Test -- a specimen collected from an employee who is selected at random from a group of individuals who are included in a workplace drug-testing program.

1.6.24 Reasonable-Suspicion Test -- a specimen collected from an employee when there is sufficient evidence to indicate that the employee may have used an illegal substance.

1.6.25 Safe Harbor -- a provision whereby disciplinary action will not be initiated against an employee who (1) voluntarily identifies himself or herself as a user of illegal drugs to management prior to being identified as a user through any other means, (2) obtains counseling or rehabilitation through an EAP, and (3) thereafter refrains from using illegal drugs.

1.6.26 Specimen -- urine collected from an individual that may be subdivided.

1.6.27 Split Specimen -- a urine specimen that has been subdivided into two parts (Bottle A and Bottle B) and independently sealed in the presence of the individual being tested.

1.6.28 Substituted Specimen -- a specimen that could not have been derived from the individual's body at the time of collection because it is inconsistent with normal physiology.

1.6.29 Supervisor -- an employee having 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 (5 U.S.C. §7103(a)(10)).

1.6.30 Testing Designated Positions (TDP) -- positions within NASA that have been designated by management for random testing under Chapter 4, paragraph 4.4.2 (see Appendices A and B).

1.6.31 Voluntary Test -- a specimen collected from an employee who is not in a TDP and who has volunteered for unannounced random testing.

1.7 Effective Date

The NASA Drug-Free Workplace Program was implemented in January 1990 upon HHS certification of all Executive Branch agencies pursuant to Section 503 of the Act.

1.8 Revision of NASA Plan

NASA reserves the right to make changes, additions, and deletions to this Plan consistent with EO 12564 and Section 503 of the Act.

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