

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

I. INTRODUCTION

Federal law prohibits alcohol misuse and use of controlled substances that could affect the performance of a safety-sensitive function by employees. This policy implements the requirements of Federal law.

Vol. 59 Federal Register (FR) No. 31, February 15, 1994, p.7484 (Rule)

Section 5 of the Omnibus Act addresses requirements specific to employers who own or lease commercial motor vehicles (CMV's) or assign persons to operate such vehicles. 49 U.S.C. 2717. This section amends the Commercial Motor Vehicle Safety Act of 1986 (CMVSA). Public Law 99-570, 100 Stat. 3207-170 (codified at 49 U.S.C. app. 2701-2718). The CMVSA established the requirements for the Commercial Drivers License (CDL).

The Omnibus Act requires the Secretary of Transportation to issue regulations requiring employers to conduct pre-employment, reasonable suspicion, random and post-accident testing of drivers for the use, in violation of law or Federal regulation, of alcohol or controlled substances.

In addition, this rule is issued under the general safety regulatory authority of the Federal Highway Administration (FHWA). See 49 U.S.C. 3102 and app. 2505.

Vol. 59 FR No. 31 Tuesday, February 15, 1994, p. 7484-7485 (Rule)

The FHWA has had a policy of zero tolerance for alcohol use by CMV drivers since the early 1940's. The safety of the traveling public is paramount. An employee who has either recently consumed an alcoholic beverage or who has any detected presence of alcohol may not be on duty until the alcohol has dissipated from the person's system.

In addition, Title 49 Code of Federal Regulations (CFR) section 382.505 provides that drivers are prohibited from driving for 24 hours, though not placed out-of-service, when they are discovered through testing under part

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

382 to have an alcohol concentration of 0.02 or greater, but less than 0.04. Results below 0.02 through testing under this part are considered "negative."

The 24 hours out-of-service period is required by the CMVSA to be imposed on drivers discovered by law enforcement officials to have violated the prescriptions in Title 49 CFR Section 392.5, including any measured concentration of alcohol. It is designed to ensure that the employee is provided enough time to become alcohol free prior to driving a CMV again.

Vol. 59 FR No. 31 Tuesday, February 15, 1994, p. 7484 (Rule)

Section 382.103 Applicability

This final rule for alcohol and controlled substances testing extends coverage to both inter and intrastate truck and motor coach operations (including those operated by Federal, State and local government agencies, church and civic organizations, Indian tribes, farmers, custom harvesters, for-hire and private companies) as required by the Omnibus Act.

The FHWA's rule focuses on function rather than a defined job or position. An individual's job may encompass several different functions, some of which are not safety-sensitive. Since alcohol is a legal substance, alcohol use is relevant only to the extent its use coincides with performance of a safety-related function. As a safety regulatory matter, for example, the rule does not prohibit a school bus driver from having a drink before or while performing functions that are not safety-sensitive (as long as no other regulation is violated). For example, if the school bus driver is receiving all-day training on retirement planning along with non-safety employees and the other employees can have a drink at lunch, the school bus driver may also, provided the driver will not be operating a school bus within 4 hours.

II. SCOPE

This policy shall be applicable only to those employees of the District who hold a commercial drivers license which is necessary to perform job related duties such as operating a commercial motor vehicle. Any additional

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

policies that cover other than the Department of Transportation mandate, or cover non-safety-sensitive employees will be specifically identified as such.

III. Employee Information

A. Notification

The Department of Transportation (DOT) regulation required that the District shall distribute this policy to every covered employee, on an individual basis, prior to the start of alcohol and controlled substances testing. The District shall also distribute this policy to every covered employee hired after the adoption of the policy, and to every covered employee transferred into a position requiring driving a commercial vehicle. The DOT regulation requires that, the employees will be required to sign a statement acknowledging receipt of the policy.

B. Contact Person

The contact person designated to answer questions about this policy is the Drug/Alcohol Program Manager who is the Human Resources Director. The alternate Program Manager is the Vice Chancellor, Business Services.

C. District Policy

If the employee has questions, they may speak to their immediate supervisor who will refer them to the proper Administrator. The employee may also speak with the labor representative about any drug or alcohol abuse problem. However, the labor representative upon notice of a safety related problem, must be able to provide the employee direction in getting help or must refer the matter to the appropriate Administrator who will consider the employees situation as a voluntary referral.

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

D. Records Retention

The District shall retain all records in accordance with applicable Federal law, as set forth in Appendix A.

E. Confidentiality

It is imperative that strict confidentiality of all drug and alcohol testing records be maintained as required by law and regulation. These records should not be kept with other personnel records for an employee because they may be accessible to people not involved in the anti-drug plan. The release of an individual's drug or alcohol test results, or any information about an employees rehabilitation program is permitted only with the specific, written consent of the employee.

IV. Drug Free Workplace

(Drug-free workplace Act of 1988, 34 CFR Part 85, Subpart F)

A. Prohibited Substances Under the Drug Free Work Place Act of 1988 Illegally Used Controlled Substances or Drugs

Any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1308.11 through 1308.15. This includes, but is not limited to: amphetamines, marijuana, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.

B. Legal Drugs (District Policy)

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates the mental functioning,

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

motor skills, or judgment may be adversely affected should be reported to supervisory personnel and medical advice should be sought, as appropriate, before performing work-related duties.

C. Drug-free Workplace (District Policy)

To further the concept of a drug-free workplace, and to help insure a safe working environment for its employees, the District has implemented, in principle, the Drug-Free Workplace Act of 1988, which is intended to cover all employees.

The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance or alcohol in any of the employer workplaces or work sites is expressly prohibited. As a condition of employment, employees will abide by the terms of this paragraph. Violations of these prohibitions by the employers' employees shall result in disciplinary action in accordance with District policy.

If an employee is under a doctor's care and is taking prescribed or over-the-counter drugs that may cause drowsiness or physical impairment, he/she must notify his/her supervisor before any work is performed for the employer. No employee shall report for duty while impaired by the use of any drug or alcohol.

The determination of this impairment is the responsibility of the employee taking the drug. Information should be obtained from the prescribing physician or pharmacist prior to reporting to work.

Should any employee be convicted of a criminal drug violation occurring at the workplace or work-site, it shall be his/her responsibility to notify the District in writing within five (5) days following the conviction.

Consultants, contractors, vendors and any of their employees who violate the above may have their business relationship terminated.

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

D. Definitions

1. **Accident** is an incident involving a commercial motor vehicle if the incident involved the loss of human life; or the driver receives a citation arising from the incident and an individual suffers a bodily injury and immediately receives medical treatment away from the scene (e.g. taken to the hospital by ambulance), or a vehicle is required to be towed from the scene.
2. **Alcohol** is the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol's including methyl and isopropyl alcohol.
3. **Alcohol use** is the consumption of any beverage, mixture, or preparation, including any medication (prescribed or over-the-counter, intentional or unintentional), containing alcohol.
4. **Breath alcohol technician (BAT)** is an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath-testing device (EBT).
5. **Commercial motor vehicle** is a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:
 - a. has a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds, or
 - b. has a gross vehicle weight rating of 26,001 or more pounds, or
 - c. is designed to transport 16 or more passengers, including the driver, or

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

- d. is of any size and is used in the transportation of hazardous materials requiring placards under 49 CFR part 172, (subpart F).
6. **Confirmation test**, for alcohol testing, is a second test that provides quantitative data of alcohol concentration following a screening test with a result of 0.02 grams or greater of alcohol per 210 liters of breath. For controlled substances testing, it is a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principal from that of the screen test in order to ensure reliability and accuracy.
7. **Controlled Substance**, for the purpose of this program is marijuana, cocaine, amphetamines (including methamphetamines), opiates, or Phencyclidine (PCP).
8. **Covered employee** is an employee subject to the requirement of applicable Federal law, and this policy. The District is the employer.
9. **Driver** is any person who operates a commercial motor vehicle. For the purposes of pre-employment testing, the term driver includes a person applying to drive a commercial motor vehicle.
10. **Employer** is any person (including the United States, a State, the District of Columbia or a political subdivision of a State such as the District) who owns or leases a commercial motor vehicle or assigns persons to operate such a vehicle, including agents, officers, and representatives of the District.
11. **Evidential breath testing device (EBT)** is a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" (CPL).

12. **Medical review officer (MRO)** is a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.
13. **On-duty time**, as that phrase is defined by Federal regulations and this policy, means all of the time from the time a covered employee begins to work or is required to be in readiness to work, until the time he or she is relieved for work and all responsibility for performing work.
14. **Performing (a safety-sensitive function)** is any period in which the driver is actually performing, ready to perform, or immediately able to perform any safety-sensitive functions.
15. **Refusal to submit (to an alcohol or controlled substances test)** is when a driver: (1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement of breath testing; (2) fails to provide an adequate urine sample for controlled substances testing without a genuine inability to provide a specimen (as determined by a medical evaluation) after he or she has received notice of the requirement for urine testing; or (3) engages in conduct that clearly obstructs the testing process.
16. **Safety-sensitive function**, for purposes of this policy, shall mean any of the functions defined in Title 49 of the Code of Federal Regulations. More specifically, safety-sensitive functions include all functions performed by a covered employee during on-duty time and include:

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

- a. All time at a carrier or sipper plant, terminal, facility, or other property waiting to be dispatched, unless the driver has been relieved from duty by the employer.
- b. All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations (FMCSR's) or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.
- c. All time spent at the driving controls of a commercial motor vehicle.
- d. All time, other than driving time, spent on or in a commercial motor vehicle (except for time spent resting in the sleeper berth).
- e. All time loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded.
- f. All time spent performing the driver requirements associated with an accident.
- g. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
- h. All time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with the testing requirements.

17. Screening test (a.k.a. initial test) in alcohol testing is an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system. In

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

controlled substance testing, it is an immunoassay screen to eliminate negative urine specimens from further consideration.

18. **Substance abuse professional** is a licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of a clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

- E. The District may require a driver to inform the District of any therapeutic drug use.

No covered employee found to have an alcohol concentration of .02 or greater but less than .04 shall perform or continue to perform safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

If an applicant or covered employee produces a test result indicating an alcohol concentration equal to or greater than .04 or a positive result on a controlled substances test, that employee shall be transported to his or her residence by the District.

A covered employee who fails a required test shall not receive his or her normal compensation for hours during which the employee is prohibited by Federal law and this policy, from performing a safety-sensitive function. Failure is defined as a verified positive result by an MRO for controlled substances and/or an alcohol concentration greater than .02.

Employees who test positive under this policy will be relieved of duty under the conditions set forth in this policy. During such time, the employee will not receive his/her normal compensation until the employee meets the requirements of this policy and returns to duty. A

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

positive test is defined as an alcohol concentration greater than .02 and/or a verified positive controlled substance result.

The District reserves the right to impose any appropriate disciplinary action if and when an employee produces a test result indicating an alcohol concentration equal to or greater than .02, or if that employee produces a controlled substances test with a verified positive result, or if the employee refuses to submit to a test required by this policy.

The District reserves the right not to employ any applicant who produces a test result indicating a controlled substances test with a verified positive result, or who refuses to submit to a pre-employment controlled substances test.

The use of illegal drugs while at work will not be tolerated.

Working while under the influence of illegal drugs will not be tolerated.

No employee shall possess any drug, with the exception of substances prescribed by a physician while at the job-site. No employee shall sell or attempt to sell to any other person any drug at any job-site. The term “job-site” means any property owned, operated, or controlled by the District, or any other location where the employee is to perform their duties for the District. Any violation of this policy will result in disciplinary action that may include termination.

No employee shall use any drug prescribed to another person while at work or on call. No employee shall bring to or possess any drug prescribed to another person to the workplace. Any violation of this policy will result in disciplinary action that may include termination.

If an employee is under a doctor’s care and is taking prescribed or over-the-counter drugs that may cause drowsiness or physical impairment, he/she must notify the project supervisor and the Anti-Drug Plan manager before any work is performed for the District. No employee will report for duty while impaired by the use of any drug.

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

The determination of this impairment is the responsibility of the employee taking the drug. The information should be obtained from the prescribing physician or pharmacist prior to reporting to work. Any violation of this policy will result in disciplinary action that may include termination.

Any employee may come to the Drug/Alcohol Program Manager during business hours and discuss their drug abuse problems. If an employee, as a result of a required drug test, is found to be using a controlled substance, upon receiving the confirmation from the Medical Review Officer, he/she shall be removed from their safety-sensitive position.

Refusal or inability to comply with any required drug test will result in the employee being removed from his/her safety-sensitive position.

The employee may return to work upon completion of the drug rehabilitation program. He/she will be reinstated with all applicable seniority, sick leave, vacation and company benefits.

If the above employee completes a drug rehabilitation program and is cleared for return to duty by the Medical Review Officer they will be treated like any other applicant for a position with the District.

Consultants, contractors, and vendors who violate this provision may have their business relationship terminated.

If an employee is taking any type of drugs as a result of job related problems (perceived or real), they must bring it to the attention of the Director of Human Resources.

No covered employee shall return to duty or remain on duty to perform safety-sensitive functions if the covered employee has engaged in conduct prohibited by this Policy, unless the covered employee successfully fulfills the conditions set forth in this Policy.

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

Any covered employee tested under this Policy who is found to have an alcohol concentration equal to or greater than .04, or who tests positive on a verified controlled substances test, shall not continue to perform safety-sensitive functions for the District. In this situation the covered employee shall not resume the performance of safety-sensitive functions until the employee produces a Return-to-Duty test with a result indicating an alcohol concentration of less than .02, and/or a result indicating a negative result for controlled substances use.

Any covered employee discovered to have engaged in prohibited conduct shall be subject to an evaluation by a substance abuse professional (SAP) to determine what, if any, assistance the employee needs in resolving problems associated with alcohol misuse and controlled substances use. The SAP shall be a person who is qualified for that position in accordance with applicable Federal requirements.

If, after an evaluation, an employee is diagnosed as needing assistance and directed to an assistance program, that employee may not return to duty unless the SAP determines that the employee has properly followed any rehabilitation program prescribed and shall be subject to follow-up testing.

Every covered employee who has engaged in prohibited conduct shall be advised of the resources available to that employee in evaluating and resolving problems associated with the misuse of alcohol and controlled substances.

These requirements, relating to mandatory referral and evaluation, do not apply to applicants who have a pre-employment controlled substances test with a verified positive result.

The choice of the substance abuse professional who shall conduct the evaluation is reserved to the District.

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

The costs of any treatment and/or rehabilitation program prescribed by the Substance Abuse Professional (SAP) shall be borne by the employee. The employee may utilize the benefit component of the District provided employee assistance program (EAP) where applicable.

The circumstances under which drivers will be tested for alcohol and/or controlled substances are set for in Appendix E.

CONSEQUENCES OF A POSITIVE DRUG OR ALCOHOL TEST

1. An employee who tests positive for drugs and/or .04 or above for alcohol will be considered to have a positive test. Any employee who tests positive will be removed from performing any safety sensitive functions and will be placed on leave without pay and be referred to a Substance Abuse Professional. The employee may use vacation or floating holiday time during the period of leave without pay. The employee will be offered the opportunity to follow the recommended course of treatment. The cost of treatment shall be the responsibility of the employee. The employee will be returned to work based upon the recommendation of the SAP and the completion of a negative return-to-work drug test or a return-to-work alcohol test with a result of less than .02.

If the employee refuses to participate in a treatment program, the employee may be subject to disciplinary action up to, and including, termination. If the employee agrees to participate in a program, the employee will be permitted to pursue the course of treatment and will not be disciplined for the initial positive test. If the employee does not complete the course of treatment and does not provide a reason acceptable to the Substance Abuse Professional for failure to complete the program, the employee may be subject to disciplinary action up to, and including, termination. If the employee tests positive for drugs or alcohol during the course of treatment or any time during a five (5) year period following the return to work, the employee may be subject to disciplinary action up to, and including, termination.

An employee whose program of rehabilitation required time off work shall be provided such time and shall be permitted to use vacation or floating holiday time to cover such period. Sick leave or vacation leave may be utilized if the

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

employee enters an inpatient rehabilitation program under the auspices of a medical provider. Employees who have tested positive shall be subject to return-to-duty testing and follow-up testing as provided in this policy and any additional follow-up testing recommended by a Substance Abuse Professional.

2. If an employee who once tests positive for drugs or alcohol and who does not again test positive for drugs or alcohol for at least five years from the date of return to work from the first positive test, again tests positive for drugs or alcohol, he/she will be removed from performing any safety sensitive functions and will be placed on leave without pay and be referred to a Substance Abuse Professional. The same terms and conditions that are described in #1 above apply, except that the employee in this particular circumstance shall be subject to a last chance agreement that prescribes that if the employee tests positive for drug(s) or alcohol at any time after returning to work, she/he will be subject to termination for cause without right of appeal.

Testing Procedures:

All tests conducted pursuant to this policy shall comply with the requirements of applicable Federal law (See Appendix B).

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

Appendix A: ALCOHOL CONTROLLED SUBSTANCES TESTING REGULATIONS FOR COMMERCIAL MOTOR VEHICLE DRIVERS

Retention of Records:

This section explains which controlled substance and alcohol test records must be completed and maintained, where they must be maintained and for how long. All records shall be maintained in a secure location with controlled access.

Required period of retention:

<u>Documents To Be Maintained</u>	<u>Period Required to be Maintained</u>
--	--

Five Years:

Alcohol test results indicating a breath alcohol concentration of 0.02 or greater	5 Years
---	----------------

Verified positive controlled substance test results	5 Years
---	----------------

Refusals to submit to required alcohol or controlled substance tests	5 Years
--	----------------

Required calibration of Evidential Breath Testing Devices (EBT's)	5 Years
---	----------------

Substance Abuse Professional's (SAP's) evaluations and referrals	5 Years
--	----------------

Annual calendar year summary	5 Years
------------------------------	----------------

Two Years:

Records related to the collection process (except calibration) and required training	2 Years
--	----------------

Issued: May 21, 1996

Revised: May 30, 1996; August 30, 1999

Page 16 of 16

Chabot-Las Positas Community College District

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

One Year:

Negative and canceled controlled substances test results **1 Year**

Alcohol test results indicating a breath alcohol concentration less than 0.02 **1 Year**

Types of records required to be maintained:

(1) Records related to the collection process:

- Collection logbooks (if used)
- Documents related to the random selection process
- Calibration documentation for EBT devices
- Documentation of Breath Alcohol Technician (BAT) training
- Documentation of reasoning for reasonable suspicion testing
- Documentation of reasoning for post-accident testing
- Documents verifying a medical explanation for the inability to provide adequate breath or urine for testing
- Consolidated annual calendar year summaries

(2) Records related to the driver's test results:

- District's copy of the alcohol test form, including results
- District's copy of the drug test chain of custody and control form
- Documents sent to the District by the Medical Review Officer
- Documentation of any driver's refusal to submit to a required alcohol or controlled substance test
- Documents provided by a driver to dispute results of test
- Documentation of any other violation of controlled substance use or alcohol misuse rules

(3) Records related to evaluations:

- Records pertaining to substance abuse professional's (SAP's) determination of driver's need for assistance
- Records concerning a driver's compliance with SAP's recommendations

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

(4) Records related to education and training:

Materials on drug and alcohol awareness, including a copy of the District's policy of drug use and alcohol misuse

Documentation of compliance with requirement to provide drivers with educational material, including driver's signed receipt of materials

Documentation of supervisor training

Certification that training conducted under this rule complies with all requirements of the rule

(5) Records related to drug testing:

Agreements with collection site facilities, laboratories, MROs, and consortia
Names and positions of officials and their role in the District's alcohol and controlled substance testing program

Monthly statistical summaries of urinalysis (49 CFR Section 40.29 (g)(6))

The District's drug testing policy and procedures

Location of Records:

All required records shall be maintained in a secure location with limited access. Records shall be made available for inspection at the District's principal place of business within two business days after a request has been made by an authorized representative of the Federal Highway Administration.

For example: Specific records may be maintained on computer or at a regional or terminal office, provided the records can be made available upon request from FHWA within two working days.

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

Appendix B:

ALCOHOL AND CONTROLLED SUBSTANCES TESTING PROCEDURES AND POLICY

Introduction:

The District shall implement and enforce the procedures for transportation workplace testing as set forth in 49 CFR Part 40. These procedures include, but are not limited to the following information. In all cases, the requirements of 49 CFR Part 40 shall be followed.

Controlled Substances Testing:

Applicable Drugs:

Employees subject to controlled substances testing shall be tested for the following substances:

- Marijuana
- Cocaine
- Opiates
- Amphetamines
- Phencyclidine (PCP)

Although the specimen will not be analyzed specifically for adulterants, the lab may conduct adulteration checks (PH, specific gravity or creatinine). The test may be canceled if adulterants are detected. The lab is permitted to check for adulterants as per Federal Department of Transportation (DOT) guidelines,

Specimen Collection Procedures:

The collection shall take place in a secure location to prevent unauthorized access during the collection process.

The specimen shall be kept in sight of the employee and the collection site person until it is sealed and ready for shipment.

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

Employees shall have individual privacy when providing a specimen except when:

- a) The employee presents a specimen that is outside the accepted temperature range and he/she refuses to have an oral body temperature measurement, or the body temperature measurement varies more than 1° c or 1.8° F from the specimen temperature.
- b) The collector observes the employee attempting to adulterate or substitute the specimen.
- c) The employee's last provided specimen was determined to be diluted.
- d) The employee has previously had a verified positive test.

In a. and b. above, the employee must provide a specimen under direct observation. In c. and d. above, the District may require a direct observation collection.

In addition, to the procedures in 49 CFR Section 40.25(e), the following specific procedures will be followed during the collection process:

- a) The employee must submit identification to the collector. The collection shall not proceed until a positive identification is made.
- b) The employee will not be required to undress, or to change into an examination gown. Only outer garments should be removed, i.e., jackets.
- c) The donor shall be required to wash his/her hands prior to urination, and shall not have access to any water sources until the specimen has been collected.
- d) A bluing agent shall be added to the toilet bowl and the donor may flush the toilet only after releasing the specimen to the collector.
- e) The specimen must be at least 45 ml to be acceptable.
- f) The collector must measure the specimen temperature within four minutes of urination to determine sample acceptability.

If the donor cannot provide a sufficient volume of urine, he/she shall remain at the collection site and be provided not more than twenty-four ounces of fluids to drink. The donor shall have a period of up to two hours to produce an acceptable sample. If the donor is unable to produce a sample without a valid medical reason the District may consider the circumstance to be a refusal to test.

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

The specimen shall be divided into two parts. The collector shall pour 30 ml of urine from the specimen bottle into a second specimen bottle, to be used as the primary specimen. The remainder of the urine, at least 15 ml, shall be poured into another container to be used as the split sample.

Both samples shall be shipped in a single shipping container with the appropriate chain of custody forms.

The collector and donor must be present together to complete the following process:

- a. Seal and label the specimen bottle.
- b. Donor initials the bottle label or seal.
- c. The chain of custody forms must be signed and dated.

If an employee refuses to cooperate with the collection process the collector shall notify the District representative and note the non-cooperation on the custody and control form.

The Collection site person is responsible for maintaining the integrity of the specimen collection and transfer process, carefully ensuring the modesty and privacy of the donor, and is to avoid any conduct or remarks that might be construed as accusatorial or otherwise offensive or inappropriate.

Split Sample

If the test result of the primary specimen is positive, the employee may request in writing that the MRO direct that the split specimen be analyzed. After the MRO notifies the employee of a positive result for the presence of a drug(s) in the primary sample, the employee has up to seventy-two hours to request analysis of the split sample.

The split sample analysis will be conducted by a DHHS-certified laboratory who will analyze the sample for presence of the drug(s) for which a positive result was obtained in the primary sample.

If the result of the test of the split sample fails to reconfirm the presence of the drug(s) or drug metabolites(s) found in the primary specimen, the MRO shall cancel the test and report the cancellation to the District.

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

All costs associated with the analysis of the split sample shall be the responsibility of the employee.

Inability to Provide Adequate Urine Sample:

If the individual is unable to provide such a quantity of urine, the collection site person shall instruct the individual to drink not more than 24 ounces of fluids and, after a period of up to two hours, again attempt to provide a complete sample using a fresh collection container. The original insufficient specimen shall be discarded. If the employee is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the District so notified. The MRO shall refer the individual for a medical evaluation to develop pertinent information concerning whether the individual's inability to provide a specimen is genuine or constitutes a refusal to test. (In pre-employment testing, if the District does not wish to hire the individual, the MRO is not required to make such a referral.) Upon completion of the examination, the MRO shall report his or her conclusions to the District in writing.

Alcohol Testing:

Testing Procedures

The test shall take place in a secure location that affords visual and aural privacy to prevent unauthorized persons from seeing or hearing test results.

When an employee enters the testing location, the BAT will require him/her to provide positive identification. The test shall not proceed until positive identification of the employee is made.

An individually-sealed mouthpiece shall be opened in view of the employee and then attached to the testing unit.

The employee shall be required to blow forcefully into the mouthpiece for at least six seconds or until an adequate amount of breath has been obtained.

The employee shall be shown the result both on the testing unit and the recording form. The employee shall verify both results are the same. If a result printed by the testing unit does not match the displayed result, the BAT shall declare the test invalid.

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

If the result of the screening test is less than 0.02 breath alcohol concentration no other testing will be conducted.

If the result of the screening test reflects an alcohol concentration of 0.02 or greater, a confirmation test shall be performed.

Prior to conducting the confirmation test the employee may not eat, drink, or place anything in his/her mouth. If possible, the employee should not belch during the waiting period. The confirmation test shall be conducted no less than fifteen minutes and no more than thirty minutes from the screening test.

The fifteen minutes waiting period is provided for the employee's benefit. This time period allows for the dissipation of any mouth alcohol, thereby helping to prevent an artificially high reading.

In the event the screening and the confirmation test results do not match, the confirmation results will be considered the final results.

If the employee refuses to sign the breath alcohol testing form or fails to provide an adequate amount of breath without a valid medical reason, the District may determine the circumstance to be a refusal to test.

Inability to Provide Adequate Breath:

If the employee fails to provide an adequate amount of breath he/she shall provide the District with an evaluation from a licensed physician, who is acceptable to the District, concerning the employee's medical ability to provide adequate breath.

If the physician determines there is a valid medical reason precluding the employee from providing adequate breath then the employee's failure shall not be deemed a refusal to test.

If the physician is unable to determine a valid medical reason, the employee's failure to provide adequate breath shall be considered a refusal to test.

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

Appendix C:

Employee Assistance Program:

The District supports ongoing education for all employees in an effort to heighten their awareness of the effects and consequences of drug abuse on personal health and safety, and on the work environment. In addition, information on the manifestation and behavioral cues that may indicate drug abuse has been provided in this manual (see Appendix D). An emphasis on this and several other topics including how to determine if an employee needs reasonable cause testing will be provided specific supervisors.

The District will establish an Employee Assistance Program (EAP) and will assure that it includes at least a form of display and distribution of informational material; display and distribution of a community service hot-line telephone number for employee assistance; and display and distribution of the client's policy regarding drug use in the workplace.

The Following Phone Numbers May be used to Obtain More Information on Drug and Alcohol Addiction:

1. CA Dept. of Alcohol & Drugs Programs: (916)323-1860
2. Community Action EAP (Bob Bruner) 800-777-9376
3. National Council on Alcoholism 800-NCA-CALL
4. Alcoholics Anonymous _____
5. Narcotics Anonymous _____

If you need help with an alcohol abuse problem:

Contact your Employers Employee Assistance Program, your medical benefits coordinator, or the District Human Resources Director.

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

Appendix D:

Effects of Drugs & Alcohol:

Marijuana:

Marijuana is the common term used to describe the cannabis plant. Marijuana (also called pot, grass or dope) is usually smoked. Marijuana is both a narcotic and a hallucinogen. It produces increased heart rates, blood pressure, blood shot eyes, dilated pupils and dry mouth. Marijuana impairs the short term memory and the sense of time. It can reduce motorskills, coordination, reaction time and concentration.

Cocaine:

Is a stimulant and can be taken through the nose in powder form, injected as a liquid or free-based. Cocaine is also found in a crystal form known as crack cocaine. Crack cocaine is an addictive narcotic which can also produce hallucinogenic effects with long-term use. It causes increased heart rates, blood pressure, respiration, dilation of the pupils, and result in anxiety, restlessness, irritability and sleeplessness.

Opiates:

Opiates include narcotics such as opium, heroin, morphine and codeine. They appear as solids, pastes, powders, liquids, and can be smoked, ingested, or injected. Opiates are depressants and relaxants. Opiate users can become lethargic, becoming drowsy or going to sleep. Opiates are highly addictive and dangerous drugs. Some physical signs can be runny eyes and noses, nausea, and fainting.

Phencyclidine:

Often called PCP or “angel dust” is a hallucinogenic. It is synthetically made and comes as a powder, tablet or capsule that can be ingested or smoked. The effects of the use of PCP include increased heart rates, blood pressure, dizziness, numbness, and disorientation, slows reflex and body movements, and can impair vision and speech.

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

Amphetamines:

Also known as methamphetamines are stimulants which can be ingested as tablets or capsules. They are also found in powder form that can be sniffed or injected as a mixed liquid. Some signs are elevated heart rates, blood pressure, respiratory rates, dilated pupils, sweating (with pungent odor), sleeplessness, mood swings, talkativeness and anxiety.

Metabolites from drug use can be found in urine for varying lengths of time after being used. Generally speaking, except for marijuana, which collects in fatty tissues, the above drugs stay in the body up to approximately one week.

Alcohol:

Alcohol is a central nervous system depressant. Taken in large quantities it causes not only the euphoria associated with “being drunk” but also adversely affects your judgment, your ability to think, and your motor functions. Drink enough alcohol fast enough and it can kill you.

Long term overuse of alcohol can cause liver damage, heart problems, sexual dysfunction, and other serious medical problems. In some cases, alcohol use can lead to physical and psychological dependence on alcohol. Alcoholism is a serious chronic disease. Left untreated it will inevitably get worse.

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

APPENDIX E

CIRCUMSTANCES UNDER WHICH DRIVERS WILL BE TESTED FOR ALCOHOL AND/OR CONTROLLED SUBSTANCES

TYPES OF TESTS REQUIRED

Pre-employment Testing

A pre-employment controlled substance test must be conducted before the first time an employee performs a safety-sensitive function. This also applies to regular employees returning from leave of 30 calendar days or more who have not been subject to the random selection process. An employee must also take a pre-employment controlled substance test when he/she transfers to a safety-sensitive position. A negative test result is required prior to performing covered functions.

Exceptions to Pre-employment Controlled Substance Testing

An employee would not be required to take a pre-employment controlled substance test if the employer verifies the following:

1. The employee has participated in a controlled substance testing program that meets the requirements of this policy within the previous 30 days, and
2. While participating in this program, was tested for controlled substances within the past six months or participated in a random program for the previous 12 months, and
3. The District verifies with the employee's previous employers that within the past six months the employee has not violated any part of this policy nor has he/she violated the rules of other Department of Transportation agencies.

Post-accident Testing

Accident means an occurrence involving a commercial motor vehicle operating on a public road which results in:

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

1. A fatality, or
2. An employee covered by this policy receiving a citation under State or local law for a moving traffic violation arising from the accident, or
3. Bodily injury - As a result of the injury immediately receives medical treatment away from the scene of the accident, or
4. One or more vehicles incurring damage as a result of the accident needs to be towed away from the scene by a tow truck.

Controlled substances test - The employee must be tested for controlled substances as soon as possible but no later than 32 hours after the accident.

Alcohol test - The employee must be tested for alcohol as soon as possible but no later than eight hours following an accident.

The District will provide the employee with information on how to comply with post-accident procedures prior to operating a commercial motor vehicle.

Post-accident breath, urine, or blood tests completed by local, state, or federal officials may fulfill the requirements of this policy.

A driver who is subject to post-accident testing must remain readily available for such testing or may be deemed by the District as refusing to submit to testing. However, this requirement should not delay necessary medical attention to injured parties following an accident nor prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

Random Testing

The regulations require that covered employees shall be subject to controlled substance and alcohol testing on an unannounced and random basis. The District shall conduct a number of controlled substance tests according to the following:

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

1. The minimum annual percentage rate for random alcohol testing is 25 percent of employees covered under District policy each selection period.
2. The minimal annual percentage rate for random drug/substance testing is 50 percent of the employees covered under District policy each selection period.

The FHWA administrator's decision to increase or decrease the minimum annual percentage rate for testing is based on the reported violation rate for the entire industry. This information is drawn from the Management Information System Reports.

Once the employee has been notified that he/she has been selected for testing, he/she must proceed to the test site immediately.

Alcohol testing will be performed only just before, during, or just after performing a safety-sensitive function.

The selection of employees for random alcohol and controlled substance testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that matches the employees' social security numbers, payroll numbers or other comparable identifying numbers.

Under the selection process used, each employee shall have an equal chance of being tested with each selection made.

The District shall ensure that random alcohol and controlled substance tests conducted under this section are unannounced and the dates for administering random alcohol and controlled substance tests are spread reasonably throughout the calendar year.

Reasonable Suspicion Testing

Reasonable suspicion testing of an employee is required when there is reasonable suspicion to believe that the employee has violated the prohibitions of this policy. A supervisor or District official, who is trained in detection of the possible symptoms of controlled substance use and/or alcohol abuse, shall make the decision to test the employee.

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

1. Controlled Substances

- a. The determination that reasonable suspicion exists will be based upon specific observations concerning the appearance, behavior, speech, performance indicators, or body odors of the employee(s). The observations may include indications of chronic and/or withdrawal effects of controlled substances.
- b. An employee may be asked to submit to a reasonable cause controlled substance test at any time during the work period.

2. Alcohol

- a. The determination that reasonable suspicion exists will be based upon specific observations concerning the appearance, behavior, speech, performance indicators, or body odors of the employee(s).
- b. Alcohol tests for reasonable suspicions must be requested before, during, or just after the employee performs a safety-sensitive function.
- c. The supervisor who makes the determination to test the employee may not administer the alcohol test. The supervisor or designee shall drive the employee to the District's test site certificated under the law.
- d. The employee will not be permitted to return to work to perform safety sensitive functions until:
 - (1) An alcohol test is administered with a result of less than 0.02; or
 - (2) 24 hours have elapsed from the time the determination of reasonable suspicion was made.

Return-to-Duty Testing

Any covered employee tested under this Policy who is found to have an alcohol concentration equal to or greater than 0.04, or who tests positive on a verified controlled substances test, shall not continue to perform safety-sensitive functions for the District. In this situation, the covered employee shall not resume the performance of safety-sensitive functions until the employee produces a Return-to-Duty test with a result indicating an

Personnel – General

Administrative Rules and Procedures

4060 Alcohol and Controlled Substances

alcohol concentration of less than 0.02, and/or a result indicating a verified negative result for controlled substances use.

Follow-up Testing

If, after an evaluation, an employee is diagnosed as needing assistance and directed to an assistance program, that employee may not return to duty unless the SAP determines that the employee has properly followed any rehabilitation program prescribed and shall be subject to unannounced follow-up testing.

General

1. Employees: Each employee has the responsibility to be knowledgeable of the requirements of the District's controlled substance and alcohol policy and to fully comply with the provisions of the policy.
2. Time Period Testing is Conducted - An employee may be sent to be tested for controlled substances at any time during the employee's work day. Testing for alcohol must take place just before, during, or just after performing a safety-sensitive or covered functions.

