

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION MANDATED DRUG AND
ALCOHOL TESTING PROGRAM

District employees who operate commercial motor vehicles and are required to hold a commercial driver's license in connection with their district job duties ("drivers") are subject to the district's Alcohol and Controlled Substances Testing Program as set forth in Board Policy No. 5202 and these procedures. These procedures are intended to meet the requirements of federal law, including regulations issued by the U.S. Department of Transportation ("DOT") and the Federal Motor Carrier Highway Administration ("FMCA"). They supplement, but do not displace, the district's Drug-Free Workplace Policy.

The district's executive director for human resources ~~classified personnel administrator~~, as program administrator, is responsible for the implementation and carrying out of these procedures.

I. "DRIVERS" COVERED BY THIS PROCEDURE

A. Employees in the following positions requiring a commercial driver's license (CDL) are "drivers" subject to these procedures. *Driver* means any person who operates a CMV as part of his/her job duties for the district. For purposes of pre-employment/pre-duty testing, the term also includes a prospective employee for a position that involves operation of a CMV.

1. Bus Driver, including substitutes
2. Relief Driver
3. Special Needs Vehicle Driver
4. Shop Foreman
5. Dispatcher/Service Specialist
6. Mechanic.

II. PROHIBITED CONDUCT

- A. The following conduct is strictly prohibited for drivers:
1. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater.
 2. Being on duty or operating a commercial motor vehicle while the driver possesses alcohol.
 3. Using alcohol while performing safety-sensitive functions.
 4. Using alcohol within six (6) hours prior to reporting for duty to perform safety-sensitive functions.
 5. Using alcohol within eight (8) hours following an accident or prior to undergoing a post-accident alcohol test, whichever occurs first.

6. Refusing to submit to a post-accident, random, reasonable suspicion, or follow-up test for alcohol or controlled substances required by these procedures or FMCA regulations.
7. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions when using any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle. Drivers are required to inform the district of any therapeutic drug use.
8. Reporting for duty, remaining on duty, or performing any safety-sensitive functions if the driver is under the influence for controlled substances.

III. DEFINITIONS

Alcohol Use means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Commercial Motor Vehicle (CMV) means a motor vehicle that: (a) 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; (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.

Controlled Substance prohibitions contained in these procedures apply to all controlled substances as defined by law, but controlled substances testing is limited to marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP).

Driver means any person who operates a CMV as part of his/her job duties for the district. For purposes of pre-employment/pre-duty testing, the term also includes a prospective employee for a position that involves operation of a CMV.

Medical Review Officer (MRO) is a licensed physician responsible for receiving, interpreting, and evaluating laboratory results generated by the district's drug testing program, together with medical history and any other relevant biomedical information.

Refuse to Submit (to an alcohol or controlled substances test) means that a driver: (a) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing; (b) fails to provide adequate urine 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 (c) engages in conduct that clearly obstructs the testing process.

Safety-Sensitive Functions include the following: (a) driving or operating a CMV; (b) supervising or participating in loading or unloading a CMV or attending a CMV during loading or unloading; (c) remaining in readiness to operate a CMV; (d) waiting to be dispatched; (e) inspecting, servicing, or conditioning a CMV; (f) repairing, obtaining assistance for, or remaining in attendance with a disabled CMV; and (g) all other times in or on a CMV. A driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

IV. TESTING REQUIREMENTS

Drivers are subject to pre-employment testing for controlled substances, and to random, post-accident, reasonable suspicion, return-to-duty, and follow-up testing for alcohol and controlled substances, as follows:

A. Pre-employment Testing

1. Controlled substances testing is required prior to the first time a driver performs a safety-sensitive function for the district. Both prospective employees who have been offered employment in positions involving the operation of CMVs and current employees reassigned to such positions are subject to pre-employment testing. Employment or promotion offers for driver positions will be conditioned on a negative alcohol and controlled substances test.
2. No new driver shall perform safety-sensitive functions unless the driver has received a controlled substances test result from an MRO indicating a verified negative result for the driver.
3. The district may dispense with pre-employment controlled substances testing in cases where the applicant has recently undergone alcohol and/or drug testing for another employer or prospective employer, subject to strict compliance with FMCA regulations on such exceptions.
4. The district must obtain and review information on prior FMCA-mandated alcohol and controlled substances testing from any employer for which the driver performed safety-sensitive functions in the previous two years. Information concerning positive controlled substances tests, alcohol tests with results of 0.02 or higher, and refusals to test must be obtained and reviewed no later than fourteen (14) days after the first time a driver performs safety-sensitive functions. Prospective drivers are required, as a condition of employment, to provide the district with a release for such information, including consent for national search of driving abstracts in accordance with FMCA.

B. Random Testing

1. The district will conduct random alcohol testing at an annual rate directed by FMCA. It will conduct random controlled substances testing at an annual rate at least equal to 50% of the number of driver positions. Random testing rates are subject to change by the FHWA.
2. Drivers will be randomly selected so that each driver will have an equal chance of being tested each time selections are made. Random tests shall be unannounced and spread reasonably throughout the calendar year.
3. Drivers selected for random testing must proceed immediately to the testing site upon notification of being selected. If the driver is performing a safety-sensitive function, he or she must cease performing the function and proceed to testing as soon as possible.
4. In the event a driver who is selected for a random alcohol and/or controlled substances test is absent, the district may select another driver for testing or keep the original selection confidential until the driver returns, if the driver is expected to be available for testing during the current designated testing period.

C. Reasonable Suspicion Testing

1. The district shall require a driver to submit to an alcohol or controlled substances test when the district has reasonable suspicion that the driver has violated alcohol or controlled substances prohibitions. The reasonable suspicion determination must be made by a supervisor or district administrator who has received mandated training, and the determination must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver.
2. A written record shall be made of the observations leading to a reasonable suspicion test and signed by the supervisor or district administrator who made the observations. In the case of controlled substances tests, such record shall be made within twenty-four (24)

hours of the observations or before the results of the test are released, whichever is earlier.

a. Reasonable Suspicion Alcohol Testing

- i. A driver will be required to submit to an alcohol test when the district supervisor or administrator has reasonable suspicion that the driver has violated the prohibitions of Section II of these procedures and/or the FMCA regulations concerning alcohol, except that mere possession of alcohol will not constitute reasonable suspicion for testing.
- ii. The observations must be made during, just before, or just after the period of the workday in which the driver is required to be in compliance with these procedures, and drivers will only be tested for alcohol while they are performing safety-sensitive functions, immediately prior to performing safety-sensitive functions, or immediately after performing safety-sensitive functions.
- iii. The test should be administered as soon as practicable following the observations, and the district shall cease attempts to test if it is not administered within eight (8) hours.
- iv. If reasonable suspicion exists, the driver cannot, under any circumstance, perform or continue to perform safety-sensitive functions at least until an alcohol test is administered and the driver's alcohol concentration measures less than 0.02 or twenty-four hours have elapsed following the reasonable suspicion determination.

b. Reasonable Suspicion Controlled Substances Testing

- i. A driver will be required to submit to a controlled substances test when the district supervisor or administrator has reasonable suspicion that the driver has violated the prohibitions of Section II of these procedures and/or the FMCA regulations concerning controlled substances.

- ii. The district will remove the driver from safety-sensitive functions at least until the verified test results are reported.

D. Post-Accident Testing

1. As soon as practicable following an accident involving a CMV, the district shall test for alcohol and controlled substances any driver who:
(a) was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; (b) receives a citation under state or local law for a moving traffic violation arising from the accident; or (c) is directed to by district administrator's authority.
2. Immediately following an accident, the driver must contact his/her supervisor or a district representative. The driver must remain available for testing or the District may consider the driver to have refused to submit to testing. This requirement should not be construed to require the delay of necessary medical attention for injured people following an accident, or to 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.
3. Alcohol and controlled substances testing should be conducted as soon as practicable following the accident. If an alcohol test is not administered within eight (8) hours following the accident, or a controlled substances test is not administered within thirty-two (32) hours following an accident, the district shall cease attempts to administer the test.
4. The results of a breath or blood test for the use of alcohol, or a urine test for the use of controlled substances, conducted by federal, state, and/or local officials having independent authority to conduct the test shall be considered to meet the requirements of this procedure, if the results are released to the district.

E. Return-to-Duty and Follow-up Testing

1. If the district continues to employ a driver who has tested positive for alcohol or controlled substances or has otherwise violated this policy and procedures or the FMCA regulations, the driver will be subject to return-to-duty testing before he or she can again perform safety-sensitive functions. In appropriate cases, the driver may also be subject to follow-up testing following return to duty.

a. Return-to-duty testing

- i. After engaging in prohibited conduct regarding alcohol misuse, the driver shall undergo a return-to-duty alcohol test indicating a breath alcohol concentration of less than 0.02 before returning to duty requiring the performance of a safety-sensitive function.
- ii. After engaging in prohibited conduct regarding controlled substance use, the driver shall undergo a return-to-duty controlled substances test with a verified negative result before returning to duty requiring the performance of a safety-sensitive function.
- iii. The driver must also be evaluated by a substance abuse professional ("SAP") and participate in any assistance program prescribed. The district must obtain a written assurance from the SAP that the employee has been evaluated and has complied with any prescribed rehabilitation.

b. Follow-up Testing

- i. Following a determination by a SAP that a driver is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the district shall ensure that the driver is subject to unannounced follow-up alcohol and/or controlled substances testing as directed by the SAP. At least six (6) tests shall be conducted during the first twelve (12) months following the driver's return to duty.
- ii. Follow-up alcohol testing shall be conducted only when the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing safety-sensitive functions.

V. SPECIMEN COLLECTION AND ANALYSIS

- A. Specimen collection, laboratory analysis, MRO review, and related technical aspects of alcohol and controlled substances tests are subject to DOT procedural requirements as set forth in 49 C.F.R. Part 40. Collection and testing pursuant to the procedures will be done at district designated facilities, except as provided by regulation for employee-requested testing of split samples.

VI. FMCA-MANDATED CONSEQUENCES FOR VIOLATIONS

- A. Drivers who violate the prohibitions of Section II, Prohibited Conduct, must immediately be removed from performing safety-sensitive functions. Such drivers may only be returned to duty performing safety-sensitive functions following evaluation by a SAP and in compliance with all return-to-duty and follow-up testing requirements.
- B. If the results of the driver's alcohol test indicate a blood alcohol concentration of 0.02 or greater, ~~but less than 0.04~~, the driver cannot be permitted to perform safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than twenty- four (24) hours following the administration of the test.

VII. DISTRICT-MANDATED CONSEQUENCES FOR VIOLATIONS

- A. Applicants for driver positions who test positive for controlled substances or who refuse to submit to testing will not be employed in such positions.
- B. Drivers who violate the prohibitions of Section II, or who test positive for alcohol or controlled substances, are subject to disciplinary action up to and including termination without prior warning. An employee shall have the right to use the grievance/arbitration procedure to challenge any aspect of the testing procedures. Substitute drivers can follow the grievance procedure, but cannot go to arbitration.
- C. Drivers with alcohol test results of 0.02 or higher ~~but less than 0.04~~ will be suspended without pay until they can once again perform safety-sensitive functions.

VIII. REFERRAL, EVALUATION, AND TREATMENT

- A. The District will provide drivers who violate the prohibitions of Section II with information about resources available to the driver for evaluating and resolving problems associated with the misuse of alcohol and the use of controlled substances. Costs for any such service shall be the driver's responsibility.

IX. TEST COSTS AND COMPENSATION

- A. The District will pay for and will compensate drivers for their time and mileage for the following alcohol and/or initial controlled substances tests: random, reasonable suspicion, and post-accident.

- B. Drivers will be responsible for taking the following alcohol and/or controlled substances tests on their own time and at their own cost: pre- employment (unless a current employee is being involuntarily transferred to a driver position), return-to-duty, and optional tests of split samples.
- C. Follow-up testing, as prescribed by a SAP, may be conducted on district time, but drivers are responsible for the costs of such testing.

X. RECORD RETENTION AND CONFIDENTIALITY

A. Records maintenance

- 1. The district and its contractors shall maintain records of its alcohol and controlled substances testing program in accordance with FMCA requirements.
- 2. If an alcohol test is not administered within two (2) hours following a reasonable suspicion determination or an accident, or if an alcohol or controlled substances test is not administered at all following a reasonable suspicion determination or an accident, the district shall prepare and maintain on file a record stating the reasons the test was not more promptly administered or was not administered.

B. Reporting of results in a management information system

- 1. The district shall prepare and maintain an annual summary of the results of its alcohol and controlled substances testing program to the extent required by the FMCA.

C. Access to records

- 1. The district shall not release driver information that is contained in records maintained pursuant to these procedures or FMCA regulations, except as required or expressly authorized by law or written driver consent.
- 2. The district may release driver information in records maintained under these procedures to:

- a. the Secretary of Transportation, any DOT agency, or any state or local officials with regulatory authority over the district or any of its drivers;
- b. subsequent employers, upon receipt of a written request from a driver;
- c. a decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the driver and arising out of an alcohol or controlled substances test or conduct prohibited under these procedures;
- d. as otherwise directed by the specific, written consent of the driver authorizing release of the information to an identified person.

XI. COMPLIANCE WITH THE REGULATIONS

- A. These procedures shall be interpreted and administered in light of the requirements of DOT and FMCA regulations on alcohol and controlled substances testing, including any amendments to those regulations, and they are subject to change at any time without prior notice.

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