



OFFICE OF NATIONAL DRUG CONTROL POLICY
EXECUTIVE OFFICE OF THE PRESIDENT
Washington, D.C. 20500

APR 23 1991

The Honorable Kenneth Carr
Chairman
Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Chairman Carr:

Establishing and maintaining a drug-free Federal workplace continues to be a priority of the President's National Drug Control Strategy. The President has recently designated the Office of National Drug Control Policy (ONDCP) as the lead agency for coordinating this effort, as it is for all other aspects of Federal anti-drug policy. In this capacity, ONDCP will chair the Executive Committee of the Interagency Coordinating Group (ICG), whose other members include the Office of Management and Budget (OMB), the Department of Justice (DOJ), The Department of Health and Human Services (DHHS), and the Office of Personnel Management (OPM).

As ONDCP assumes the lead oversight and policy responsibilities for Executive Order 12564, the ICG working group will continue to work with agencies in implementing their drug-free workplace plans. The monthly ICG working group meeting will continue to be chaired by the Director of the Division of Applied Research, National Institute on Drug Abuse of the Department of Health and Human Services.

Full implementation of each agency's drug-free workplace plan is a top priority. Fewer than 50 agencies have fully or partially implemented the testing component of their plans, and over 80 have not implemented it at all. I request that your agency complete implementation of all aspects of your plan, to the extent permitted by law or any court order applicable to your agency. Please report, as part of your semi-annual report on Federal Drug-Free Workplace Programs (being sent to you under separate cover from DHHS) about the status of plan implementation (including drug testing), and, if not complete, the nature of impediments to implementation, steps being taken to address those problems, and your schedule for implementation.

In order to assess Department and agency drug-free workplace plans, I ask you to send to the National Institute on Drug Abuse of the Department of Health and Human Services (address in attached addendum) a copy of your agency's current plan,

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including an up-to-date list of "testing designated positions." Please indicate in your transmittal letter any changes that have been made to your agency's plan (including changes in "testing designated positions") since the Secretary of Health and Human Services certified to Congress that your plan was in compliance with Executive Order 12564 and applicable provisions of law. If your plan has not been changed since that determination, please so state in your letter.

I also ask you henceforth to submit proposed changes to your drug-free workplace plan to the Department of Health and Human Services (the Division of Applied Research, National Institute on Drug Abuse), for advisory review by the ICG prior to implementing the changes. Guidance concerning the nature of proposed changes that should be submitted for review is provided in the attached addendum. If exigent circumstances preclude prior submission, then review should be submitted to DHHS as soon as possible after implementation.

Finally, to ensure that agencies are implementing policies according to applicable guidance and their certified plans, agencies should continue to make semi-annual reports on drug testing to the Division of Applied Research, National Institute on Drug Abuse. We are also exploring the possibility of periodically auditing a sample of agencies as part of our oversight responsibility. You will be advised as to the nature and particulars of any audits before they are initiated.

If your staff have questions about these matters, they should contact Mr. Henrick J. Harwood, of the Office of Demand Reduction at (202) 467-9620. Thank you for your continuing efforts in supporting the President's goal of achieving a drug-free Federal workplace.

Sincerely,



BOB MARTINEZ
Director

Attachment

ADDENDUM

Guidance on Submission of Revisions to Drug-Free Workplace Plans for ICG Advisory Review

Introduction

Agencies' drug-free workplace plans should be modified to reflect changes in the missions of agencies, and in the responsibilities of their personnel. When proposed changes in plans involve material amendments, such changes must be submitted prior to implementation to the Interagency Coordinating Group for advisory review. If exigent circumstances preclude prior submission, then review should be accomplished as soon as possible after implementation.

Material Amendments

A change in a plan should be considered "material" if it:

1. Institutes a policy not provided for in the model plan prepared by the Interagency Coordinating Group;
2. Changes a critical component of the model plan (test procedures, provisions for privacy and confidentiality, etc.);
3. Initiates or terminates a type or category of drug testing (e.g. random, applicant, reasonable suspicion, accident or unsafe practice);
4. Eliminates, modifies or adds categories of personnel that are subject to different types of testing (changing incumbents of testing designated positions is not a material change);
5. Changes the drugs for which an agency tests (a special waiver from the Secretary of Health and Human Services is necessary to test TDPs or applicants for drugs other than opiates, marijuana, cocaine, amphetamines or phencyclidine).

Any ambiguity about whether a change in an agency's plan is "material" should be resolved in favor of submission for ICG review.

Regardless of whether an advisory review is conducted, it remains the agency's responsibility to assure that its plan complies with all relevant statutes and court decisions and is otherwise in accordance with Administration policy. Advisory review will assist the agency in defending the plan, in the event that it is challenged.

What to Submit

When changes are proposed to a plan the agency should submit to the ICG copies of both the old and new versions of relevant sections. The nature of the changes should be explained, and a short description of the circumstances and/or reasons for making the changes should be included.

Where to Submit Changes

When submitting plan amendments for advisory review, or when seeking assistance on operational matters, the request should be directed to:

Director
Division of Applied Research
National Institute on Drug Abuse
5600 Fishers Lane, Room 9A-53
Rockville, MD 20857
Telephone (301) 443-0802
Fax (301) 443-2636

If an agency desires advice about making changes in their plan they should initially contact the National Institute on Drug Abuse (NIDA). Generally, questions about technical and scientific issues will be answered by NIDA. Inquiries about detailed legal issues may also be directed to the:

Special Counsel to the Assistant Attorney General
Civil Division
Department of Justice
9th & Pennsylvania
Washington, D.C. 20530
Telephone (202) 514-3886

When questions relate to issues such as Employee Assistance Programs, health benefits, referral to treatment or disciplinary policy, these may also be directed to:

Employee Health Service Branch
Office of Employee and Labor Relations
Office of Personnel Management
1900 E Street, N.W.
Washington, D.C. 20415
Telephone (202) 606-1269