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Subject: Federal Laws and Policies Prohibiting Marijuana Use

To: Regional Foresters, Station Directors, Area Directors, IITF Director, Deputy Chiefs and
WO Directors

The enclosed memorandum from the Director, Office of Personnel Management is provided for your information and distribution to your respective employee staffs. The memorandum serves as a reminder for all Federal employees that despite the recent changes in laws for some states and the District of Columbia that decriminalize the use of marijuana, allowing its use for medicinal purposes and/or for limited recreational use, Federal laws regarding the use of marijuana remain unchanged. Federal law categorizes marijuana as a controlled substance under Schedule I of the Controlled Substance Act. This means knowingly or intentionally possessing the drug is illegal, even if there is no intent to manufacture, distribute, or dispense the drug.

The Director's memorandum also addresses the impact use and/or possession of marijuana has on employee suitability determinations. Specifically, involvement with marijuana may be considered when an agency renders suitability determinations for covered positions under 5 C.F.R. part 731. Covered positions are defined as: 1) positions in the competitive service; 2) positions in the excepted service where the incumbent can be *noncompetitively* converted to the competitive service; and 3) career appointments to positions in the Senior Executive Service.

The use or possession of drugs can raise serious questions regarding an individual's reliability, judgment, trustworthiness, or their ability or willingness to comply with laws, rules, and regulations, thus indicating their employment might not promote the efficiency or protect the integrity of the service. In accordance with 5 C.F.R. 731.202(b)(2), in rendering suitability determinations involving criminal conduct – including a violation of the Controlled Substance Act – the Human Resources Management Suitability staff considers the following additional factors under 5 C.F.R. 731.202(c) as relevant: (i) the nature and seriousness of the conduct; (ii) the circumstances surrounding the conduct; and (iii) contributing societal conditions. Additionally, under 5 C.F.R. 731.202(b)(6), illegal use of other controlled substances without evidence of substantial rehabilitation may also be a basis for an unfavorable suitability determination. However, each suitability decision must be evaluated on a case-by-case basis.

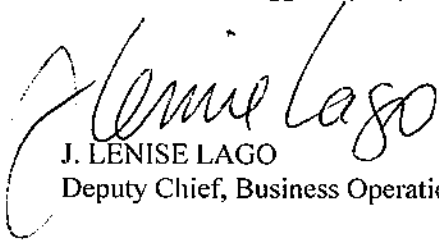
Finally, all Forest Service employees are reminded Executive Order (EO) 12564, Drug-Free Federal Workplace, mandates that: (a) Federal employees are required to refrain from the use of illegal drugs; (b) the use of illegal drugs by Federal employees, whether on or off duty, is contrary to the efficiency of the service; and (c) persons who use illegal drugs are not suitable for Federal employment. EO 12564 also emphasizes an Agency shall initiate disciplinary action for any employee who is found to have used illegal drugs, whether on or off duty. The only exception to this requirement is for employees who: 1) initiate a voluntary self-disclosure of illegal drug use prior to identification through other means; 2) request counseling or rehabilitation through an Employee Assistance Program; and 3) thereafter refrain from further illegal drug use.



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For additional information regarding suitability determinations, please contact Georgena Robertson at (505) 563-9472 or Lori Salazar at (505) 563-9221. For questions pertaining to the Drug-Free Workplace, please contact Freda Griggs at (404) 796-0845.



J. LENISE LAGO
Deputy Chief, Business Operations

Attachments (2)

cc: Elizabeth Vigil, John H. Freeman, Georgena Robertson, Lori Salazar