



# Federal Drug-Free Workplace Program Briefing

Missile Defense Agency  
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**Federal Drug-Free Workplace Program**  
**Department of Health and Human Services**



**SAMHSA**  
Substance Abuse and Mental Health  
Services Administration

# Drug-Free Workplace Program Impact

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## Federal Executive Branch

Approximately  
150  
Departments  
and Agencies

Civilian  
Employees  
2 million +

Random Testing  
Positions  
(Safety/Security  
/Public Health)  
400K+



## Department of Transportation

(Federally regulated program that uses DWP's drug testing standards)

Regulated Transportation  
Industry Employees Tested  
for Drugs (and Alcohol)  
12 million +



## Nuclear Regulatory Commission

(Federally regulated program that uses DWP's drug testing standards)

Power  
Plants  
100

Research  
and Test  
Reactors  
36

DFWP Program Impacts 14 million+ employees

# Federal Drug-Free Workplace Program

## Governing Authorities

- Executive Order 12564
- Public Law 100-71
- Mandatory Guidelines

## Guidance Documents

- Model Plan for a Comprehensive Drug-Free Workplace Program
- 2013 Guidance for Selection of Testing Designated Positions

# Executive Order 12564

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## **Directed Agency Heads to develop a plan to include:**

*“The mark of a successful drug-free workplace program also depends on how well the [Agency] can inform its employees of the hazards of drug use, and on how much assistance it can provide drug users.”*

- Policies/procedures for a drug free workplace
- Employee Assistance Program
- Supervisory Training
- Employee Training
- Self Referrals to Treatment
- Drug Testing Program – Sensitive/Voluntary Positions

# Public Law 100-71 and Mandatory Guidelines

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- **Prohibited spending of appropriated funds for drug testing unless:**
  - Agency plan is certified by HHS and reported to Congress
- **Required HHS to publish Mandatory Guidelines that:**
  - Establish laboratory procedures, technologies, chain of custody
  - Specify drugs for which employees may be tested
  - Establish laboratory certification standards and processes (NLCP)

# Guidance Documents

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## **The Model Plan for a Comprehensive Drug-Free Workplace Program:**

- Serves as the basic foundation for the development of all Certified Plans
- Each agency plan is unique - Shaped to address unique mission and structure of each agency

## **2013 Guidance for Selection of Testing Designated Positions:**

- Assists in the selection of Testing Designated Positions

# Drug Testing Panel

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1) Cocaine

2) Amphetamines

3) Marijuana

4) Phencyclidine (PCP)

5) Opioids

- Hydrocodone
- Hydromorphone
- Oxycodone
- Oxymorphone

**Note:** *If the Agency desires to add any other drug to its drug testing panel, advance written approval from the Secretary, Department of Health and Human Services is required. However, the Agency may test for any other Schedule I or Schedule II drug on a case-by-case basis.*

# National Laboratory Certification Program

- All DFWP drug tests are sent to HHS certified laboratories\*
- Ensures standardization and consistency throughout the laboratory testing program

\* HHS Certified Laboratory List:

<http://www.samhsa.gov/workplace/resources/drug-testing/certified-lab-list>



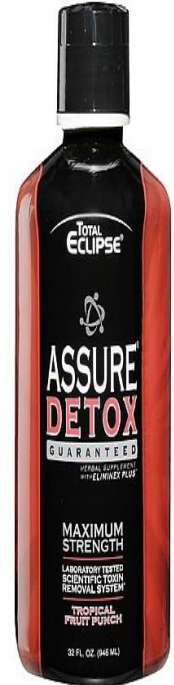
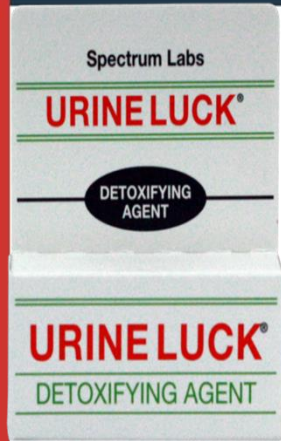
# Subversion Products

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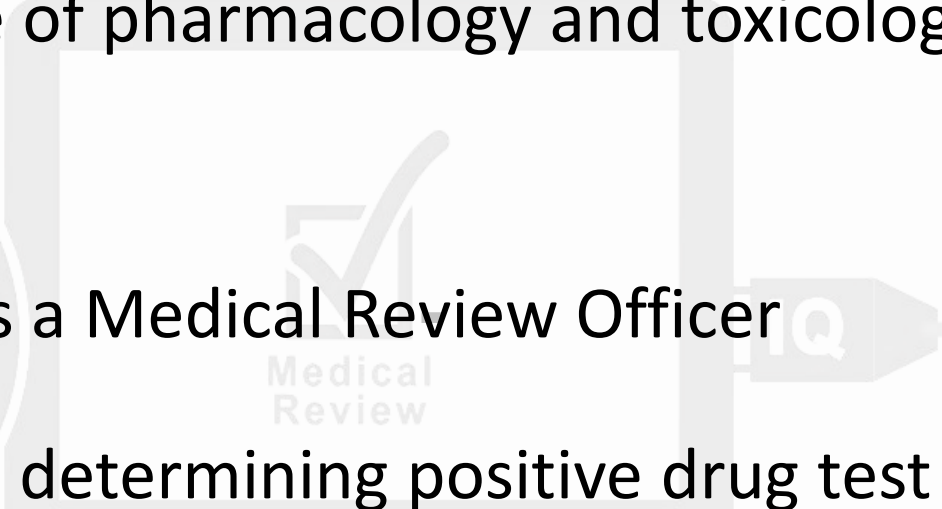
## Three categories:

- **Detoxifying Products** – Drinks or tablets taken before drug test to rid the body of drugs
- **Substitution Products** – Synthetic clean urine used in place donor's urine
- **Adulterant Products** – Liquids, crystals, mouth wash, or gum used to alter donor's specimen so that drugs are no longer detectable

# Subversion Product Examples



# Medical Review Officer

- Licensed Physician – M.D. or Doctor of Osteopathy
  - Knowledge of pharmacology and toxicology of illicit drugs
  - Certified as a Medical Review Officer
  - Final say in determining positive drug test result
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# Marijuana



# Marijuana - Clarification

- States have passed medical and recreational marijuana initiatives.
- Under the Controlled Substances Act, marijuana continues to be a Schedule I Drug
- Marijuana continues to be tested under the Federal Drug Free Workplace Program.

# 2018 Agricultural Improvement Act (Farm Bill)

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- Farm Bill (signed into law on **Dec. 20, 2018**) - removed hemp from definition of marijuana within the Controlled Substances Act (CSA).
- Hemp - Any cannabis plant that contains 0.3% or less THC by dry weight would be considered hemp

# What is Cannabidiol (CBD)?

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- CBD is a key ingredient in marijuana
- CBD is non-psychoactive



# Clarification of the Problem with CBD Oils

Table 2. Observed Cannabinoid Concentration of 84 Tested Extract Products Sold Online

Table 2. Observed Cannabinoid Concentration of 84 Tested Extract Products Sold Online

Cannabinoid	Average Observed Concentration Across Tests, mg/mL	
	Mean (SD)	Median (Range)
Cannabidiol <sup>a</sup>	30.96 (80.86)	9.45 (0.10-655.27)
Cannabidiolic acid	1.35 (6.74)	0 (0-55.73)
Cannabigerol	0.08 (0.55)	0 (0-4.67)
Cannabinol	0	0
<b><math>\Delta</math>-9-Tetrahydrocannabinol</b>	<b>0.45 (1.18)</b>	<b>0 (0-6.43)</b>
$\Delta$ -9-Tetrahydrocannabibolic acid	0	0

<sup>a</sup> The mean labeled concentration for cannabidiol was 36.86 mg/mL (SD, 96.56) and the median was 15.00 mg/mL (range, 1.33-800.0).





# DFWP Marijuana Memos

<https://www.samhsa.gov/workplace/forms-guidelines>

[2022 FDA Synthetic Approved Cannabis Derived or Synthetic Cannabis Products Memo](#)

[2020 November DFWP Memo on Changes to State Drug Laws](#)

[2019 Marijuana, Marijuana Oils, Marijuana Infused Products and Hemp Products](#)

[2017 Use of Marijuana Oils/Infused Commercial Products](#)

[2017 Marijuana and CBD Oil Memo](#)

[2012 New State Initiatives Memo “Recreational Marijuana”](#)

# Mandatory Guidelines Update

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## Urine

Urine Mandatory Guidelines - Testing for 4 semi-synthetic opioids:

- Hydrocodone
- Hydromorphone
- Oxycodone
- Oxymorphone

Revised Urine Mandatory Guidelines published in Federal Register on January 23, 2017, with an implementation date of October 1, 2017.

## Oral Fluid

Oral Fluid Mandatory Guidelines published in Federal Register on October 25, 2019, with an effective date of January 1, 2020.

*Currently – No certified oral fluid drug testing lab(s) under the NLCP*

## Hair

Hair is being proposed as a specimen for drug testing.

SAMHSA published the proposed Hair Mandatory Guidelines

We are currently responding to public comments.

# Common Matrices in Drug Testing

Detection windows vary by drug test type

## Urine Drug Testing



Detects recent use  
(previous 24-72  
hours)

## Oral Fluid Drug Testing



Detects recent use  
(previous 24-48  
hours)

## Hair Drug Testing



Detects a pattern of  
repetitive use (up to  
90 days, based on  
testing proximal 1.5"  
head hair)

# DFWP and the Evolving Environment

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## Emerging Issues - Legislation

- 2015 FAST Act – required development of Mandatory Guidelines for **Hair testing** while issues of hair color impact and external contamination issues continue to exist
- 2018 Farm bill – defined **hemp and set a legal limit for THC content**
- 2018 Opioids Crisis Response Act - addition of four semi-synthetic opioids

## Changes in Science and Technology

- Drug testing and specimen collection technology are improving – Oral Fluid Mandatory Guidelines, effective January 1, 2020
- Possible addition of **fentanyl and methadone** to standard HHS drug panel

## Evolving Environment

- New and novel drug use continues to emerge, e.g., **synthetic designer drugs**
- **Increased public acceptability and availability** of marijuana, CBD products, and THC isomers (e.g., delta-8-THC) with inevitable implications for workplace safety/security – e.g., State initiatives to de-schedule marijuana as a Schedule I drug
- **Increased demands on the DFWP** – e.g., COVID-19 return-to-office challenges

# Teleworking

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## **Does an employee have a right to telework?**

- No. Telework is not a universal employee benefit or right. Federal law requires agencies to establish telework programs but does not give individual employees a legal right to telework.

**Teleworking is not an acceptable deferral to drug testing. All employees are still subject to Drug-Free Workplace Program drug testing.**

OPM FAQ -

<https://www.opm.gov/FAQs/topic/telework/index.aspx?start=0>

# Supervisor DFWP Training Module

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- Online training module for supervisors.
  - Understand and support Drug-Free Workplace Program
  - Recognize and document workplace issues that may be related to drugs
  - Address all employees (not just TDPs) with possible drug-related issues and initiate a drug test based on reasonable suspicion
  - Remove employees with drug-related issues from safety sensitive positions and refer them to EAP services
  - Encourage employees who have problems with drugs to voluntarily seek help
  - Continue to supervise employees who have been referred for assistance
  - Reintegrate employees back into workforce

# DFWP Resources

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## **Division of Workplace Programs Main Website:**

- <https://www.samhsa.gov/workplace>

## **Executive Order 12564:**

- [http://www.samhsa.gov/sites/default/files/executive\\_order.pdf](http://www.samhsa.gov/sites/default/files/executive_order.pdf)

## **Public Law 100-71:**

- [http://www.samhsa.gov/sites/default/files/workplace/public\\_law\\_100.pdf](http://www.samhsa.gov/sites/default/files/workplace/public_law_100.pdf)

## **Urine Mandatory Guidelines:**

- [https://www.samhsa.gov/sites/default/files/workplace/frn\\_vol\\_82\\_7920\\_.pdf](https://www.samhsa.gov/sites/default/files/workplace/frn_vol_82_7920_.pdf)

## **Oral Fluid Mandatory Guidelines:**

- [https://www.samhsa.gov/sites/default/files/programs\\_campaigns/division\\_workplace\\_programs/final-mg-oral-fluid.pdf](https://www.samhsa.gov/sites/default/files/programs_campaigns/division_workplace_programs/final-mg-oral-fluid.pdf)

## **Model Plan for a Comprehensive Drug-Free Workplace Program:**

- <http://www.samhsa.gov/sites/default/files/workplace/ModelPlan508.pdf>

## **2013 Guidance for Selection of Testing Designated Positions:**

- <https://www.samhsa.gov/sites/default/files/workplace/09-2013-guidance-selection-tdps-2-13-17.pdf>

# Drug-Free Workplace Program

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# Questions

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Boss: You failed your drug test

Me: I had a poppyseed bagel

Boss: Explain the weed & cocaine

Me:

Boss:

Me: It was an everything bagel