

CONTROLLED SUBSTANCE AND ALCOHOL TESTING PROCEDURE

Introduction

All District employees required to hold a Commercial Driver's License (CDL) are subject to controlled substance and alcohol testing pursuant to this regulation in conjunction with the Department of Transportation Federal Highway Administration Rule and Policy EEAEAA. In addition, all non-CDL drivers are subject to reasonable suspicion and post-accident tests outlined in this regulation, pursuant to Policy EEAEAB.

These policies and regulation (policy) shall be distributed to all employees subject to this policy prior to the beginning of testing pursuant to this procedure. Written notice regarding the availability of information pursuant to this policy shall be provided to all representatives of employee organizations.

Substances Subject to Detection

1. Alcohol, including beverage alcohol, ethyl alcohol, and other low molecular weight alcohols, including methyl and isopropyl alcohol, and including medications, whether prescription or over-the-counter, containing alcohol;
2. Marijuana;
3. Cocaine;
4. Opiates;
5. Amphetamines;
6. Phencyclidine;
7. Methamphetamines.

Employee Training

The District will provide information and training to all employees subject to these provisions regarding the policy's requirements and information pertaining to controlled substance use and alcohol misuse. The information provided will include the effects of alcohol misuse and controlled substance use on a person's health, work and personal life,

the symptoms of such use, and District policy regarding the reporting of suspected controlled substance use and alcohol misuse by a co-worker.

Information regarding this policy will also be provided to applicants for employment into safety-sensitive positions, including District employees seeking to transfer into safety-sensitive positions.

The following procedure should be used when an employee suspects controlled substance use or alcohol misuse by a District employee, subject to the requirements of this policy:

1. The employee must report the suspicions immediately to the testing liaison. If the liaison is not available and the reporting employee reasonably believes the suspected employee's condition constitutes an emergency, the employee should report the suspicions to his/her supervisor. An emergency is present where the suspected CDL employee is about to be or is performing safety-sensitive functions as defined by this policy, or where a non-CDL driver is about to be or is operating a District-owned motor vehicle. If this is not an emergency, the reporting employee shall continue to attempt to reach the testing liaison.
2. The reporting employee must not discuss the suspicions with any other District employee, unless requested to do so by the employee's supervisor or the testing liaison.
3. The testing liaison or employee supervisor shall take the necessary steps to confront the employee suspected of having the controlled substance or alcohol issues, pursuant to District policy.
4. Failure to follow this procedure is considered a violation of this policy. Discipline up to and including dismissal may be imposed for such violation.

Reasonable Suspicion Determinations Training

All supervisors and other District employees who may be required to make a reasonable suspicion determination, as outlined in the "Required Testing," shall receive at least sixty (60) minutes of training regarding alcohol misuse, and an additional sixty (60) minutes of training pertaining to controlled substance use.

The training shall include information pertaining to the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. In addition, the training will include information regarding the chronic and withdrawal effects of controlled substance use.

Prohibited Conduct

Employees subject to this policy shall not report for duty where such duty requires or may require the performance of safety-sensitive functions connected to commercial motor vehicles, as defined below, under the circumstances outlined below.

A commercial motor vehicle is one that:

1. has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
2. has a gross vehicle weight rating of 26,001 or more pounds; or
3. is designed to transport 16 or more passengers, including the driver; or
4. is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act, and that requires the motor vehicle to be placarded under the Hazardous Materials Regulations.

The performance of “safety-sensitive” functions is defined as: actually performing, being ready to perform, or being immediately available to perform any of the following functions:

1. Waiting to be dispatched;
2. Inspecting, servicing, or conditioning any commercial motor vehicle at any time;
3. All driving time; this includes all time spent at the controls of a commercial motor vehicle in operation;
4. All time other than driving time spent in or upon any commercial motor vehicle. Thus, an employee who is required to hold a commercial driver’s license and is present on a District commercial motor vehicle is subject to the testing requirements of this policy, even if the employee is not operating the vehicle if such employee is “on duty,” as defined below;
5. All time loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading of a commercial motor vehicle, attending a commercial motor vehicle being loaded or unloaded while

ready to operate such vehicle, or giving or receiving receipts for shipments loaded or unloaded;

6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled commercial motor vehicle.

Employees subject to this policy are considered to be “on duty” for the purposes of controlled substance and alcohol testing at all times, from the point when the employee begins working or is required to be ready for work, through the time the employee is relieved from all responsibility for work. An employee subject to this policy is not relieved from all responsibility for work until the employee has left District property. An employee who is on District property for an event unrelated to the performance of safety-sensitive functions, such as school sports activities or other after hours functions, is not considered on-duty.

On-call or emergency call-in employees who are asked to report to work to perform a safety-sensitive function must notify their supervisor if the employee cannot perform a safety-sensitive function due to controlled substance or alcohol use. The on-call or emergency call-in employee will not generally be subject to discipline as outlined in this policy, but any multiple on-call or emergency call-in absences may be treated as other absences are treated, pursuant to District policy, departmental procedures, and negotiated agreements.

Alcohol-Related Prohibited Conduct

The following conduct involving alcohol is prohibited:

1. Reporting for or remaining on duty while having an alcohol concentration of 0.02 or greater.
2. Processing alcohol while on duty. This includes medication, either prescribed or “over-the-counter,” that contains alcohol. The prohibition on alcohol possession is not pursuant to the Federal Highway Administration Rule, but is based upon authority independent of the rule.
3. Alcohol use while performing safety-sensitive functions as defined above. Alcohol use means the consumption of any beverage, mixture, or preparation, including medication, that contains alcohol.
4. Performing safety-sensitive functions, as defined above, within four (4) hours after using alcohol. It is important to note that, depending on the person and the amount of alcohol consumed, it may take an individual’s body longer than four hours to receive a test result of less than 0.02.

5. Using alcohol within eight (8) hours following an accident, where such accident requires the employee to take a post-accident alcohol test under "Required Testing," below, unless the employee has already completed the post-accident alcohol testing process.

Controlled Substance-Related Prohibited Conduct

The following conduct involving controlled substance is prohibited:

1. Reporting for or remaining on duty when the employee subject to this policy uses any controlled substance, unless the medical exception applies. An employee who uses a controlled substance pursuant to the instructions of a physician who has advised the employee that the substance, as prescribed, will not adversely affect the employee's ability to safely operate a commercial motor vehicle will not be considered to have violated this prohibition if the employee has used the controlled substance in no greater amount than that prescribed by the physician, and if the employee has informed the District of such prescribed use prior to the employee's performance of any safety-sensitive function. It is important to note that there is no medical exception for medicine taken or possessed by an employee that contains alcohol, whether by prescription or "over-the-counter."
2. Reporting for or remaining on duty where the employee has tested positive for controlled substances.

Refusals to Submit to Testing

It is prohibited conduct to refuse to submit to a controlled substance or alcohol test required under this policy. A refusal to submit is defined as follows:

1. failure to provide adequate breath for alcohol testing without a valid medical explanation after the employee has received notice of the requirement of a breath test in accordance with this policy; or
2. failure to provide adequate urine for a controlled substance test without a valid medical explanation after the employee has received notification of the requirement for urine testing in accordance with this policy; or
3. engaging in conduct that clearly obstructs the testing process.

Required Testing

1. Pre-Employment Test (CDL drivers only)

All employees required to perform safety-sensitive functions and all applicants for employment into positions that may require the performance of safety-sensitive functions must undergo a pre-employment controlled substance test. Applicants for employment include current District employees seeking to transfer into a safety-sensitive position.

A verified negative controlled substance test result must be received from the medical review officer, the person who reviews urinalysis test results, before the applicant may perform safety-sensitive functions. The applicant will be hired conditionally upon the receipt of a verified negative test result for controlled substances. Any applicant who fails this condition shall not be hired by the District. Such applicant will, however, be referred to a substance abuse professional for evaluation and potential treatment, at the applicant's expense.

2. Post-Accident Tests (CDL and non-CDL drivers)

Post-accident controlled substance and alcohol tests are required of any employee who has survived an accident while performing a safety-sensitive function with respect to a commercial motor vehicle, or was driving a District-owned motor vehicle where:

- a. the accident involved the loss of human life;
- b. the employee received a citation under state or local law for a moving traffic violation arising from the accident and someone involved in the accident sustained bodily injury and as a result of such injury received immediate medical attention away from the scene of the accident; or
- c. the employee received a citation under state or local law for a moving traffic violation arising from the accident and a vehicle involved in the accident incurred disabling damage requiring the vehicle to be transported from the scene by another motor vehicle. "Disabling" damage includes damage to motor vehicles that could have been driven but would have been further damaged, and excludes damage that could be remedied temporarily at the scene without special tools or parts, tire disablement, headlight and taillight damage, turn signal, horn, and windshield wiper damage.

Post-accident tests will not be conducted for an occurrence involving only boarding or alighting from a stationary motor vehicle or the loading or unloading of cargo.

Post-accident alcohol tests should be administered within two (2) hours following the accident. Where an alcohol test is not administered within two (2) hours following the accident, alcohol testing shall be attempted until eight (8) hours have elapsed since the occurrence of the accident. The District shall maintain records documenting the reasons why the test was not performed within the two (2) hour time limit. If a test has not been performed within eight (8) hours of the accident, attempts to test for alcohol shall cease, but records documenting the reasons for the test's failure shall be maintained by the District.

A controlled substance test following an accident must be administered within thirty-two (32) hours after the accident. If a controlled substance test is not performed within 32 hours, further attempts to administer a controlled substance test shall cease and the District shall document and maintain records stating the reasons for the failure to test.

Post-Accident Procedure

1. Employees subject to this policy must not consume alcohol after any accident until one of the following has occurred:
 - a. a determination has been made by a District supervisor or official that a post-accident alcohol test will not be required; or
 - b. the employee has completed the post-accident alcohol test; or c. eight (8) hours have elapsed since the accident occurred.
2. Employees subject to this policy who are involved in an accident involving the loss of human life, or in which the employee has received a citation from state or local officials for a moving violation, must remain available for controlled substance and alcohol testing for 32 hours after the accident. For testing purposes, transportation will be provided to the employee to and from the testing site from home or from where the employee is staying at the time of the test.

- a. Employees who are uninjured and trained in first-aid should first assist any injured persons until medical assistance arrives on the scene.
 - b. Employees must notify their immediate supervisor or department director by telephone or two-way radio that an accident has occurred, the time and location of the accident, and the circumstances of the accident. The supervisor or director may determine, on the basis of this information, that controlled substance and alcohol tests are required. If such determination is made, employees will be directed to remain at the accident scene where they will be picked up for transportation to the testing site.
 - c. If the supervisor or director does not make an immediate determination that testing is required, the employee must notify the supervisor or director of the address and telephone number where the employee can be immediately contacted for the 32-hour period following the accident. If the employee's location changes during the 32-hour period, the employee must immediately notify the supervisor or director of that change.
3. Employees who do not remain readily available for controlled substance and alcohol testing for the 32-hour period following an accident may be considered to have refused a test, and may be disciplined accordingly, as set forth in the "Disciplinary Procedure."
 4. The results of any alcohol test conducted by breathalyzer or blood or urine tests for controlled substances that are conducted by federal, state, or local officials having independent authority for the test, may be substituted for the post-accident tests required under this policy if such tests conform to the applicable federal, state, or local requirements and the results are obtained by the District.

Random Controlled Substance and Alcohol Tests (CDL employees only)

Unannounced controlled substance and alcohol tests will be performed throughout each calendar year. CDL employees will be selected through the use of a computer-based random number generator matched with employees' payroll identification numbers or social security numbers. Each employee shall have an equal chance of being tested each time an employee is chosen for a test, regardless of whether the employee has been previously tested through a random test or other required controlled substance or alcohol test.

At least 10% of CDL employees shall be tested for alcohol each calendar year; at least 50% of CDL employees shall be tested for controlled substance use each calendar year. The percentages of employees required to be tested for controlled substance use and alcohol misuse may change based upon the Federal Highway Administration's changes to these percentages. All CDL employees will be notified of the percentage change for random testing prior to the effective date of such change.

Once a CDL employee is notified that he/she has been selected for a random alcohol and/or controlled substance test, the employee must cease performing safety-sensitive functions immediately and proceed directly to the testing site. Failure to do so will be considered a refusal to submit to a test and the CDL employee will be disciplined accordingly.

Notification may be made by radio while a CDL employee is operating a commercial motor vehicle by an announcement of a "Code 22." The CDL employee must verify with dispatch that he/she received the "Code 22" and must report for testing immediately upon return to a District transportation facility.

Reasonable Suspicion Tests (CDL and non-CDL Drivers)

All employees subject to this policy must submit to an alcohol or controlled substance test when the District has reasonable suspicion to believe that the employee has engaged in prohibited conduct as defined in this policy. The District will provide transportation to and from the testing site to all employees required to take a reasonable suspicion controlled substance or alcohol test. A reasonable suspicion alcohol test may not be performed if the only prohibited conduct engaged in by the employee was the possession of alcohol.

A reasonable suspicion may be found where a supervisor or District official who has been trained to detect the indicators of controlled substance use or alcohol misuse has made observations regarding an employee that are specific, contemporaneous, and articulable, and relate to the employee's appearance, behavior, speech, and/or body odors.

The observations relating to alcohol testing must be made during, just preceding, or just after the period of the workday the employee is required to be in compliance with the Rule, as outlined under "Prohibited Conduct," above. An employee may be directed to take a reasonable suspicion alcohol test only while the employee is performing, just before performing, or just after performing a safety-sensitive function or driving a District-owned motor vehicle.

If a reasonable suspicion alcohol test is not performed, the employee may not perform a safety-sensitive function once the reasonable suspicion determination has been made until:

1. an alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or
2. 24 hours have elapsed following the reasonable suspicion determination. The District shall not take any further action against an employee who has not taken a reasonable suspicion test when required, unless the employee's conduct constituted a refusal to submit to an alcohol test, as outlined under Prohibited Conduct.

Return-to-Duty Tests (CDL and non-CDL drivers who are not dismissed from their employment)

All employees who have engaged in prohibited conduct as defined above, must undergo a return-to-duty alcohol test with a result of less than 0.02 alcohol concentration if the conduct involved prohibited alcohol conduct, and/or must undergo a return-to-duty controlled substance test with a verified negative result for controlled substances use prior to returning to duty requiring the performance of a safety-sensitive function or driving of a District-owned motor vehicle.

Follow-Up Tests (CDL and non-CDL drivers who are not dismissed from their employment)

If the substance abuse professional, as described under "Disciplinary Procedures," determines, after the employee has tested positive for controlled substances or alcohol, that an employee is in need of assistance in resolving problems associated with alcohol misuse and/or the use of controlled substances as outlined in "Disciplinary Procedures" below, the employee must be subject to unannounced follow-up alcohol and/or controlled substance testing as directed by the substance abuse professional.

At least six (6) unannounced follow-up tests shall be given over a twelve (12) month period when follow-up testing is required. The substance abuse professional may require that follow-up testing continue for a maximum of sixty (60) months after the employee returns to duty performing safety-sensitive functions. If the substance abuse professional suspects illicit use of controlled substances or alcohol other than those for which the employee has previously tested positive, the substance abuse professional may direct that follow-up testing be conducted for these suspected substances as well.

Follow-up alcohol testing shall only be conducted when the employee is actually performing, just before the employee is to perform, or just after the employee has performed safety-sensitive functions or driven a District-owned motor vehicle.

Disciplinary Procedures

1. **Self-Reporting.** All employees subject to this policy who believe they may have a problem associated with controlled substance use or alcohol misuse may contact the health services coordinator to receive evaluation, referral, and treatment information for such problems.

Employees subject to the requirements of this policy who come forward voluntarily for assistance with controlled substance use or alcohol misuse prior to being asked to take a controlled substance or alcohol test pursuant to this policy, shall not be subject to dismissal from their employment with the District merely for disclosing their need for assistance. However, the employee will be removed from performing safety-sensitive functions or driving District-owned motor vehicles immediately, and will not be allowed to return to such functions until the employee has been evaluated by the substance abuse professional, and is in compliance with any treatment plan recommended by the substance abuse professional, and a determination has been made by the substance abuse professional that the employee may return to the position. Only those employees who voluntarily come forward for assistance will be afforded the opportunity for return-to-duty and follow-up testing, as outlined under “Required Testing.”

Employees may utilize accrued vacation and sick leave, as well as unpaid Family Medical Leave, pursuant to District policies, up to a maximum of 12 weeks to cover the time that they are removed from their position.

Employees who are not ready to perform safety-sensitive functions or drive District-owned motor vehicles, as determined by the substance abuse professional, after a maximum of 12 weeks from the time they first come forward, will be dismissed from their employment with the District.

2. Where an employee has an alcohol test result of greater than 0.02, but less than 0.04, the employee will be removed from the performance of a safety-sensitive function for 24 hours unpaid; however, sick leave may be used if available. No further action will be taken against the employee based upon this information alone. Where such results occur multiple times, such occurrences may be treated as other absences are treated, pursuant to District policy.
3. Where an employee has a confirmed alcohol test result of greater than 0.04 or has a verified positive test result for controlled substance use, the employee shall be removed from the safety-sensitive position immediately. All employees who test positive for controlled substances, or have an

alcohol test result of greater than 0.04, will be referred to the substance abuse professional for evaluation to determine whether the employee is in need of rehabilitation services.

4. An employee who has a verified positive test for controlled substances or has an alcohol test result of greater than 0.04 will also be dismissed from his or her employment with the District.
5. An employee who refuses to be tested for alcohol or controlled substances as defined under the “Prohibited Conduct” above will also be dismissed from his or her employment with the District.
6. Penalty provisions of the Federal Highway Administration Rule provide that fines may be assessed against an employee for conduct in violation of the Rule. Civil penalty fines of up to \$1,000 per offense may be imposed where the employee’s conduct is found to be grossly negligent or with reckless disregard for safety. Criminal penalties of up to \$2,500 per offense may be imposed against an employee where the employee’s actions while operating a commercial motor vehicle led or could have led to death or serious bodily injury.

Testing Procedures

All controlled substance and alcohol tests conducted pursuant to this policy shall be conducted in conformance with the procedural requirements of the Federal Highway Administration Controlled Substance and Alcohol Testing Rule. All tests will be conducted to protect the integrity of the testing process, to ensure the validity of test results, to ensure the results are attributed to the correct employee, and to protect the privacy of each employee to the maximum extent possible.

Collection of urine and breath samples for controlled substance and alcohol tests may occur on District property or at a collection site meeting the requirements set forth in the Rule. All laboratories conducting the tests shall be approved in accordance with the requirements set forth in the Rule.

General Procedures

1. All controlled substance and alcohol tests occur in two stages. The first test required is a screening test for controlled substances and/or alcohol. If the controlled substance urinalysis screening test and/or alcohol Breathalyzer test indicates a positive result as defined by the Rule, a second confirmatory test will be performed.

2. If the confirmatory test for controlled substances and/or alcohol indicates a positive result, the laboratory must first notify the medical review officer (MRO), who interprets the test results and discusses the results with the employee prior to notifying the District. If the MRO determines that the results indicate a legitimate use of a controlled substance as prescribed by a physician, or finds another legitimate explanation for the results, the MRO will report the test result to the District as a verified negative result. The use of hemp products, including, without limitation, hemp oil, snack bars containing hemp, and hemp clothing, shall not be considered a legitimate explanation for a positive test for marijuana. Such positive tests will be reported as verified positive unless a legitimate alternative medical explanation applies.
3. An employee may elect to have a retest conducted within 72 hours of receiving notice from the MRO of a positive controlled substance test result. However, the District shall be notified of the positive test result and shall remove the employee from the safety-sensitive position. The employee shall not be terminated from his or her employment with the District until the District has been notified that the employee's retest was verified positive by the MRO.

Alcohol Testing

1. All alcohol tests shall be conducted by a breath alcohol technician (BAT), trained to use the particular evidential breath testing (EBT) device used, and trained regarding the procedural requirements of 49 C.F.R. Subtitle A, Part 40 (Part 40). The District shall maintain records for any BAT employed by the District, documenting that training and proficiency tests were conducted in conformance with Part 40.
2. EBT's used for alcohol testing shall meet the requirements set forth in Part 40, including calibration checks of the EBT's. The District shall ensure that inspection, maintenance, and calibration checks are performed on each EBT, and that records of these checks are maintained as required in Part 40. All EBT's shall be securely stored when not in use.
3. Whether performed on or off District property, alcohol testing shall be conducted to afford visual and aural privacy to the employee being tested. Where unusual circumstances exist, such as where it is essential to conduct a test at an accident scene, visual and aural privacy must be provided to the greatest extent practicable.

4. Each BAT may supervise only one employee's use of an EBT at a time. The employee must provide the BAT with positive identification (either a photo I.D. card or identification by a District representative) prior to testing. The BAT shall explain the testing procedure to the employee.
5. The BAT shall use the breath alcohol testing form required under Part 40. The employee must complete Step 2 on this form and sign the certification. Failure to sign this certification shall be considered a refusal to take the test, and the employee shall be disciplined accordingly.
6. A new, individually sealed mouthpiece shall be used for each alcohol test and shall be opened in view of the employee.
7. Where the screening result is less than 0.02, no further testing is authorized. The results shall be given to the District confidentially and shall be maintained by the District as required in Part 40. Where the screening test result is 0.02 or greater, a confirmatory test will be performed.
8. The BAT shall instruct the employee not to eat, drink, put any substance or object into his or her mouth, and, to the extent possible, not to belch during the waiting period prior to the confirmation test. The waiting period must be at least 15 minutes after the completion of the screening test. These restrictions are for the employee's benefit; they prevent the possible accumulation of mouth alcohol.
9. The BAT shall conduct an airblank test on the EBT prior to the confirmation test. If the airblank registers greater than 0.00, a second airblank shall be conducted. If the second airblank registers greater than 0.00, a different EBT must be used.
10. If the screening and confirmation test results differ, the confirmation test shall be considered the final result.
11. An airblank shall also be performed after the confirmation test is performed. If the airblank registers greater than 0.00, the confirmation test is invalid and a new test shall begin if practicable.

Controlled Substance Testing

1. All urine collections for controlled substance tests shall be conducted by collection site persons trained in accordance with Part 40. All laboratories that conduct controlled substance tests shall be certified as required by Part 40.
2. A split sample method of urine collection shall be used for controlled substance testing. Thus, a sample of at least 45 millimeters of urine will be collected in one container. This sample shall then be split into two containers, one

containing 30 millimeters of urine and the other 15 millimeters. The split sample process allows for retesting if requested by the employee when a confirmed positive test result for controlled substances has occurred.

3. The collection site person shall utilize a standard drug testing custody and control form. The custody and control form contains procedures that protect the integrity of the testing process, including the specimen identification number, employee identification number, change of custody block and certification statements required to be signed by the collection site person, the laboratory person, the employee tested, and the medical review officer.
4. The employee to be tested shall be given a single use specimen bottle that either is still sealed or is unwrapped in the presence of the employee, to ensure that no tampering has occurred.
5. A tamper-proof sealing system shall be employed with the specimen bottles after use. In addition, each specimen bottle will be identified with the same number as that on the custody and control form, and the employee tested shall initial each bottle, affirming the identity of the specimen as his or her own.
6. The shipping container used to ship these samples to the laboratory shall also be sealed in a tamper-proof manner and initialed by the employee.
7. The designated collection site shall be secured during employee testing. Only one employee may be tested by a collection site person at any one time. The employee shall be given individual privacy during the collection process unless the collection site person has a reason to believe that a particular individual may alter or substitute the urine specimen. The following constitute the exclusive grounds for requiring urine collection to be conducted in the presence of a same-gender collection site person:
 - a. the employee has presented a specimen outside of normal temperature range;
 - b. the employee declines to provide an oral temperature when a specimen was provided outside of the normal temperature range;

- c. if provided, an employee's oral temperature varies greater than 1 degree C or 1.8 degrees F from the temperature of the specimen;
- d. the last specimen provided to the laboratory had a specific gravity of less than 1.003 and a creatinine level of less than .2 g/l;
- e. the collection site person observes conduct that clearly and unequivocally indicates an attempt to substitute or adulterate a urine sample;
- f. the employee has previously been determined to use a controlled substance in a test that was being conducted pursuant to a Department of Transportation Regulation for follow-up or return-to-duty testing.

A higher level supervisor or a designated District representative must review and concur with the collection site person's determination prior to required observed urine collection.

- 8. The following are additional security measures that will be followed:
 - a. Bluing agents shall be used in toilets wherever practicable.
 - b. Positive identification of the employee to be tested must be provided, either through a photo identification or positive identification by a District representative.
 - c. Employees will be directed to remove unnecessary outer garments and other articles carried with them to the collection site. Employees may keep their wallets during the collection process. In addition, employees may request a receipt for their possessions given to the collection site person.
 - d. The employee shall be directed to wash and dry his/her hands before collection, and shall be allowed no access to water, soap dispensers, cleaning agents, or any other materials that could adulterate the sample.
- 9. If the employee is unable to provide an adequate sample of at least 45 milliliters of urine, the employee shall be directed to remain at the collection site and to drink fluids for up to three (3) hours after the initial attempt. If the employee is still not able to provide a complete sample, the employee shall be referred to the MRO for a medical evaluation to

determine if the employee's inability to provide a sample is genuine or whether it constitutes a refusal to submit to a test. Applicants for employment who are unable to provide an adequate sample for a pre-employment test shall not be referred to the MRO for a medical evaluation, and shall not be hired by the District for a safety-sensitive position.

10. Once the samples are shipped to the laboratory, an initial immunoassay screening test is conducted. The immunoassay test has the following initial cutoffs:
 - a. Marijuana - 50 ng/ml b.
Cocaine - 300 ng/ml
 - c. Opiates - 2000 ng/ml (but 25 ng/ml if the test is specific for free morphine)
 - d. Phencyclidine - 25 ng/ml
 - e. Amphetamines - 1,000 ng/ml

11. A confirmatory gas chromatography/mass spectrometry test is conducted if the screening test indicates a positive result based on the initial cutoff rates. The cutoffs for the confirmatory test are as follows:
 - a. Marijuana - 15 ng/ml b.
Cocaine - 150 ng/ml
 - c. Morphine - 2000 ng/ml d.
Codeine - 2000 ng/ml
 - e. Phencyclidine - 1000 ng/ml f.
Amphetamines - 25 ng/ml
 - g. Methamphetamines - 500 ng/ml

12. The results of all tests are reported to the MRO. The MRO reviews and interprets confirmed positive results, examines alternative medical explanations, which may include a medical interview and review of the individual's medical history and other biomedical factors. The use of hemp

products, including, without limitation, hemp oil, snack bars containing hemp, and hemp clothing, shall not be considered a legitimate explanation for a positive test for marijuana. The MRO then contacts the employee confidentially to give the employee an opportunity to discuss the test results. If the MRO is unable to contact the employee, the MRO shall contact the testing liaison, who shall, in confidence, direct the employee to contact the MRO as soon as possible. If the testing liaison is unable to contact the employee, the District shall place the employee on temporary unqualified medical leave.

The MRO may report the test as verified positive to the District without employee contact if:

- a. the employee expressly declines to discuss the test results with the MRO;
- b. more than five (5) days have passed since the employee was contacted by the testing liaison; or
- c. other circumstances exist in the Department of Transportation Regulations allowing such reporting.

Once the report of a verified positive test has occurred without employee contact, the employee may provide information documenting that serious illness, injury, or other circumstances unavoidably prevented the employee from timely contacting the MRO. The MRO may, at his or her discretion, reopen a testing file and allow the employee to present information providing a legitimate explanation for the confirmed positive result. If the MRO determines that a legitimate medical explanation exists for the confirmed positive test, the MRO shall re-report it to the District as a verified negative result.

13. The MRO reports controlled substance test results to the District as verified positive or verified negative, but does not quantify those test results. The MRO may reveal the quantity to the District, the employee, or a decision-maker in a lawsuit, grievance, or other action initiated by or on behalf of the employee arising from a verified positive test result.
14. The MRO may not generally disclose medical information received from the employee to third parties. However, the MRO may disclose medical information regarding the employee to the District, the Department of Transportation, a federal safety agency, or a physician responsible for

determining medical qualifications under a Department of Transportation agency regulation if:

- a. the Department of Transportation regulation permits or requires such disclosure;
 - b. in the MRO's reasonable medical judgment, the information could result in the employee being determined as medically unqualified under Department of Transportation rules; or
 - c. in the MRO's reasonable medical judgment, where no applicable Department of Transportation rule has established physical qualifications for a position, he or she believes that continued performance of the safety-sensitive function by the employee could pose a significant safety risk.
15. The MRO shall inform the employee that these disclosures may be made prior to receiving medical information from the employee.

Confidentiality

All records maintained by the District pursuant to this policy are strictly confidential. Employee information contained in these records may not be released except as required by law or as expressly authorized or required by the Federal Highway Administration Rule. The Rule authorizes release of employee information to the following individuals or agencies:

1. United States Secretary of Transportation or any Department of the Transportation Agency;
2. State or local officials with regulatory authority over the District or its employees;
3. National Transportation Safety Board (NTSB) as part of an accident investigation. The information that may be disclosed to the NTSB is limited to post-accident tests administered or attempted following the accident in question;
4. Records specific to the employee may be obtained by the employee upon the employee's written request. The District may charge the employee a reasonable fee for the specific records requested;

5. A subsequent employer when requested in writing by the employee. This disclosure is limited to specific records authorized in the employee's written request;
6. The decision-maker in a lawsuit, grievance, or other proceeding involving an employee, arising out of a test administered pursuant to this policy or a determination that the employee engaged in prohibited conduct. Such proceedings include, without limitation: Workers' Compensation, Unemployment Compensation, and other benefit related proceedings;
7. Any other person when authorized in writing by the employee. The information released is limited to the specific information written in the employee's authorization.

Adopted: December 13, 1994

Revised: February 20, 1996

Revised: December 16, 1997

Revised: November 17, 1998

Revised: September 2, 2003

LEGAL REFS.:

49 U.S.C. 2717 et seq. (Omnibus Employee Testing Act of 1991)

49 C.F.R. Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs

49 C.F.R. Part 382, Controlled Substance and Alcohol Use and Testing

49 C.F. R. Part 391, Qualifications of Drivers

C.R.S. 42-2-501 et seq. (Commercial Driver's License Act)

C.R.S. 42-24-235

8 C.C.R. 1507-1 (Colorado Department of Safety Rules)

Drug Free Workplace Act

Americans with Disabilities Act

CROSS REFS.:

GBEC, Drug Free Workplace

GBGA, Staff Health