

U.S. Department Of Transportation
Federal Motor Carrier Safety Administration
49 CFR Part 382 and 40, as amended

**Anti-Drug Plan
and
Alcohol Misuse Prevention Plan**

Panama-Buena Vista Union School District

**Effective: November 14, 2023
Revised: Not Applicable**

Developed by:
ZEE Consulting & Associates

Panama-Buena Vista Union School District ANTI-DRUG PLAN

SECTION I. INTRODUCTION

A. Prohibited Drug Policy.

1. **Panama-Buena Vista Union School District** (here after referred to as “the **District**”) has a long-standing commitment to maintain the highest standards for employee safety and health and the use of controlled substances is contrary to these high standards.
2. This policy is also to bring the District into compliance with federal law. The purpose of the anti-drug plan is to reduce accidents that result from the use of controlled substances, thereby reducing fatalities, injuries, and property damage.
3. The presence in the body of prohibited substances is not condoned.
4. Those areas of the plan that appear in italic/underline print reflect this District's independent authority to require additional provisions with regard to the drug testing procedures.
5. The use or possession of alcoholic beverages while on District property, or in any District vehicle, or on District time, including breaks or lunch, paid or unpaid, on any shift, is strictly prohibited.
6. Contact the District's Designated Employer Representatives for any questions regarding the ANTI-DRUG PLAN.

B. Implementation of Anti-Drug Plan.

1. The District has implemented the Federal Motor Carrier Safety Administration (FMCSA) Drug Testing Regulations as set forth in 49 CFR Part 382 and the Department of Transportation, Procedures for Transportation Workplace drug Testing Programs as set forth in 49 CFR Part 40, as amended.
2. The privacy/confidentiality of any covered employee subject to this plan must be maintained at all times.
3. Implementation of the anti-drug plan was effective on November 14, 2023.

C. Background.

1. The catalyst for the anti-drug plan is Title 49 Code of Federal Regulations (CFR) Part 382 which requires the motor carriers subject to 49 CFR Parts 382, 391, 392, and 395, and their contractors to test their employees for prohibited drugs under the following work-related conditions:
 - a. Pre-Employment
 - b. Post-Accident
 - c. Random
 - d. Reasonable Suspicion
 - e. Return-to-Duty and Follow-up
2. Title 49 CFR Part 40, as amended, specifies the procedures that must be followed by the District when conducting drug testing pursuant to regulations issued by agencies of the Department of Transportation (DOT).

D. Preemption Provisions.

1. Except as provided in paragraph 2 of this section, this part preempts any State or local law, rule, regulation, or order to the extent that:
 - a. Compliance with both the State or local requirement in this part is not possible; or
 - b. Compliance with the State or local requirement is an obstacle to the accomplishment and execution of any requirement in this part.
2. This part shall not be construed to preempt provisions of State criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees, employers, or the general public.

E. Definitions.

For purposes of this anti-drug plan the following definitions apply:

1. Accident – An incident requiring testing as defined under Part 382.303 involving a commercial motor vehicle. Each surviving driver will be tested as soon as practicable.

'382.303 - An accident involving a commercial motor vehicle has defined an "incident/accident," as follows:
 - a. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
 - b. Who receives a citation under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - (1) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - (2) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle
2. Adulterated specimen – A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.
3. Affiliate – Persons are affiliates of one another if, directly or indirectly, one controls or has the power to control the other or a third party controls or has the power to control both. Indicators of control include, but are not limited to: interlocking management or ownership; shared interest among family members; shared facilities or equipment; or common use of employees. Following the issuance of a Public Interest Exclusion, an organization having the same or similar management, ownership, or principal employees as the service agent concerning whom a Public Interest Exclusion is in effect, is regarded as an affiliate. This definition is used in connection with the public interest exclusion procedures of Subpart R of this part.
4. Blind specimen or blind performance test specimen – A specimen submitted to a laboratory for quality control testing purposes, with a fictitious identifier, so that the laboratory cannot distinguish it from an employee specimen.
5. Cancelled test – A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which this part otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.
6. Chain of custody – The procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (CCF).

7. Clearinghouse – The FMCSA Commercial Drivers' License Drug and Alcohol Clearinghouse is a web-based system (found at <https://clearinghouse.fmcsa.dot.gov>), which provides FMCSA and employers of commercial motor vehicle (CMV) drivers with the necessary tools to identify drivers who are prohibited from operating CMVs due to DOT drug and alcohol program violations.
8. Clearinghouse Query – A request submitted to the Clearinghouse to obtain information about DOT CDL drivers and any violation of DOT drug/alcohol testing requirements. Employers must retain for three (3) years a record of each query and all information received in response to each query made under this section.
 - a. Pre-employment Query – All employers must conduct a full query of the Clearinghouse prior to employing an individual to perform any DOT safety-sensitive function. Driver authorization is required electronically within the Clearinghouse to conduct a full query.
 - b. Annual Query – All DOT employers must conduct a query at least once per calendar year for all employees subject to controlled substance and alcohol testing under this part. The Annual Query may be initially conducted as a Limited Query to determine if any information exists in the Clearinghouse regarding the individual employee. No information about the driver will be released to an employer during a limited query. If information exists in the Clearinghouse for the individual employee, a full query is required.
 - c. Full Query – Specific consent is required from the employee to conduct a full query of their Clearinghouse record. Once consent is provided, the Clearinghouse will release information to the employer regarding any violations of DOT drug/alcohol testing regulations for that employee.
9. Collection container – A container into which the employee urinates to provide the specimen for a drug test.
10. Collection site – A place selected by the District where employees present themselves for the purpose of providing a urine specimen for a drug test.
11. Collector – A person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees, and who initiates and completes the CCF.
12. Confirmation (or confirmatory) drug test – A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite.
13. Confirmation (or confirmatory) validity test – A second test performed on a urine specimen to further support a validity test result.
14. Confirmed drug test – A confirmation test result received by an MRO from a laboratory.
15. Consortium/Third-party administrator (C/TPA) – A service agent that provides or coordinates the provision of a variety of drug and alcohol testing services to employers. C/TPAs typically perform administrative tasks concerning the operation of the District's drug and alcohol testing programs. This term includes, but is not limited to, groups of District's who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members. C/TPAs are not "Companies" for purposes of this part.
16. Continuing education – Training for medical review officers (MROs) and substance abuse professionals (SAPs) who have completed qualification training and are performing MRO or SAP functions, designed to keep MROs and SAPs current on changes and developments in the DOT drug and alcohol testing program.
17. Designated employer representative (DER) – An employee authorized by the District to take immediate action(s) to remove employees from safety-sensitive duties or cause employees to be removed from these covered duties and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the District, consistent with the requirements of this part. Service agents cannot act as DERs.

18. Dilute specimen – A specimen with creatinine and specific gravity values that is lower than expected for human urine.
19. DOT, The Department, DOT agency – These terms encompass all DOT agencies, including, but not limited to, the United States Coast Guard (USCG), the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). These terms include any designee of a DOT agency.
20. Drugs – The drugs for which tests are required under this part and DOT agency regulations are marijuana, cocaine, amphetamines, phencyclidine (PCP), and opioids (including morphine, heroin, 6-acetylmorphine, codeine, oxycodone, oxymorphone, hydrocodone, and hydromorphone).
21. Employee – Any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing under this part, the term employee has the same meaning as the term "donor" as found on CCF and related guidance materials produced by the Department of Health and Human Services.
22. Employer – A person or entity employing one or more employees (including an individual who is self-employed) subject to DOT agency regulations requiring compliance with this part. The term includes an employer's officers, representatives, and management personnel. Service agents are not employers for the purposes of this part.
23. Error Correction Training – Training provided to BATs, collectors, and screening test technicians (STTs) following an error that resulted in the cancellation of a drug or alcohol test. Error correction training must be provided in person or by a means that provides real-time observation and interaction between the instructor and trainee.
24. HHS – The Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.
25. Initial drug test (also known as a "Screening drug test") – The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.
26. Initial specimen validity test – The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid.
27. Invalid drug test – The result reported by an HHS-certified laboratory in accordance with the criteria established by HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.
28. Laboratory – Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.
29. Limit of Detection (LOD) – The lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.
30. Limit of Quantitation – For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.
31. Medical Review Officer (MRO) – A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by a District's drug testing program and evaluating medical explanations for certain drug test results.
32. Negative result – The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class is a valid specimen.

- 33. Office of Drug and Alcohol Policy and Compliance (ODAPC) – The office in the Office of the Secretary, DOT, that is responsible for coordinating drug and alcohol testing program matters within the Department and providing information concerning the implementation of this part.
- 34. Positive result – The result reported by an HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations.
- 35. Primary specimen – In drug testing, the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing. The primary specimen is distinguished from the split specimen, defined in this section.
- 36. Qualification Training – The training required in order for a collector, BAT, MRO, SAP, or STT to be qualified to perform their functions in the DOT drug and alcohol testing program. Qualification training may be provided by any appropriate means (e.g., classroom instruction, internet application, CD-ROM, video).
- 37. Reconfirmed – The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.
- 38. Refresher Training – The training required periodically for qualified collectors, BATs, and STTs to review basic requirements and provide instruction concerning changes in technology (e.g., new testing methods that may be authorized) and amendments, interpretations, guidance, and issues concerning this part and DOT agency drug and alcohol testing regulations. Refresher training can be provided by any appropriate means (e.g., classroom instruction, internet application, CD-ROM, video).
- 39. Rejected for testing – The result reported by an HHS-certified laboratory when no tests are performed for a specimen because of a fatal flaw or a correctable flaw that is not corrected.
- 40. Secretary – The Secretary of Transportation or the Secretary's designee.
- 41. Service agent – Any person or entity, other than an employee of the District, who provides services to Companies and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs and STTs, laboratories, MROs, substance abuse professionals, and C/TPAs. To act as service agents, persons and organizations must meet DOT qualifications, if applicable. Service agents are not employers for purposes of this part.
- 42. Shipping container – A container that is used for transporting and protecting urine specimen bottles and associated documents from the collection site to the laboratory.
- 43. Specimen bottle – The bottle that, after being sealed and labeled according to the procedures in this part, is used to hold the urine specimen during transportation to the laboratory.
- 44. Split specimen – In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.
- 45. Split specimen collection – A collection in which the urine collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).
- 46. Stand-down – The practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test result.
- 47. Substance Abuse Professional (SAP) – A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

48. Substituted specimen – A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.
49. Verified test – A drug test result or validity testing result from a HHS-certified laboratory that has undergone review and final determination by the MRO.

F. District Responsibilities.

The District is responsible for meeting all applicable requirements and procedures of parts 392 and 40, as amended. You are responsible for all actions of your officials, representatives, and agents (including service agents) in carrying out the requirements of the DOT agency regulations. All agreements and arrangements, written or unwritten, between and among District and service agents concerning the implementation of DOT drug and alcohol testing requirements are deemed, as a matter of law, to require compliance with all applicable provisions of this part and DOT agency drug and alcohol testing regulations. Compliance with these provisions is a material term of all such agreements and arrangements.

1. Drug Program Manager (DPM): Appendix A contains the name, address, and phone number of the responsible individual(s). The DPM or other District designated individual shall be responsible for the preparation of a drug testing anti-drug plan which complies with requirements of the Department of Transportation regulations as set forth in 49 CFR Parts 382 and 40, as amended. The DPM shall be responsible for providing oversight and evaluation on the plan; providing guidance and counseling; reviewing of all discipline applied under this plan for consistency and conformance to human resources policies and procedures; scheduling random drug testing and return-to-duty testing; maintaining a locked file system on drug testing results; and overseeing the employee assistance program (EAP) as it is defined in 49 CFR Part 382. The District shall ensure that all covered employees are aware of the provisions and coverage of the District's anti-drug plan.
2. Supervisors: District individuals responsible for observing the performance and behavior of employees; observation/documentation of events suggestive of Reasonable Suspicion; responsible for requests of second supervisor for substantiation and concurrence for Reasonable Suspicion testing, if applicable.
3. Employees: Each employee has the responsibility to be knowledgeable of the requirements of the District's anti-drug plan and to fully comply with the provisions of the plan.

G. DOT Tests versus Non-DOT Tests.

1. DOT tests must be completely separate from non-DOT tests in all respects.
2. DOT tests must take priority and must be conducted and completed before a non-DOT test is begun. For example, you must discard any excess urine left over from a DOT test and collect a separate void for the subsequent non-DOT test.
3. Except as provided, the District will not perform any tests on DOT urine or breathe specimens other than those specifically authorized by this part or DOT agency regulations. For example, you may not test a DOT urine specimen for additional drugs, and a laboratory is prohibited from making a DOT urine specimen available for a DNA test or other types of specimen identity testing.
4. The single exception is when a DOT drug test collection is conducted as part of a physical examination required by DOT agency regulations. It is permissible to conduct required medical tests related to this physical examination (e.g., for glucose) on any urine remaining in the collection container after the drug test urine specimens have been sealed into the specimen bottles.
5. No one is permitted to change or disregard the results of DOT tests based on the results of non-DOT tests. For example, as a District you must not disregard a verified positive DOT drug test result because the employee presents a negative test result from a blood or urine specimen collected by the employee's physician or a DNA test result purporting to question the identity of the DOT specimen.
6. You must not use the DOT CCF or the ATF in your non-DOT drug and alcohol testing programs. This prohibition includes the use of the DOT forms with references to DOT programs and agencies

crossed out. You also must always use the CCF and ATF for all your DOT-mandated drug and alcohol tests.

H. Using a service agent to meet DOT drug and alcohol requirements.

1. A service agent may be used to perform the tasks needed to comply with this part and DOT agency drug and alcohol testing regulations, consistent with the requirements of Subpart Q and other applicable provisions of Part 40, as amended.
2. The District hiring a service agent is responsible for ensuring that the service agents you use meet the qualifications set forth in this part (e.g., §40.121, as amended, for MROs). You may require service agents to show you documentation that they meet the requirements of this part (e.g., documentation of MRO qualifications required by §40.121(e), as amended).
3. The District remains responsible for compliance with all applicable requirements of this part and other DOT drug and alcohol testing regulations, even when you use a service agent. If you violate this part or other DOT drug and alcohol testing regulations because a service agent has not provided services as our rules require a DOT agency can subject you to sanctions. Your good faith use of a service agent is not a defense in an enforcement action initiated by a DOT agency in which you're alleged noncompliance with Part 40, as amended, or a DOT agency drug and alcohol regulation may have resulted from the service agent's conduct.
4. The District must not permit a service agent to act as their DER.
5. The District is responsible for obtaining information required by this part from their service agents. This is true whether or not you choose to use a C/TPA as an intermediary in transmitting information to you. For example, suppose an applicant for a safety-sensitive job takes a pre-employment drug test, but there is a significant delay in your receipt of the test result from an MRO or C/TPA. You must not assume that "no news is good news" and permit the applicant to perform safety-sensitive duties before receiving the result. This is a violation of the Department's regulations.

I. District responsibilities after receiving verified positive test results.

1. After receiving a verified positive drug test result, the District must immediately remove the employee involved from performing safety-sensitive functions. The District must take this action upon receiving the initial report of the verified positive test result. Do not wait to receive the written report or the result of a split specimen test.
2. When the District receives a verified adulterated or substituted drug test result, they must consider this a refusal to test and immediately remove the employee involved from performing safety-sensitive functions. The District must take this action on receiving the initial report of the verified adulterated or substituted test result. Do not wait to receive the written report or the result of a split specimen test.
3. If the District receives an alcohol test result of 0.04 or higher, they must immediately remove the employee involved from performing safety-sensitive functions. If the District receives an alcohol test result of 0.02-0.39, they must temporarily remove the employee involved from performing safety-sensitive functions, as provided in applicable DOT agency regulations. Do not wait to receive the written report of the result of the test.
4. When an employee has a verified positive, adulterated, or substituted test result, or has otherwise violated a DOT agency drug and alcohol regulation, the District must not return the employee to the performance of safety-sensitive functions until or unless the employee successfully completes the return-to-duty process under Subpart O of Part 40, as amended.
5. If the District receives a drug test result (MRO issued) indicating that the employee's specimen was a negative-dilute, the District will take the following action per §40.197, as amended:

The District has determined, for all employees with a negative-dilute test result the employee is to be directed to **take another test immediately**. Such recollections **must not** be collected under direct observation, unless there is another basis for use of direct observation (see §40.67(b) and

(c), as amended). This re-test requirement will be required for all forms of testing and applies to applicants and current employees alike.

The result of the second test – not that of the original test – becomes the test of record on which the District relies for purposes of this part.

If the second test is also negative-dilute, no further testing will take place. The District will record the final result as a “negative” test.

Employees directed to take another test, and decline to do so, will be listed as a **refusal** to test per DOT rules and regulations §40.197(g), as amended.

6. When the District receives a drug test result indicating that the employee's specimen was invalid and that a second collection must take place under direct observation, they must
 - a. Immediately direct the employee to provide a new specimen under direct observation.
 - b. Not attach consequences to the finding that the test was invalid other than collecting a new specimen under direct observation.
 - c. Not give any advance notice of this test requirement to the employee.
 - d. Instruct the collector to note on the CCF the same reason (e.g. random test, post-accident test) as for the original collection.
7. If the District receives a cancelled test result when a negative result is required (e.g., pre-employment, return-to-duty, or follow-up test), they must direct the employee to provide another specimen immediately.
8. The District may also be required to take additional actions required by DOT agency regulations.
9. The District must not alter a drug or alcohol test result transmitted to them by an MRO, BAT, or C/TPA.

J. Confirming drug and alcohol testing records of employees intended to perform safety-sensitive duties.

1. An employer must, after obtaining an employee's consent, request information about the employee listed in paragraph 2. of this section. This requirement applies only to employees seeking to begin performing safety-sensitive duties for an employer for the first time (i.e., a new hire, an employee transfers into a safety-sensitive position). If the employee refuses to provide this consent, the employer must not permit the employee to perform safety-sensitive functions.
2. The employer must request the information listed in this paragraph 2. from the DOT-FMCSA Clearinghouse:
 - a. Alcohol tests with a result of 0.04 or higher alcohol concentration;
 - b. Verified positive drug tests;
 - c. Refusals to be tested (including verified adulterated or substituted drug test results);
 - d. Other violations of DOT agency drug and alcohol testing regulations; and
 - e. With respect to any employee who violated a DOT drug and alcohol regulation, the new employer must get documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-to-duty process (e.g., an employer who did not hire an employee who tested positive on a pre-employment test), you must seek to obtain this information from the employee.
3. The information obtained from the Clearinghouse includes any drug or alcohol test information obtained from previous employers under this section or other applicable DOT agency regulations.

4. The new employer must obtain and review this information before the employee first performs safety-sensitive functions. If this is not feasible, you must obtain and review the information as soon as possible. However, you must not permit the employee to perform safety-sensitive functions after 30 days from the date on which the employee first performed safety-sensitive functions, unless you have obtained or made and documented a good faith effort to obtain this information.
5. If information is obtained that the employee has violated a DOT agency drug and alcohol regulation, the District must not use the employee to perform safety-sensitive functions unless information is obtained in the Clearinghouse that the employee has subsequently complied with the return-to-duty requirements of Subpart O of part 40, as amended, and DOT agency drug and alcohol regulations.
6. The District must provide, to each of the employers from whom information was requested under paragraph (2) of this section, written consent for the release of the information cited in paragraph (1) of this section.
7. The release of information under this section must be in any written form (e.g., fax, e-mail, letter) that ensures confidentiality. The previous employer must maintain a written record of the information released, including the date, the party to whom it was released, and a summary of the information provided.
8. If you are an employer from whom information is requested under paragraph (2) of this section, you must, after reviewing the employee's specific, written consent, immediately release the requested information to the employer making the inquiry.
9. As the employer requesting the information required under this section, you must maintain a written, confidential record of the information you obtain or of the good faith efforts you made to obtain the information. You must retain this information for three years from the date of the employee's first performance of safety-sensitive duties for you.
10. As the employer, you must also ask the employee whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years. If the employee admits that he or she had a positive test or a refusal to test, you must not use the employee to perform safety-sensitive functions for you, until and unless the employee documents successful completion of the return-to-duty process (see paragraphs (2)(e) and (5) of this section).

K. Consent or release forms in connection with the DOT drug and alcohol testing program.

An employer may not require an employee to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug and alcohol testing process covered by this part (including, but not limited to, collections, laboratory testing, MRO and SAP services).

L. Requirements and Procedures for Implementation of the Commercial Driver's License Drug and Alcohol Clearinghouse (SOURCE: 81 FR 87725, Dec. 5, 2016, unless otherwise noted).

1. Drug and Alcohol Clearinghouse Queries (§382.701).

(a) Pre-employment query required.

- (1) Employers must not employ a driver subject to controlled substances and alcohol testing under this part to perform a safety-sensitive function without first conducting a pre-employment query of the Clearinghouse to obtain information about whether the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of §382.211; or that an employer has reported actual knowledge, as defined at §382.107, that the driver used alcohol on duty in violation of §382.205, used alcohol before duty in violation of §382.207, used alcohol following an accident in violation of §382.209, or used a controlled substance, in violation of §382.213.

- (2) The employer must conduct a full query under this section, which releases information in the Clearinghouse to an employer and requires that the individual driver give specific consent.
- (b) Annual query required.
 - (1) Employers must conduct a query of the Clearinghouse at least once per year for information for all employees subject to controlled substance and alcohol testing under this part to determine whether information exists in the Clearinghouse about those employees.
 - (2) In lieu of a full query, as described in paragraph (a)(2) of this section, an employer may obtain the individual driver's consent to conduct a limited query to satisfy the annual query requirement in paragraph (b)(1) of this section. The limited query will tell the employer whether there is information about the individual driver in the Clearinghouse, but will not release that information to the employer. The individual driver may give consent to conduct limited queries that is effective for more than one year. Refer to Appendix P, DOT/FMCSA Forms and Instructions Pages 1-2, for the instructions and 'Driver Consent for Annual Limited Query' form.
 - (3) If the limited query shows that information exists in the Clearinghouse about the individual driver, the employer must conduct a full query, in accordance with paragraph (a)(2) of this section, within 24 hours of conducting the limited query. If the employer fails to conduct a full query within 24 hours, the employer must not allow the driver to continue to perform any safety-sensitive function until the employer conducts the full query and the results confirm that the driver's Clearinghouse record contains no prohibitions as defined in paragraph (d) of this section.
- (c) Employer notification. If any information described in paragraph (a) of this section is entered into the Clearinghouse about a driver during the 30-day period immediately following an employer conducting a query of that driver's records, FMCSA will notify the employer.
- (d) Prohibition. No employer may allow a driver to perform any safety-sensitive function if the results of a Clearinghouse query demonstrate that the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of §382.211; or that an employer has reported actual knowledge, as defined at §382.107, that the driver used alcohol on duty in violation of §382.205, used alcohol before duty in violation of §382.207, used alcohol following an accident in violation of §382.209, or used a controlled substance in violation of §382.213, except where a query of the Clearinghouse demonstrates:
 - (1) That the driver has successfully completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, of this title; achieves a negative return-to-duty test result; and completes the follow-up testing plan prescribed by the SAP.
- (e) That, if the driver has not completed all follow-up tests as prescribed by the SAP in accordance with §40.307 of this title and specified in the SAP report required by §40.311 of this title, the driver has completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, of this title and achieves a negative return-to-duty test result, and the employer assumes the responsibility for managing the follow-up testing process associated with the testing violation.
 - (1) Recordkeeping required. Employers must retain for 3 years a record of each query and all information received in response to each query made under this section. As of January 6, 2023, an employer who maintains a valid registration fulfills this requirement.

2. Driver consent to permit access to information in the Clearinghouse (§382.703).

- (a) No employer may query the Clearinghouse to determine whether a record exists for any particular driver without first obtaining that driver's written or electronic consent. The employer conducting the search must retain the consent for 3 years from the date of the last query.
- (b) Before the employer may access information contained in the driver's Clearinghouse record, the driver must submit electronic consent through the Clearinghouse granting the employer access to the following specific records:
 - (1) A verified positive, adulterated, or substituted controlled substances test result;
 - (2) An alcohol confirmation test with a concentration of 0.04 or higher;
 - (3) A refusal to submit to a test in violation of §382.211;
 - (4) An employer's report of actual knowledge, as defined at §382.107, of:
 - (i) On duty alcohol use pursuant to §382.205;
 - (ii) Pre-duty alcohol use pursuant to §382.207;
 - (iii) Alcohol use following an accident pursuant to §382.209; and
 - (iv) Controlled substance use pursuant to §382.213;
 - (5) A SAP report of the successful completion of the return-to-duty process;
 - (6) A negative return-to-duty test; and
 - (7) An employer's report of completion of follow-up testing.
- (c) No employer may permit a driver to perform a safety-sensitive function if the driver refuses to grant the consent required by paragraphs (a) and (b) of this section.
- (d) A driver granting consent under this section must provide consent electronically to the Agency through the Clearinghouse prior to release of information to an employer in accordance with §382.701(a)(2) or (b)(3).
- (e) A driver granting consent under this section grants consent for the Agency to release information to an employer in accordance with §382.701(c).

3. Reporting to the Clearinghouse (§382.705).

- (a) MROs.
 - (1) Within 2 business days of making a determination or verification, MROs must report the following information about a driver to the Clearinghouse:
 - (i) Verified positive, adulterated, or substituted controlled substances test results;
 - (ii) Refusal-to-test determination by the MRO in accordance with 49 CFR 40.191(a)(5), (7), and (11), (b), and (d)(2).
 - (2) MROs must provide the following information for each controlled substances test result specified in paragraph (a)(1) of this section:
 - (i) Reason for the test;

- (ii) Federal Drug Testing Custody and Control Form specimen ID number;
 - (iii) Driver's name, date of birth, and CDL number and State of issuance;
 - (iv) Employer's name, address, and USDOT number, if applicable;
 - (v) Date of the test;
 - (vi) Date of the verified result; and
 - (vii) Test result. The test result must be one of the following:
 - (A) Positive (including the controlled substance(s) identified);
 - (B) Refusal to test: Adulterated;
 - (C) Refusal to test: Substituted; or
 - (D) Refusal to provide a sufficient specimen after the MRO makes a determination, in accordance with §40.193 of this title, that the employee does not have a medical condition that has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine. Under this subpart a refusal would also include a refusal to undergo a medical examination or evaluation to substantiate a qualifying medical condition.
 - (3) Within 1 business day of making any change to the results report in accordance with paragraph (a)(1) of this section, a MRO must report that changed result to the Clearinghouse.
- (b) Employers.
- (1) Employers must report the following information about a driver to the Clearinghouse by the close of the third business day following the date on which they obtained that information:
 - (i) An alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
 - (ii) A negative return-to-duty test result;
 - (iii) A refusal to take an alcohol test pursuant to 49 CFR 40.261;
 - (iv) A refusal to test determination made in accordance with 49 CFR 40.191(a)(1) through (4), (a)(6), (a)(8) through (11), or (d)(1), but in the case of a refusal to test under (a)(11), the employer may report only those admissions made to the specimen collector; and
 - (v) A report that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§40.307, 40.309, and 40.311 of this title.
 - (2) The information required to be reported under paragraph (b)(1) of this section must include, as applicable:
 - (i) Reason for the test;
 - (ii) Driver's name, date of birth, and CDL number and State of issuance;
 - (iii) Employer name, address, and USDOT number;
 - (iv) Date of the test;

- (v) Date the result was reported; and
 - (vi) Test result. The test result must be one of the following:
 - (A) Negative (only required for return-to-duty tests administered in accordance with §382.309);
 - (B) Positive; or
 - (C) Refusal to take a test.
- (3) For each report of a violation of 49 CFR 40.261(a)(1) or 40.191(a)(1), the employer must report the following information:
- (i) Documentation, including, but not limited to, electronic mail or other contemporaneous record of the time and date the driver was notified to appear at a testing site; and the time, date and testing site location at which the employee was directed to appear, or an affidavit providing evidence of such notification;
 - (ii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, indicating the date the employee was terminated or resigned (if applicable);
 - (iii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, showing that the C/TPA reporting the violation was designated as a service agent for an employer who employs himself/herself as a driver pursuant to paragraph (b)(6) of this section when the reported refusal occurred (if applicable); and
 - (iv) Documentation, including a certificate of service or other evidence, showing that the employer provided the employee with all documentation reported under paragraph (b)(3) of this section.
- (4) Employers must report the following violations by the close of the third business day following the date on which the employer obtains actual knowledge, as defined at §382.107, of:
- (i) On-duty alcohol use pursuant to §382.205;
 - (ii) Pre-duty alcohol use pursuant to §382.207;
 - (iii) Alcohol use following an accident pursuant to §382.209; and
 - (iv) Controlled substance use pursuant to §382.213.
- (5) For each violation in paragraph (b)(4) of this section, the employer must report the following information:
- (i) Driver's name, date of birth, CDL number and State of issuance;
 - (ii) Employer name, address, and USDOT number, if applicable;
 - (iii) Date the employer obtained actual knowledge of the violation;
 - (iv) Witnesses to the violation, if any, including contact information;
 - (v) Description of the violation;
 - (vi) Evidence supporting each fact alleged in the description of the violation required under paragraph (b)(4) of this section, which may include, but is not limited to, affidavits, photographs, video or audio recordings, employee

statements (other than admissions pursuant to §382.121), correspondence, or other documentation; and

- (vii) A certificate of service or other evidence showing that the employer provided the employee with all information reported under paragraph (b)(4) of this section.
- (6) An employer who employs himself/herself as a driver must designate a C/TPA to comply with the employer requirements in paragraph (b) of this section related to his or her own alcohol and controlled substances use.
- (c) C/TPAs. Any employer may designate a C/TPA to perform the employer requirements in paragraph (b) of this section. Regardless of whether it uses a C/TPA to perform its requirements, the employer retains ultimate responsibility for compliance with this section. Exception: An employer does not retain responsibility where the C/TPA is designated to comply with employer requirements as described in paragraph (b)(6) of this section.
- (d) SAPs.
 - (1) SAPs must report to the Clearinghouse for each driver who has completed the return-to-duty process in accordance with 49 CFR part 40, subpart O, the following information:
 - (i) SAPs name, address, and telephone number;
 - (ii) Driver's name, date of birth, and CDL number and State of issuance;
 - (iii) Date of the initial substance-abuse-professional assessment; and
 - (iv) Date the SAP determined that the driver demonstrated successful compliance as defined in 49 CFR part 40, subpart O, and was eligible for return-to-duty testing under this part.
 - (2) SAP must report the information required by paragraphs (d)(1)(i) through (iii) of this section by the close of the business day following the date of the initial substance abuse assessment, and must report the information required by paragraph (d)(1)(iv) of this section by the close of the business day following the determination that the driver has completed the return-to-duty process.
- (e) Reporting truthfully and accurately. Every person or entity with access must report truthfully and accurately to the Clearinghouse and is expressly prohibited from reporting information he or she knows or should know is false or inaccurate.

REPORTING ENTITIES AND CIRCUMSTANCES

Reporting entity	When information will be reported to clearinghouse
Prospective/Current Employer of CDL Driver	—An alcohol confirmation test with a concentration of 0.04 or higher. —Refusal to test (alcohol) as specified in 49 CFR 40.261. —Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191. —Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance. —Negative return-to-duty test results (drug and alcohol testing, as applicable) —Completion of follow-up testing.
Service Agent acting on behalf of Current Employer of CDL Driver	—An alcohol confirmation test with a concentration of 0.04 or higher. —Refusal to test (alcohol) as specified in 49 CFR 40.261. —Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191. —Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance. —Negative return-to-duty test results (drug and alcohol testing, as applicable) —Completion of follow-up testing.
MRO	—Verified positive, adulterated, or substituted drug test result. —Refusal to test (drug) requiring a determination by the MRO as specified in 49 CFR 40.191.
SAP	—Identification of driver and date the initial assessment was initiated. —Successful completion of treatment and/or education and the determination of eligibility for return-to-duty testing.

4. Notice to drivers of entry, revision, removal, or release of information (§382.707).

- (a) FMCSA must notify a driver when information concerning that driver has been added to, revised, or removed from the Clearinghouse.
- (b) FMCSA must notify a driver when information concerning that driver has been released from the Clearinghouse to an employer and specify the reason for the release.
- (c) Drivers will be notified by letter sent by U.S. Mail to the address on record with the State Driver Licensing Agency that issued the driver's commercial driver's license. Exception: A driver may provide the Clearinghouse with an alternative means or address for notification, including electronic mail.

5. Drivers' access to information in the Clearinghouse (§382.709).

A driver may review information in the Clearinghouse about himself or herself, except as otherwise restricted by law or regulation. A driver must register with the Clearinghouse before accessing his or her information.

6. Clearinghouse registration (§382.711).

- (a) Clearinghouse registration required. Each employer and service agent must register with the Clearinghouse before accessing or reporting information in the Clearinghouse.
- (b) Employers.
 - (1) Employer Clearinghouse registration must include:
 - (i) Name, address, and telephone number;
 - (ii) USDOT number, except if the registrant does not have a USDOT Number, it may be requested to provide other information to verify identity; and
 - (iii) Name of the person(s) the employer authorizes to report information to or obtain information from the Clearinghouse and any additional information FMCSA needs to validate his or her identity.
 - (2) Employers must verify the names of the person(s) authorized under paragraph (b)(1)(iii) of this section annually.
 - (3) Identification of the C/TPA or other service agent used to comply with the requirements of this part, if applicable, and authorization for the C/TPA to query or report information to the Clearinghouse. Employers must update any changes to this information within 10 days.
- (c) MROs and SAPs. Each MRO or SAP must provide the following to apply for Clearinghouse registration:
 - (1) Name, address, telephone number, and any additional information FMCSA needs to validate the applicant's identity;
 - (2) A certification that the applicant's access to the Clearinghouse is conditioned on his or her compliance with the applicable qualification and/or training requirements in 49 CFR part 40; and
 - (3) Evidence of required professional credentials to verify that the applicant currently meets the applicable qualification and/or training requirements in 49 CFR part 40.
- (d) C/TPAs and other service agents. Each consortium/third party administrator or other service agent must provide the following to apply for Clearinghouse registration:
 - (1) Name, address, telephone number, and any additional information FMCSA needs to validate the applicant's identity; and
 - (2) Name, title, and telephone number of the person(s) authorized to report information to and obtain information from the Clearinghouse.
 - (3) Each C/TPA or other service agent must verify the names of the person(s) authorized under paragraph (d)(2) of this section annually.

7. Duration, cancellation, and revocation of access (§382.713).

- (a) Term. Clearinghouse registration is valid for 5 years, unless cancelled or revoked.
- (b) Cancellation. FMCSA will cancel Clearinghouse registrations for anyone who has not queried or reported to the Clearinghouse for 2 years.
- (c) Revocation. FMCSA has the right to revoke the Clearinghouse registration of anyone who fails to comply with any of the prescribed rights and restrictions on access to the Clearinghouse, including but not limited to, submission of inaccurate or false information and misuse or misappropriation of access rights or protected information from the

Clearinghouse and failure to maintain the requisite qualifications, certifications and/or training requirements as set forth in part 40 of this title.

8. Authorization to enter information into the Clearinghouse (§382.715).

- (a) C/TPAs. No C/TPA or other service agent may enter information into the Clearinghouse on an employer's behalf unless the employer designates the C/TPA or other service agent.
- (b) SAPs. A driver must designate a SAP before that SAP can enter any information about the driver's return-to-duty process into the Clearinghouse.

9. Procedures for correcting information in the database (§382.717).

- (a) Petitions limited to inaccurately reported information.
 - (1) Under this section, petitioners may challenge only the accuracy of information reporting, not the accuracy of test results or refusals.
 - (2) Exceptions.
 - (i) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of actual knowledge that the driver received a traffic citation for driving a commercial motor vehicle while under the influence of alcohol or controlled substances if the citation did not result in a conviction. For the purposes of this section, conviction has the same meaning as used in 49 CFR part 383.
 - (ii) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of actual knowledge (other than as provided for in paragraph (a)(2)(i) of this section) if that report does not comply with the reporting requirements in §382.705(b)(5).
 - (iii) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of a violation under 49 CFR 40.261(a)(1) or 40.191(a)(1) if that report does not comply with the reporting requirements in §382.705(b)(3).
- (b) Petition. Any driver or authorized representative of the driver may submit a petition to the FMCSA contesting the accuracy of information in the Clearinghouse. The petition must include:
 - (1) The petitioner's name, address, telephone number, and CDL number and State of issuance;
 - (2) Detailed description of the basis for the allegation that the information is not accurate; and
 - (3) Evidence supporting the allegation that the information is not accurate. Failure to submit evidence is cause for dismissing the petition.
- (c) Submission of petition. The petitioner may submit his/her petition electronically through the Clearinghouse or in writing to: Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance, Attention: Drug and Alcohol Program Manager, 1200 New Jersey Avenue SE, Washington, DC 20590.
- (d) Notice of decision. Within 45 days of receiving a complete petition, FMCSA will inform the driver in writing of its decision to remove, retain, or correct the information in the database and provide the basis for the decision.
- (e) Request for expedited treatment.

- (1) A driver may request expedited treatment to correct inaccurate information in his or her Clearinghouse record under paragraph (a)(1) of this section if the inaccuracy is currently preventing him or her from performing safety-sensitive functions, or to remove employer reports under paragraph (a)(2) of this section if such reports are currently preventing him or her from performing safety-sensitive functions. This request may be included in the original petition or as a separate document.
 - (2) If FMCSA grants expedited treatment, it will subsequently inform the driver of its decision in writing within 14 days of receipt of a complete petition.
- (f) Administrative review.
 - (1) A driver may request FMCSA to conduct an administrative review if he or she believes that a decision made in accordance with paragraph (d) or (e) of this section was in error.
 - (2) The request must prominently state at the top of the document: "Administrative Review of Drug and Alcohol Clearinghouse Decision" and the driver may submit his/her request electronically through the Clearinghouse or in writing to the Associate Administrator for Enforcement (MC-E), Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE, Washington, DC 20590.
 - (3) The driver's request must explain the error he or she believes FMCSA committed and provide information and/or documents to support his or her argument.
 - (4) FMCSA will complete its administrative review no later than 30 days after receiving the drivers' request for review. The Associate Administrator's decision will constitute the final Agency action.
- (g) Subsequent notification to employers. When information is corrected or removed in accordance with this section, or in accordance with 49 CFR part 10, FMCSA will notify any employer that accessed the incorrect information that a correction or removal was made.

9. Availability and removal of information (§382.719).

- (a) Driver information not available. Information about a driver's drug or alcohol violation will not be available to an employer conducting a query of the Clearinghouse after all of the following conditions relating to the violation are satisfied:
 - (1) The SAP reports to the Clearinghouse the information required in §382.705(d);
 - (2) The employer reports to the Clearinghouse that the driver's return-to-duty test results are negative;
 - (3) The driver's current employer reports that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§40.307, 40.309, and 40.311 of this title; and
 - (4) Five years have passed since the date of the violation determination.
- (b) Driver information remains available. Information about a particular driver's drug or alcohol violation will remain available to employers conducting a query until all requirements in paragraph (a) of this section have been met.
- (c) Exceptions.
 - (1) Within 2 business days of granting a request for removal pursuant to §382.717(a)(2)(i), FMCSA will remove information from the Clearinghouse.

- (2) Information about a particular driver's drug or alcohol violation may be removed in accordance with §382.717(a)(2)(ii) and (iii) or in accordance with 49 CFR part 10.

- (d) Driver information remains available. Nothing in this part shall prevent FMCSA from using information removed under this section for research, auditing, or enforcement purposes.

10. Fees (§382.721).

FMCSA may collect a reasonable fee from entities required to query the Clearinghouse. Exception: No driver may be required to pay a fee to access his or her own information in the Clearinghouse.

11. Unauthorized access or use prohibited (§382.723).

- (a) Except as expressly authorized in this subpart, no person or entity may access the Clearinghouse. No person or entity may share, distribute, publish, or otherwise release any information in the Clearinghouse except as specifically authorized by law. No person may report inaccurate or misleading information to the Clearinghouse.
- (b) An employer's use of information received from the Clearinghouse is limited to determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle. No employer may divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle.
- (c) Violations of this section are subject to civil and criminal penalties in accordance with applicable law, including those set forth at §382.507.
- (d) Nothing in this part shall prohibit FMCSA from accessing information about individual drivers in the Clearinghouse for research, auditing, or enforcement purposes.

12. Access by State licensing authorities (§382.725).

- (a) In order to determine whether a driver is qualified to operate a commercial motor vehicle, the chief commercial driver's licensing official of a State must obtain the driver's record from the Clearinghouse if the driver has applied for a commercial driver's license from that State.
- (b) By applying for a commercial driver's license, a driver is deemed to have consented to the release of information from the Clearinghouse in accordance with this section.
- (c) The chief commercial driver's licensing official's use of information received from the Clearinghouse is limited to determining an individual's qualifications to operate a commercial motor vehicle. No chief driver's licensing official may divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining an individual's qualifications to operate a commercial motor vehicle.
- (d) A chief commercial driver's licensing official who does not take appropriate safeguards to protect the privacy and confidentiality of information obtained under this section is subject to revocation of his or her right of access under this section.

13. Penalties (§382.727).

An employer, employee, MRO, or service agent who violates any provision of this subpart shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. 521(b)(2)(C).

SECTION II. DRUG TESTING REQUIREMENTS

A. Applicability.

1. Individuals Subject to Drug Testing: Any applicant/employee who would perform on a pipeline, an operating, maintenance, or emergency response function regulated by Part 382, 391, or 395, would be subject to drug testing under this program. The person may be employed by the motor carrier, be a contractor engaged by the motor carrier, or be employed by such a contractor. Refer to Appendix C for specific employee titles subject to testing under this program. Refer to Appendix P, DOT/FMCSA Forms and Instructions Pages 5-6, for the instructions 'FMCSA Drug & Alcohol Testing Procedures for Covered Employees' form.
2. Procedure for Notifying Employees: This anti-drug testing plan shall be included in the appropriate District manual. Upon receipt of the District's anti-drug plan, each manager shall post the plan in a prominent location that is readily accessible to all covered employees. All covered employees will be provided a condensed/summarized version of the plan. This document must indicate where an employee may obtain the entire plan for review. Refer to Appendix P, DOT/FMCSA Forms and Instructions Pages 7-8, for the instructions and 'Employee Training, Orientation & Education' form.
3. Substances for Which Testing Must Be Conducted: The District shall test each employee who performs a function listed in Appendix C for evidence of the following substances:

Marijuana, Cocaine, Opioids (including morphine, heroin, 6-acetylmorphine, codeine, oxycodone, oxymorphone, hydrocodone, and hydromorphone), Phencyclidine (PCP), and Amphetamines (including MDMA/MDA, aka Ecstasy).

B. Drug Tests Required.

1. Pre-Employment/Pre-Assignment Testing: A pre-employment drug test must be conducted before an individual is hired or contracted and when an individual is transferred/promoted from a non-covered to a covered position. This includes when an individual switches back and forth from a covered position to a non-covered position and back again (i.e., going in and out of the random testing program). This also applies to employees returning from a leave of absence who have not been participating in the anti-drug plan and subject to the random selection process. A negative test result is required prior to performing covered functions.
 - a. Pre-Employment/Pre-Assignment Alcohol testing – DOT supports and allows employers (except under USCG and RSPA rules) to require breath alcohol testing for post-offer final candidates/applicants. Under this policy, the District has determined:

Pre-employment (post-offer) breath alcohol testing will be conducted under this policy and such testing will be conducted for all DOT-applicants.

Any final candidate who has refused to submit to pre-employment breath alcohol or drug testing or one who is disqualified for employment due to a confirmed positive test will not be employed. There will be no exceptions even for otherwise well-qualified applicants or hard-to-fill positions. Disqualified applicants may reapply six months from date of disqualification.
 - b. Pre-assignment breath alcohol testing is required for any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing and is transferred in or returning to a DOT-regulated position within the District, including any employee who will operate a commercial vehicle regulated by Part 382, 391, or 395. This does not include clerical, accounting, or other functions not subject to Part 382, 391 or 395.

This testing and its consequences must comply with requirements of 49 CFR Part 40, as amended.

2. Post-Accident Testing:

- a. The District shall promptly determine if the employee's performance contributed to the "accident" or cannot be completely discounted as a contributing factor to the accident. Each of these employees shall be drug tested as soon as possible but no later than 32 hours after the accident. If a DOT drug test is not administered within 32 hours following the accident, the District shall cease all attempts to conduct a drug test and shall prepare and maintain on file written documentation indicating why the drug test was not conducted. The District must take all reasonable steps to obtain a urine specimen from an employee after an accident, as defined above, but any injury should be treated first.
- b. The following steps will be used to guide the supervisor to a satisfactory outcome in a post-accident situation. Refer to Appendix P, DOT/FMCSA Forms and Instructions Pages 9-10, for the instructions and 'Post-Accident Drug & Alcohol' form.
 - (1) Verify the post-accident decision. Does the definition of accident in Section I apply to the current situation. Does the possibility exist that the employee's performance contributed to the accident or cannot be completely discounted as a contributing factor to the accident? Anonymous tips must be taken seriously, but should not be the sole reason to initiate a request for a specimen. If witnesses saw a specific event or behavior, ask them to describe what they saw. How far away were they? Before proceeding further, obtain approval from the division manager/department head or designee to proceed with post-accident testing.
 - (2) Isolate and inform the employee. Remove the employee from the covered position or work place. Explain that you have reason to believe their performance contributed to the accident or cannot be completely discounted as a contributing factor to the accident.
 - (3) Transport the employee. The potentially affected employee will not be allowed to proceed alone to or from the collection site. In addition to the safety concerns for the employee, acDistricting the employee also assures that there is no opportunity en route to the collection site for the employee to ingest anything that could affect the test result or to acquire "clean" urine from another person.
 - (4) Document the events. Record the activity performed that supports the determination to conduct a post-accident test. This documentation of the employee's activity should be prepared and signed by the supervisor within 24 hours of the accident or before the results of the tests are released, whichever is earlier, if possible.
- c. A District official must take all reasonable steps to obtain a urine sample from an employee following an accident.
 - (1) In the case of a conscious, but hospitalized employee, the District should request that the hospital or medical facility obtain the sample from the employee.
 - (2) If an employee is injured, unconscious (employee is unable to communicate), or otherwise unable to evidence consent (employee is unable to sign custody and control form) to the drug test, all reasonable steps must be taken to obtain a urine sample from the employee.
 - (3) If an employee is conscious (employee can communicate) and he/she is able to evidence consent (employee able to sign custody and control form) to the drug test and is able to void normally (without aid of catheters) the specimen shall be collected.
 - (4) If an employee who is subject to post-accident testing is conscious, able to urinate normally (in the opinion of a medical professional), and refuses to be tested, the employee must be removed from duty in accordance with 49 CFR Part 382.

- (5) The District shall develop written procedures/guidelines for employees and supervisors who are involved in accident situations that require post-accident testing.
- (6) The District may decide not to test under the post-accident provisions, but such a decision must be based on the best information available immediately after the accident that the employee's performance could not have contributed to the accident or that, because of the time between that performance and the accident, it is not likely that a drug test would reveal whether the performance was affected by drug use.

3. Random Testing:

- a. The primary purposes of random testing are to deter prohibited drug use and to ensure a drug free workforce. DOT regulations require that covered employees shall be subject to drug testing on an unannounced and random basis. The District shall conduct a number of tests equal to at least **the current annual DOT minimum percentage requirement** of all covered employees each calendar year, spread reasonably over a 12-month period. The District will conduct random selection and testing on at least a quarterly schedule basis.
- b. The following is a discussion of the key aspects of the random testing selection process.
 - (1) Employees remain in the random selection pool at all times, regardless of whether or not they have been previously selected for testing.
 - (2) Employees shall be selected for testing by using a computer-based random number generator or equivalent random selection method that is matched with an employee's social security number or employee ID number.
 - (3) The process will be unannounced as well as random. Employees will be notified that they have been selected for testing after they have reported for duty on the day of collection.
 - (4) Employees will be selected for random testing based on the number of covered employees at the time and the necessary testing rate.
 - (5) Specimen collection will be conducted on different days of the week throughout the annual cycle to prevent employees from matching their drug use patterns to the schedule for collection.
- c. Steps for random testing:
 - (1) The DPM (or designee), on a pre-determined date, shall use the random selection procedures to compile a list of covered employees selected for random testing during that testing cycle.
 - (2) The DPM (or designee) shall ensure that the list of social security numbers or employee identification numbers will identify the correct employees who are to be randomly tested during the testing cycle.
 - (3) It is the intent of this plan to notify employees of their selection for random testing after they have reported for duty.
 - (a) The list of employees to be tested will be provided to the appropriate division manager, department head, or supervisor.
 - (b) The list of employees selected will be retained by the DPM (or designee) in a secure location.

d. Notification of employees:

- (1) The appropriate manager/supervisor will notify the employee to be tested to report to the manager/supervisor's office at a specified time.
- (2) The employee will not be notified of the test until after reporting for duty.
- (3) Employees shall report immediately to the collection site within the allowable time determined by the District official, once notified by the appropriate District official.

4. Reasonable Suspicion Testing:

- a. Reasonable Suspicion testing is designed to provide management with a tool (in conjunction with supervisor training on the signs and symptoms of drug use) to identify drug affected employees who may pose a danger to themselves and others in their job performance. Employees may be at work in a condition that raises concern regarding their safety or productivity. Supervisors must then make a decision as to whether there is Reasonable Suspicion to believe an employee is using or has used a prohibited drug.
- b. The decision to test must be based on a reasonable and articulate belief that the employee is using a prohibited drug on the basis of specific, contemporaneous physical, behavioral, or performance indicators of probable drug use. At least two of the employee's supervisors, one of whom is trained in detection of the possible symptoms of drug use, shall substantiate and concur in the decision to test an employee. The concurrence by both supervisors can be accomplished by phone, by discussions a few hours later, or by having another supervisor travel to the job site, if only one supervisor is available at that particular job site. Refer to Appendix P, DOT/FMCSA Forms and Instructions Pages 7-8, for the instructions and 'Reasonable Suspicion Drug/Alcohol Testing' form.

NOTE: For small companies with 50 or fewer employees subject to testing only one supervisor of the employee trained in detecting possible drug use symptoms shall substantiate the decision to test.

- c. In making a determination of Reasonable Suspicion, the factors to be considered include, but are not limited to the following:
 - (1) Adequately documented pattern of unsatisfactory work performance, for which no apparent non-impairment-related reason exists, or a change in an employee's prior pattern of work performance, especially where there is some evidence of drug related behavior on or off the work site.
 - (2) Physical signs and symptoms consistent with substance abuse.
 - (3) Evidence of illegal substance use, possession, sale, or delivery while on duty.
 - (4) Occurrence of a serious or potentially serious accident that may have been caused by human error, or flagrant violations of established safety, security, or other operational procedures.
- d. The following steps will be used to guide the supervisor to a satisfactory outcome in a Reasonable Suspicion situation.
 - (1) Verify the Reasonable Suspicion decision. Anonymous tips must be taken seriously, but should not be the sole reason to initiate a request for a specimen. Hearsay is not an acceptable basis for Reasonable Suspicion referral. If witnesses saw a specific event or behavior, ask them to describe what they saw. How far away were they? How long did they observe the person? What, if anything, caused them to believe it was substance abuse related? On what basis did they reach their conclusion? Before proceeding further, obtain approval from the division manager/department head or designee to proceed with Reasonable Suspicion testing.

- (2) Isolate and inform the employee. Remove the employee from the work location. Explain that there is Reasonable Suspicion to believe the employee's performance is being affected by some substance. Ask the employee to explain the suspected behavior and to describe the events that took place from their perspective. Ask if there is any medication or physical condition that would explain the behavior. A persuasive explanation may or may not deter you from asking for a urine sample. If there is still a reasonable belief that drugs are a factor in the situation/incident, a request for testing should be made; if no reasonable belief is determined then no request for testing should not be made. If the decision to test is made, inform the employee that they are being requested to acDistrict the appropriate official to the specimen collection site to provide a urine specimen. Inform the employee of the consequences of refusal to submit to testing.
- (3) Review your findings. During the conversation, observe physical and mental symptoms. Be sure to document any characteristics that either support or contradict initial information. In all cases, a Reasonable Suspicion decision must be made by two of the employee's supervisors. This creates greater objectivity, provides additional observation, and generally strengthens the defensibility of the Reasonable Suspicion determination.
- (4) Transport the employee. The potentially affected employee should not be allowed to proceed alone to or from the collection site. In addition to the safety concerns for the employee, acDistricting the employee also assures that there is no opportunity en route to the collection site for the employee to ingest anything that could affect the test result or to acquire "clean" urine from another person.
- (5) Document the events. Record the behavioral signs and symptoms that support the determination to conduct a Reasonable Suspicion test. This documentation of the employee's conduct should be prepared and signed by the witnesses within 24 hours of the observed behavior or before the results of the tests are released, whichever is earlier.
- (6) Denial should be an expected reaction. If a person knows they will test positive, they may give many explanations and protestations, wanting to avoid drug testing. If they are not under the influence or affected by a prohibited drug, vehement denial also would be expected. Listen to the employee and carefully evaluate the employee's explanation. Remember, a request to provide a urine specimen is not an accusation; it is merely a request for additional objective data. To the employee it may feel like an accusation; so it is important to stress that this is merely a request for additional data.
- (7) Following collection. After returning from the collection site, the employee shall not perform duties pending the receipt of the drug test results. The employee should make arrangements to be transported home. The employee should be instructed not to drive any motor vehicle due to the Reasonable Suspicion belief that they may be under the influence of a drug. If the employee insists on driving, the proper local enforcement authority should be notified that an employee who we believe may be under the influence of a drug is leaving the District premises driving a motor vehicle.

5. Return-to-Duty Testing:

- a. A covered employee who refuses to take or has a positive drug test may not return to duty in the covered function until the covered employee has had a face-to-face evaluation conducted by a substance abuse professional (SAP), and has properly followed any prescribed assistance. The employer will advise an employee who engages in prohibited activities of all available resources for evaluation and treatment including the names, addresses, and telephone numbers of qualified SAPs. An employee demonstrating successful compliance of the SAP's prescribed treatment plan is not a guarantee of employment; these requirements are preconditions an employee must meet in order to be considered for hiring or reinstatement to a DOT covered function by an employer.

6. Follow-up testing:

- a. A covered employee who refuses to take or has a positive drug test shall be subject to unannounced follow-up drug tests administered by the operator following the covered employee's return to duty. These tests shall be conducted using the directly observed collection method. The number and frequency of such follow-up testing shall be determined by a substance abuse professional (SAP), but shall consist of at least six tests in the first 12 months following the covered employee's return to duty. In addition, follow-up testing may include testing for alcohol as directed by the substance abuse professional (SAP), to be performed in accordance with 49 CFR Part 40, as amended. Follow-up testing shall not exceed 60 months from the date of the covered employee's return to duty. The substance abuse professional (SAP) may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the substance abuse professional (SAP) determines that such testing is no longer necessary.

SECTION III. USE OF EMPLOYEE WHO FAILS OR REFUSES A DRUG TEST

A. **General.**

Compliance with this drug-testing plan is a condition of employment. Refusal to take a required drug test or failure of a drug test shall result in removal from performing covered functions may be subject to disciplinary action up to and including termination, pursuant to District policy.

B. **Prohibitions on Use.**

The District shall not use, in a function covered by Part 382, anyone who:

1. Fails a drug test as verified by the MRO, or
2. Refuses to take a drug test required by this plan.

C. **Options for Return-to-Duty.**

An employee may be given an opportunity, in lieu of termination, to retain his or her employment, provided they first:

1. Have been evaluated face-to-face by a SAP, followed any recommendations for drug misuse assistance, if needed,
2. Pass a DOT drug test, and
3. Not fail a drug test required by Part 382 after returning to duty.

SECTION IV. URINE COLLECTION PERSONNEL

A. **Who may collect urine specimens for DOT drug testing? (§40.31, as amended)**

1. Collectors meeting the requirements of this subpart are the only persons authorized to collect urine specimens for DOT drug testing.
2. A collector must meet training requirements of §40.33, as amended.
3. As the immediate supervisor of an employee being tested, you may not act as the collector when that employee is tested, unless no other collector is available and you are permitted to do so under DOT agency drug and alcohol regulations.

4. You must not act as the collector for the employee being tested if you work for a HHS-certified laboratory (e.g., as a technician or accessioner) and could link the employee with a urine specimen, drug testing result, or laboratory report.

B. Collector Training Requirements.

1. Basic information.

You must be knowledgeable about this Part 40, as amended, the current "DOT Urine Specimen Collection Procedures Guidelines," and DOT agency regulations applicable to the employers for whom you perform collections, and you must keep current on any changes to these materials.

2. Qualification training.

You must receive qualification training meeting the requirements of this paragraph. Qualification training must provide instruction on the following subjects:

- (a) All steps necessary to complete a collection correctly and the proper completion and transmission of the CCF;
- (b) "Problem" collections (e.g., situations like "shy bladder" and attempts to tamper with a specimen);
- (c) Fatal flaws, correctable flaws, and how to correct problems in collections; and
- (d) The collector's responsibility for maintaining the integrity of the collection process, ensuring the privacy of employees being tested, ensuring the security of the specimen, and avoiding conduct or statements that could be viewed as offensive or inappropriate.

3. Initial Proficiency Demonstration.

Following your completion of qualification training under paragraph (b) of this section, you must demonstrate proficiency in collections under this part by completing five consecutive error-free mock collections.

- (a) The five mock collections must include two uneventful collection scenarios, one insufficient quantity of urine scenario, one temperature out of range scenario, and one scenario in which the employee refuses to sign the CCF and initial the specimen bottle tamper-evident seal.
- (b) Another person must monitor and evaluate your performance, in person or by a means that provides real-time observation and interaction between the instructor and trainee, and attest in writing that the mock collections are "error-free." This person must be a qualified collector who has demonstrated necessary knowledge, skills, and abilities by:
 - (i) Regularly conducting DOT drug test collections for a period of at least a year;
 - (ii) Conducting collector training under this part for a year; or
 - (iii) Successfully completing a "train the trainer" course.

4. Refresher training.

No less frequently than every five years from the date on which you satisfactorily complete the requirements of paragraphs (2) and (3) of this section, you must complete refresher training that meets all the requirements of paragraphs (2) and (3) of this section.

5. Error Correction Training.

If you make a mistake in the collection process that causes a test to be cancelled (i.e., a fatal or uncorrected flaw), you must undergo error-correction training. This training must occur within 30 days of the date you are notified of the error that led to the need for retraining.

- (a) Error correction training must be provided and your proficiency documented in writing by a person who meets the requirements of paragraph (3)(a) of this section.
- (b) Error correction training is required to cover only the subject matter area(s) in which the error that caused the test to be cancelled occurred.
- (c) As part of the error correction training, you must demonstrate your proficiency in the collection procedures of this part by completing three consecutive error-free mock collections. The mock collections must include one uneventful scenario and two scenarios related to the area(s) in which your error(s) occurred. The person providing the training must monitor and evaluate your performance and attest in writing that the mock collections were "error-free."

6. Documentation.

You must maintain documentation showing that you currently meet all requirements of this section. You must provide this documentation on request to DOT agency representatives and to employers and C/TPAs who are using or negotiating to use your services.

C. Information about the DER employers must provide to collectors.

The employer must provide to collectors the name and telephone number of the appropriate DER (and C/TPA, where applicable) to contact about any problems or issues that may arise during the testing process.

SECTION V. COLLECTION SITES, FORMS, AND EQUIPMENT

A. Collection Sites.

- 1. A urine collection for a DOT drug test must take place in a collection site meeting the requirements of this section.
- 2. If you are operating a collection site, you must ensure that it meets the security requirements of §40.43, as amended.
- 3. If you are operating a collection site, you must have all necessary personnel, materials, equipment, facilities and supervision to provide for the collection, temporary storage, and shipping of urine specimens to a laboratory, and a suitable clean surface for writing.
- 4. Your collection site must include a facility for urination described in either paragraph (5) or paragraph (6) of this section.
- 5. The first, and preferred, type of facility for urination that a collection site may include is a single-toilet room, having a full-length privacy door, within which urination can occur.
 - (a) No one but the employee may be present in the room during the collection, except for the observer in the event of a directly observed collection.
 - (b) You must have a source of water for washing hands that, if practicable, should be external to the closed room where urination occurs. If an external source is not available, you may meet this requirement by securing all sources of water and other substances that could be used for adulteration and substitution (e.g., water faucets, soap dispensers) and providing moist towelettes outside the closed room.
- 6. The second type of facility for urination that a collection site may include is a multi-stall restroom.
 - (a) Such a site must provide substantial visual privacy (e.g., a toilet stall with a partial-length door) and meet all other applicable requirements of this section.
 - (b) If you use a multi-stall restroom, you must either-

- (i) Secure all sources of water and other substances that could be used for adulteration and substitution (e.g., water faucets, soap dispensers) and place bluing agent in all toilets or secure the toilets to prevent access; or
 - (ii) Conduct all collections in the facility as monitored collections (see §40.69, as amended, for procedures). This is the only circumstance in which you may conduct a monitored collection.
 - (c) No one but the employee may be present in the multi-stall restroom during the collection, except for the monitor in the event of a monitored collection or the observer in the event of a directly observed collection.
7. A collection site may be in a medical facility, a mobile facility (e.g., a van), a dedicated collection facility, or any other location meeting the requirements of this section.

B. Collection Site Security.

1. Collectors and operators of collection sites must take the steps listed in this section to prevent unauthorized access that could compromise the integrity of collections.
2. As a collector, you must do the following before each collection to deter tampering with specimens:
 - (a) Secure any water sources or otherwise make them unavailable to employees (e.g., turn off water inlet, tape handles to prevent opening faucets);
 - (b) Ensure that the water in the toilet is blue;
 - (c) Ensure that no soap, disinfectants, cleaning agents, or other possible adulterants are present;
 - (d) Inspect the site to ensure that no foreign or unauthorized substances are present;
 - (e) Tape or otherwise secure shut any movable toilet tank top, or put bluing in the tank;
 - (f) Ensure that undetected access (e.g., through a door not in your view) is not possible;
 - (g) Secure areas and items (e.g., ledges, trash receptacles, paper towel holders, under-sink areas) that appear suitable for concealing contaminants; and
 - (h) Recheck items in paragraphs (a) through (g) of this section following each collection to ensure the site's continued integrity.
3. If the collection site uses a facility normally used for other purposes, like a public rest room or hospital examining room, you must, as a collector, also ensure before the collection that:
 - (a) Access to collection materials and specimens is effectively restricted; and
 - (b) The facility is secured against access during the procedure to ensure privacy to the employee and prevent distraction of the collector. Limited-access signs must be posted.
4. As a collector, you must take the following additional steps to ensure security during the collection process:
 - (a) To avoid distraction that could compromise security, you are limited to conducting a collection for only one employee at a time. However, during the time one employee is in the period for drinking fluids in a "shy bladder" situation (see §40.193(b), as amended), you may conduct a collection for another employee.
 - (b) To the greatest extent you can, keep an employee's collection container within view of both you and the employee between the time the employee has urinated and the specimen is sealed.

- (c) Ensure you are the only person in addition to the employee who handles the specimen before it is poured into the bottles and sealed with tamper-evident seals.
 - (d) In the time between when the employee gives you the specimen and when you seal the specimen, remain within the collection site.
 - (e) Maintain personal control over each specimen and CCF throughout the collection process.
- 5. If you are operating a collection site, you must implement a policy and procedures to prevent unauthorized personnel from entering any part of the site in which urine specimens are collected or stored.
 - (a) Only employees being tested, collectors and other collection site workers, DERs, employee and employer representatives authorized by the employer (e.g., employer policy, collective bargaining agreement), and DOT agency representatives are authorized persons for purposes of this paragraph (5).
 - (b) Except for the observer in a directly observed collection or the monitor in the case of a monitored collection, you must not permit anyone to enter the urination facility in which employees provide specimens.
 - (c) You must ensure that all authorized persons are under the supervision of a collector at all times when permitted into the site.
 - (d) You or the collector may remove any person who obstructs, interferes with, or causes a delay in the collection process.
- 6. If you are operating a collection site, you must minimize the number of persons handling specimens.

C. Drug Collection Forms

- 1. The Federal Drug Testing Custody and Control Form (CCF) must be used to document every urine collection required by the DOT drug-testing program. The CCF must be a five-part carbonless manifold form. (www.workplace.samhsa.gov)
- 2. You must not use a non-Federal form or an expired Federal form to conduct a DOT urine collection. A laboratory, C/TPA or other party that provides CCFs to employers, collections sites, or other customers must not provide copies of an expired Federal form to these participants. You must affirmatively notify these participants that they must not use an expired Federal form.
- 3. A participant in the DOT drug-testing program is not permitted to modify or revise the CCF except as follows:
 - (a) You may include, in the area outside the border of the form, other information needed for billing or other purposes necessary to the collection process.
 - (b) The CCF must include the names, addresses, telephone numbers and fax numbers of the employer and the MRO, which may be preprinted, typed, or handwritten. The MRO information must include the specific physician's name and address, as opposed to only a generic clinic, health care organization, or District name. This information is required, and it is prohibited for an employer, collector, service agent or any other party to omit it. In addition, a C/TPA's name, address, fax number, and telephone number may be included, but is not required. The employer may use a C/TPA's address in place of its own, but must continue to include its name, telephone number, and fax number.
 - (c) A an employer may add the name of the DOT agency under whose authority the test occurred as part of the employer information.
 - (d) A collector may use a CCF with your name, address, telephone number, and fax number preprinted, but under no circumstances may you sign the form before the collection event.

4. Under no circumstances may the CCF transmit personal identifying information about an employee (other than a social security number (SSN) or other employee identification (ID) number) to a laboratory.
5. An employer may use an equivalent foreign-language version of the CCF approved by ODAPC. You may use such a non-English language form only in a situation where both the employee and collector understand and can use the form in that language.

D. Using the DOT form for non-Federal collections.

1. You are prohibited from using the CCF for non-Federal urine collections. You are also prohibited from using non-Federal forms for DOT urine collections. Doing either subjects you to enforcement action under DOT agency regulations.
2. Form Use Errors
 - a. In the rare case where the collector, either by mistake or as the only means to conduct a test under difficult circumstances (e.g., post-accident or reasonable suspicion test with insufficient time to obtain the CCF), uses a non-Federal form for a DOT collection, the use of a non-Federal form does not present a reason for the laboratory to reject the specimen for testing or for an MRO to cancel the result.
 - b. The use of the non-Federal form is a "correctable flaw." As an MRO, to correct the problem you must follow the procedures of §40.205(b)(2), as amended.

E. Materials for urine collection.

For each DOT drug test, a collection kit meeting the following requirements must be used.

1. Collection Container
 - a. Single-use containers made of plastic, large enough to easily catch and hold at least 55 mL of urine voided from the body.
 - b. Must have graduated volume markings clearly noting levels of 45 mL and above.
 - c. Must have a temperature strip providing graduated temperature readings 32-38° C/90-100° F, that is affixed or can be affixed at a proper level on the outside of the collection container. Other methodologies (e.g., temperature device built into the wall of the container) are acceptable provided the temperature measurement is accurate and such that there is no potential for contamination of the specimen.
 - d. Must be individually wrapped in a sealed plastic bag or shrink wrapping; or must have a peel able, sealed lid or other easily visible tamper-evident system.
 - e. May be made available separately at collection sites to address shy bladder situations when several voids may be required to complete the testing process.
2. Plastic Specimen Bottles
 - a. Each bottle must be large enough to hold at least 35 mL; or alternatively, they may be two distinct sizes of specimen bottles provided that the bottle designed to hold the primary specimen holds at least 35 mL of urine and the bottle designed to hold the split specimen holds at least 20 mL.
 - b. Must have screw-on or snap-on caps that prevent seepage of the urine from the bottles during shipment.
 - c. Must have markings clearly indicating the appropriate levels (30 mL for the primary specimen and 15 mL for the split) of urine that must be poured into the bottles.

- d. Must be designed so that the required tamper-evident bottle seals made available on the CCF fit with no damage to the seal when the employee initials it nor with the chance that the seal overlap would conceal printed information.
 - e. Must be wrapped (with caps) together in a sealed plastic bag or shrink wrapping separate from the collection container; or must be wrapped (with cap) individually in sealed plastic bags or shrink wrapping; or must have peel able, sealed lid or other easily visible tamper-evident system.
 - f. Plastic material must be leach resistant.
- 3. Leak-Resistant Plastic Bag
 - a. Must have two sealable compartments or pouches which are leak-resistant; one large enough to hold two specimen bottles and the other large enough to hold the CCF paperwork.
 - b. The sealing methodology must be such that once the compartments are sealed, any tampering or attempts to open either compartment will be evident.
- 4. Absorbent material

Each kit must contain enough absorbent material to absorb the entire contents of both specimen bottles. Absorbent material must be designed to fit inside the leak-resistant plastic bag pouch into which the specimen bottles are placed.
- 5. Shipping Container
 - a. Must be designed to adequately protect the specimen bottles from shipment damage in the transport of specimens from the collection site to the laboratory (e.g., standard courier box, small cardboard box, plastic container).
 - b. May be made available separately at collection sites rather than being part of an actual kit sent to collection sites.
 - c. A shipping container is not necessary if a laboratory courier hand-delivers the specimen bottles in the plastic leak-proof bags from the collection site to the laboratory.

SECTION VI. DRUG TESTING LABORATORY

A. Drug Testing Laboratory

- 1. Each operator shall use for the drug testing required by this part only drug testing laboratories certified by the Department of Health and Human Services under the DOT Procedures.
- 2. The drug testing laboratory must permit:
 - a. Inspections by the operator before the laboratory is awarded a testing contract; and
 - b. Unannounced inspections, including examination of records, at any time, by the operator, the Administrator, and if the operator is subject to state agency jurisdiction, a representative of that state agency.
- 3. The laboratory shall provide services in accordance with Part 40, as amended and Part 382. The name and address of each NIDA laboratory used by the District is contained in [Appendix B](#).

B. Laboratory Procedures. These procedures are addressed in [Appendix G](#).

SECTION VII. BLIND PERFORMANCE TEST PROCEDURES

A. General.

1. An employer or C/TPA with an aggregate of 2000 or more DOT-covered employees must send blind specimens to the laboratories used. If the District has an aggregate of fewer than 2000 DOT-covered employees, they are not required to provide blind specimens. **The District is exempt from blind performance testing requirements.**

SECTION VIII. MEDICAL REVIEW OFFICER

A. To be qualified to act as an MRO in the DOT drug-testing program, the individual must meet each of the requirements of this section:

1. Credentials.

The MRO must be a licensed physician (Doctor of Medicine or Osteopathy). If s/he is a licensed physician in any U.S., Canadian, or Mexican jurisdiction and meets the other requirements of this section, s/he is authorized to perform MRO services with respect to all covered employees, where ever they are located. For example, if you are licensed as an M.D. in one state or province in the U.S., Canada, or Mexico, you are not limited to performing MRO functions in that state or province, and you may perform MRO functions for employees in other states or provinces without becoming licensed to practice medicine in the other jurisdictions.

2. Basic knowledge.

The MRO must be knowledgeable in the following areas:

- (a) S/He must be knowledgeable about and have clinical experience in controlled substances abuse disorders, including detailed knowledge of alternative medical explanations for laboratory confirmed drug test results.
- (b) S/He must be knowledgeable about issues relating to adulterated and substituted specimens as well as the possible medical causes of specimens having an invalid result.
- (c) S/He must be knowledgeable about this part, the DOT MRO Guidelines, and the DOT agency regulations applicable to employers for whom s/he evaluates drug test results, and s/he must keep current on any changes to these materials. The DOT MRO Guidelines document is available from ODAPC

3. Qualification training.

The MRO must receive qualification training meeting the requirements of this paragraph.

- (a) Qualification training must provide instruction on the following subjects:
 - (i) Collection procedures for urine specimens;
 - (ii) Chain of custody, reporting, and recordkeeping;
 - (iii) Interpretation of drug and validity tests results;
 - (iv) The role and responsibilities of the MRO in the DOT drug testing program;
 - (v) The interaction with other participants in the program (e.g., DERs, SAPs); and
 - (vi) Provisions of this part and DOT agency rules applying to employers for whom test results are reviewed, including changes and updates to this part and DOT agency rules, guidance, interpretations, and policies affecting the performance of MRO

functions, as well as issues that MROs confront in carrying out their duties under this part and DOT agency rules.

- (b) Following completion of qualification training under paragraph (3)(a) of this section, s/he must satisfactorily complete an examination administered by a nationally recognized MRO certification board or subspecialty board for medical practitioners in the field of medical review of DOT-mandated drug tests. The examination must comprehensively cover all the elements of qualification training listed in paragraph (3)(a) of this section.
- (c) During each five-year period from the date the MRO satisfactorily completed the examination under paragraph (3)(b) of this section or has satisfactorily completed the required continuing education requirements which were mandatory prior to October 1, 2010, the MRO must complete requalification training which meets the requirements under paragraph (3)(a) of this section and satisfactorily complete an examination which meets the requirements under paragraph (3)(b) of this section.
- (d) An MRO is not required to be trained by an HHS-approved MRO training organization as long as the MRO meets DOT qualification and requalification training requirements.

4. Documentation.

You must maintain documentation showing that you currently meet all requirements of this section. You must provide this documentation on request to DOT agency representatives and to employers and C/TPAs who are using or negotiating to use your services.

NOTE: For complete MRO procedures see [Appendix F](#).

SECTION IX. SUBSTANCE ABUSE PROFESSIONAL (SAP)

A. SAP Qualifications.

To be permitted to act as a SAP in the DOT drug-testing program, the SAP must meet each of the requirements of this section:

1. **Credentials.**

The SAP must have one of the following credentials:

- (a) Be a licensed physician (Doctor of Medicine or Osteopathy);
- (b) Be a licensed or certified social worker;
- (c) Be a licensed or certified psychologist;
- (d) Be a licensed or certified employee assistance professional; or
- (e) Be a drug and alcohol counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC).

2. **Basic knowledge.**

The SAP must be knowledgeable in the following areas:

- (a) Knowledgeable about and have clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.
- (b) Knowledgeable about the SAP function as it relates to employer interests in safety-sensitive duties.

- (c) Knowledgeable about this part, the DOT agency regulations applicable to the employers for whom you evaluate employees, and the DOT SAP Guidelines, and must keep current on any changes to these materials. These documents are available from ODAPC (Department of Transportation, 400 7th Street, SW., Room 10403, Washington DC, 20590 (202-366-3784), or on the ODAPC web site (<http://www.dot.gov/ost/dapc>).

3. Qualification training.

A SAP must receive qualification training meeting the requirements of this paragraph.

- (a) Qualification training must provide instruction on the following subjects:
 - (i) Background, rationale, and coverage of the Department's drug and alcohol testing program;
 - (ii) 49 CFR Part 40, as amended and DOT agency drug and alcohol testing rules;
 - (iii) Key DOT drug testing requirements, including collections, laboratory testing, MRO review, and problems in drug testing;
 - (iv) Key DOT alcohol testing requirements, including the testing process, the role of BATs and STTs, and problems in alcohol tests;
 - (v) SAP qualifications and prohibitions;
 - (vi) The role of the SAP in the return-to-duty process, including the initial employee evaluation, referrals for education and/or treatment, the follow-up evaluation, continuing treatment recommendations, and the follow-up testing plan;
 - (vii) SAP consultation and communication with employers, MROs, and treatment providers;
 - (viii) Reporting and recordkeeping requirements;
 - (ix) Issues that SAPs confront in carrying out their duties under the program.
- (b) Following the completion of qualification training under paragraph (c)(1) of this section, he must satisfactorily complete an examination administered by a nationally-recognized professional or training organization. The examination must comprehensively cover all the elements of qualification training listed in paragraph (c)(1) of this section.
- (c) The following is the schedule for qualification training which must be met:
 - (i) If you became a SAP before August 1, 2001, you must meet the qualification training requirement no later than December 31, 2003.
 - (ii) If you become a SAP between August 1, 2001, and December 31, 2003, you must meet the qualification training requirement no later than December 31, 2003.
 - (iii) If you become a SAP on or after January 1, 2004, you must meet the qualification training requirement before you begin to perform SAP functions.

4. Continuing education.

During each three-year period from the date on which the SAP satisfactorily completes the examination under paragraph (c)(2) of this section, he must complete continuing education consisting of at least 12 professional development hours (e.g., CEUs) relevant to performing SAP functions.

- (a) This continuing education must include material concerning new technologies, interpretations, recent guidance, rule changes, and other information about developments

in SAP practice, pertaining to the DOT program, since the time they met the qualification training requirements of this section.

- (b) The continuing education activities must include documentable assessment tools to assist the SAP in determining whether you have adequately learned the material.

5. Documentation.

Documentation must be maintained showing that the SAP currently meets all requirements of this section. He must provide this documentation on request to DOT agency representatives and to employers and C/TPAs who are using or contemplating using your services.

B. SAP Reporting to the Clearinghouse.

The SAP reports information on a driver who has entered the SAP program. The information reported includes the date of completion of the initial assessment and the date the SAP determines that the driver is eligible for Return-to-Duty testing.

NOTE: For complete responsibilities of the Substance Abuse Professional see [Appendix M](#).

SECTION X. SPLIT SPECIMEN TESTS

A. Request by an employee to conduct a test of a split specimen.

1. When the MRO has notified the employee that he/she has a verified positive drug test or refusal to test because of adulteration or substitution, the employee has 72 hours from the time of notification to request a test of the split specimen. The request may be verbal or in writing. If the employee makes this request to the MRO within 72 hours, he triggers the requirements of this section for a test of the split specimen.
2. If the employee does not request a test of the split specimen within 72 hours, he may present to the MRO
 - (a) Information documenting that serious injury, illness, lack of actual notice of the verified test result, inability to contact the MRO (e.g., there was no one in the MRO's office and the answering machine was not working), or other circumstances unavoidably prevented him from making a timely request.
 - (b) If the MRO concludes from the employee's information that there was a legitimate reason for the employee's failure to contact him within 72 hours, he must direct that the test of the split specimen take place, just as you would when there is a timely request.
3. When the employee makes a timely request for a test of the split specimen under paragraphs 1 and 2 of this section, the MRO must immediately provide written notice to the laboratory that tested the primary specimen, directing the laboratory to forward the split specimen to a second HHS-certified laboratory. The MRO must also document the date and time of the employee's request.

B. Responsibility for paying for the test of a split specimen.

1. The employer is responsible for making sure (e.g., by establishing appropriate accounts with laboratories for testing split specimens) that the MRO, first laboratory, and second laboratory perform the functions noted in §§40.175-40.185, as amended, in a timely manner, once the employee has made a timely request for a test of the split specimen.
2. The employer must not condition his compliance with these requirements on the employee's direct payment to the MRO or laboratory or the employee's agreement to reimburse the employer for the costs of testing. For example, if you ask the employee to pay for some or all of the cost of testing the split specimen, and the employee is unwilling or unable to do so, you must ensure that the test takes place in a timely manner, even though this means that you pay for it.

3. The employer may seek payment or reimbursement of all or part of the cost of the split specimen from the employee (e.g., through your written District policy or a collective bargaining agreement). This part takes no position on who ultimately pays the cost of the test, so long as the employer ensures that the testing is conducted as required and the results released appropriately.

C. Steps the first laboratory takes with a split specimen.

1. The laboratory at which the primary and split specimen first arrives, must check to see whether the split specimen is available for testing.
2. If the split specimen is unavailable or appears insufficient, the lab must then do the following:
 - (a) Continue the testing process for the primary specimen as you would normally. Report the results for the primary specimen without providing the MRO information regarding the unavailable split specimen.
 - (b) Upon receiving a letter from the MRO instructing you to forward the split specimen to another laboratory for testing, report to the MRO that the split specimen is unavailable for testing. Provide as much information as you can about the cause of the unavailability.
3. The laboratory that tested the primary specimen is not authorized to open the split specimen under any circumstances (except when the split specimen is re-designated as provided in §40.83, as amended).
4. After receiving written notice from the MRO instructing the lab to send the split specimen to another HHS-certified laboratory, the following items must be forwarded to the second laboratory:
 - (a) The split specimen in its original specimen bottle, with the seal intact;
 - (b) A copy of the MRO's written request; and
 - (c) A copy of Copy 1 of the CCF, which identifies the drug(s)/metabolite(s) or the validity criteria to be tested for.
5. No information about the employee's identity is to be sent to the second laboratory. Inadvertent disclosure does not, however, cause a fatal flaw.
6. This subpart does not prescribe who gets to decide which HHS-certified laboratory is used to test the split specimen. That decision is left to the parties involved.

D. The second laboratories responsibilities with the split specimen when it is tested to reconfirm the presence of a drug or drug metabolite.

1. The laboratory testing the split specimen must test the split specimen for the drug(s)/drug metabolite(s) detected in the primary specimen.
2. This test must be done without regard to the cutoff concentrations of §40.87, as amended.
3. If the test fails to reconfirm the presence of the drug(s)/drug metabolite(s) that were reported positive in the primary specimen, the lab must conduct validity tests in an attempt to determine the reason for being unable to reconfirm the presence of the drug(s)/metabolite(s). The lab should conduct the same validity tests as you would conduct on a primary specimen set forth in §40.91, as amended.
4. In addition, if the test fails to reconfirm the presence of the drugs/drugs metabolites or validity criteria that were reported in the primary specimen, the lab may transmit the specimen or an aliquot of it to another HHS-certified laboratory that will conduct another reconfirmation test.

E. The second laboratories responsibilities with the split specimen when it is tested to reconfirm an adulterated test result.

The laboratory testing the split specimen must test for the adulterant detected in the primary specimen, using the criteria of §40.95, as amended, just as would be done for a primary specimen. The result of the primary specimen is reconfirmed if the split specimen meets these criteria.

F. The second laboratories responsibilities with the split specimen when it is tested to reconfirm a substituted test result.

The laboratory testing the split specimen must test the split specimen using the criteria of §40.93(b), as amended, just as would be done for a primary specimen. The result of the primary specimen is reconfirmed if the split specimen meets these criteria.

G. Laboratories reporting requirements to MROs regarding split specimen results.

1. The laboratory responsible for testing the split specimen must report split specimen test results by checking the "Reconfirmed" box or the "Failed to Reconfirm" box (Step 5(b)) on Copy 1 of the CCF.
2. If the lab checked the "Failed to Reconfirm" box, one of the following statements must be included (as appropriate) on the "Reason" line (Step 5(b)):
 - (a) "Drug(s)/Drug Metabolite(s) Not Detected."
 - (b) "Adulterant not found within criteria."
 - (c) "Specimen not consistent with substitution criteria [specify creatinine, specific gravity, or both]"
 - (d) "Specimen not available for testing."
3. The laboratory certifying scientist must enter their name, sign, and date the CCF.

H. Laboratory reporting of split specimen results.

1. The laboratory testing the split specimen must report the results directly, and only, to the MRO at his or her place of business. They must not report results to or through the DER or another service agent (e.g., a C/TPA).
2. The lab must fax, courier, mail, or electronically transmit a legible image or copy of the fully-completed Copy 1 of the CCF, which has been signed by the certifying scientist.
3. The lab must transmit the result to the MRO immediately, preferably on the same day or next business day as the result is signed and released.

I. MRO's responsibility with split specimen laboratory results.

The MRO must take the following actions when a laboratory reports the following results of split specimen tests:

1. Reconfirmed.
 - (a) In the case of a reconfirmed positive test for a drug or drug metabolite, report the reconfirmation to the DER and the employee.
 - (b) In the case of a reconfirmed adulterated or substituted result, report to the DER and the employee that the specimen was adulterated or substituted, either of which constitutes a refusal to test. Therefore, "refusal to test" is the final result.
2. Failed to Reconfirm: Drug(s)/Drug Metabolite(s) Not Detected.
 - (a) Report to the DER and the employee that both tests must be cancelled.

- (b) Using the format in Appendix D to this part, inform ODAPC of the failure to reconfirm.
- 3. Failed to Reconfirm: Adulteration or Substitution (as appropriate) Criteria Not Met.
 - (a) Report to the DER and the employee that both tests must be cancelled.
 - (b) Using the format in Appendix D to this part, inform ODAPC of the failure to reconfirm.
- 4. Failed to Reconfirm: Specimen not Available for Testing.
 - (a) Report to the DER and the employee that both tests must be cancelled and the reason for cancellation.
 - (b) Direct the DER to ensure the immediate collection of another specimen from the employee under direct observation, with no notice given to the employee of this collection requirement until immediately before the collection.
 - (c) Using the format in Appendix D to this part, notify ODAPC of the failure to reconfirm.
- 5. Failed to Reconfirm: Specimen Results Invalid.
 - (a) Report to the DER and the employee that both tests must be cancelled and the reason for cancellation.
 - (b) Direct the DER to ensure the immediate collection of another specimen from the employee under direct observation, with no notice given to the employee of this collection requirement until immediately before the collection.
 - (c) Using the format in Appendix D to Part 40, as amended, notify ODAPC of the failure to reconfirm.
- 6. Failed to Reconfirm: Split Specimen Adulterated.
 - (a) Contact of employee and inform the employee that the laboratory has determined that his split specimen is adulterated.
 - (b) Follow the procedures of §40.145, as amended, to determine if there is a legitimate medical explanation for the laboratory finding of adulteration.
 - (c) If you determine that there is a legitimate medical explanation for the adulterated test result, report to the DER and the employee that the test is cancelled. Using the format in Appendix D to Part 40, as amended, notify ODAPC of the result.
 - (d) If you determine that there is not a legitimate medical explanation for the adulterated test result, take the following steps:
 - (i) Report the test to the DER and the employee as a verified refusal to test. Inform the employee that he or she has 72 hours to request a test of the primary specimen to determine if the adulterant found in the split specimen also is present in the primary specimen.
 - (ii) Except that the request is for a test of the primary specimen and is being made to the laboratory that tested the primary specimen, follow the procedures of §§40.153, 40.171, 40.179, and 40.185, as amended.
 - (iii) As the laboratory that tests the primary specimen to reconfirm the presence of the adulterant found in the split specimen, report your result to the MRO on a photocopy of Copy 1 of the CCF.
 - (iv) If the test of the specimen reconfirms the adulterant finding of the split specimen, the MRO must report the test result as a refusal as provided in §40.187(a)(2), as amended.

- (v) If the test of the primary specimen fails to reconfirm the adulteration finding of the split specimen, the MRO must cancel the test. Follow the procedures of paragraph 5 of this section in this situation.
- 7. The MRO must include his name, sign and date (Step 7) Copy 2 of the CCF.
- 8. Send a legible copy of Copy 2 of the CCF (or a signed and dated letter, see §40.163, as amended) to the employer and keep a copy for your records. Transmit the document as provided in §40.167, as amended.
- 9. For positive drug test results and MRO-determined refusals to test, the MRO will report information as follows to the Clearinghouse:
 - a. Reason for the test;
 - b. Federal Drug Testing Chain of Custody Form (CCF) specimen ID number;
 - c. Driver's name, date of birth, and CDL number and State of issuance;
 - d. Employer's name, address, and USDOT Number, if applicable;
 - e. Date of the test and date of the verified result;
 - f. Test result;
 - g. In the case of an adulterated specimen, the adulterant/reason must also be provided.
- 10. If an MRO changes a verified drug test, the MRO will submit that change to the Clearinghouse within one business day of making the change in the reported results.

SECTION XI. RETENTION OF SAMPLES

A. General.

Samples that yield positive results on confirmation must be retained by the laboratory in properly secured, long-term, frozen storage for at least 365 days.

B. Retention Period.

- 1. Within this 365 day period, the employee or designated representative, FMCSA or other state agencies with jurisdiction, or the District may request in writing that the sample be retained for an additional period.
- 2. If the laboratory does not receive the request to retain the sample within the 365-day period, the sample may be discarded.

SECTION XII. RETESTING OF SAMPLES

A. General.

An employee/applicant may request in writing to the MRO a retest of the sample within 60 days of notification of a positive test result from the MRO.

B. Retest Provisions.

The employee may specify that the specimen be retested by the original laboratory or sent to another certified laboratory. The employee may be required to pay in advance for the cost of the shipment and reanalysis of the sample. The employee will be reimbursed for the costs incurred in the reanalysis if the

retest of the specimen is negative. If the employee requests a retest at a second laboratory, then the original laboratory must follow the approved custody and control procedures in transferring a portion of the specimen.

C. Detection Levels.

Because some analysis may deteriorate or are lost during freezing and/or storage, quantitation for a retest is not subject to a specific cutoff requirement but must provide data sufficient to confirm the presence of the drug or metabolite.

SECTION XIII. EMPLOYEE ASSISTANCE PROGRAM (EAP)

A. Scope of Program.

The EAP will provide education and training on drug use to all employees. The education shall include:

1. Informational material displayed on bulletin boards, employee break rooms, locker rooms, etc., and distributed to employees.
2. A community service hot-line telephone number for employee assistance displayed on bulletin boards and distributed to employees, and
3. Distribution of the District's policy regarding the use of prohibited drugs to all new employees. The policy shall be displayed in prominent places throughout the District (i.e., employee bulletin board, break room, locker rooms).

B. Supervisor Training.

1. Supervisory personnel responsible for those employees covered under Part 382 will receive training under the anti-drug plan. The training shall include at least one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use. This training shall be for supervisors who may determine whether an employee must be drug tested for Reasonable Suspicion.

SECTION XIV. RECORDKEEPING PROCEDURES

A. General.

1. The DPM (or designee) shall maintain a locked file system that will contain drug test results. This file shall be maintained as Confidential. Employee files shall be handled on strict "need to know" basis.
2. Drug tests results shall not be included in personnel files. Information regarding an individual's drug testing result or rehabilitation may be released only upon written consent of the individual, except:
 - a. Such information must be released regardless of consent to FMCSA or other government agency as a part of an accident investigation;
 - b. Such information may be disclosed regardless of consent in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual and arising from a verified positive drug test.

B. Statistical Data.

Statistical data related to drug testing and rehabilitation that is non name-specified and training records may be released to RSPA or other governmental agency upon request.

C. Record Retention.

The records that must be maintained are:

1. Records that demonstrate the collection process conforms to §40.25, as amended, shall be retained for a 3-year period.
2. Employee drug test results that show positive and test type (pre-employment test, random test, post-accident test, or post-rehabilitation test), and records that demonstrate rehabilitation (including the MRO's and SAP's determination). These records shall be retained for a 5-year period and must include the following information:
 - a. Job classification and functions of employee.
 - b. Prohibited drug(s) used.
 - c. Disposition of employee (i.e., rehab, suspension, termination, etc.)
3. Employee drug tests that demonstrate negative results shall be retained for a period of 1 year.
4. A record indicating the total number of employees tested and the results of tests separated into categories shall be retained for a 5-year period.
5. Training records confirming that supervisors and employees have been trained as required under §382.603, and copies of training material used shall be retained for a 3-year period.

SECTION XV. CONTRACTOR MONITORING

A. General.

The District shall include a clause in contracts that drug testing, education and training shall be addressed by the contractor in accordance with 49 CFR Part, as amended, for covered functions.

B. Records and Access.

Contractors shall retain copies of appropriate records required by Part 382 and Part 40, as amended. The records and access to the contractor's property shall be readily accessible for inspection by the District, FMCSA, and representatives of those state agencies under which jurisdiction the District operates.

C. Monitoring Procedures.

Confirmation of contractor compliance - see Appendix H for Contractor Monitoring Procedures.

D. Contractor Coverage.

The District can, as an alternative to the above guidance, provide coverage for the contractor's employees by including them in the District's drug testing program and random pool for the duration of the contract.

Panama-Buena Vista Union School District Alcohol Misuse Prevention Plan (AMPP)

SECTION I. INTRODUCTION

A. Alcohol Misuse Prevention Policy.

1. **Panama-Buena Vista Union School District** has a long standing commitment to maintain the highest standards for employee safety and health and to help prevent accidents/injuries resulting from the misuse of alcohol by employees who perform covered functions.
2. In addition, the District must comply with all DOT regulations and other regulations that require affirmative actions to eliminate the impact of the misuse of alcohol in the workplace. The purpose of the alcohol misuse prevention plan is to reduce accidents that result from the misuse of alcohol, thereby reducing fatalities, injuries, and property damage.
3. The Alcohol Misuse Prevention Plan contained herein sets forth the requirements of 49 CFR Part 382 and 40, as amended.
4. *Those areas of the plan that appear in italic print reflect this District's independent authority to require additional provisions with regard to the alcohol testing procedures.*
5. *The use or possession of alcoholic beverages while on District property, or in any District vehicle, or on District time, including breaks or lunch, paid or unpaid, on any shift, is strictly prohibited.*
6. *Contact the District's Designated Employer Representatives for any questions regarding the Alcohol Misuse Prevention Plan.*

B. Implementation of Alcohol Misuse Prevention Plan (AMPP).

1. The District has implemented the Federal Motor Carrier Safety Administration, Alcohol Regulations as set forth in 49 CFR Part 382, and the Department of Transportation, Procedures for Transportation Workplace Alcohol Testing Programs as set forth in 49 CFR Part 40, as amended.
2. The privacy/confidentiality of any covered employee subject to this plan must be maintained at all times.
3. Implementation of the alcohol misuse prevention plan was effective on November 14, 2023.

C. Background.

1. The catalyst for the alcohol misuse plan is Title 49 Code of Federal Regulations (CFR) Part 382 which requires motor carriers subject to 49 CFR Parts 382, 392, and 395, and their contractors to test their employees for misuse of alcohol under the following work-related conditions:
 - a. Post-Accident
 - b. Reasonable Suspicion
 - c. Random
 - d. Return-to-duty
 - d. Follow-up
2. Title 49 CFR Part 40, as amended, specifies procedures that must be followed by the District when conducting alcohol misuse testing pursuant to regulations issued by agencies of the Department of Transportation.

D. Preemption Provisions.

1. Except as provided in paragraph 2 of this section, Part 382 preempts any state or local law, rule, regulation, or order to the extent that:
 - a. Compliance with both the state or local requirement and this regulation is not possible;
 - b. Compliance with the state or local requirement is an obstacle to the accomplishment and execution of any requirement as set forth in 49 CFR Part 382, or
 - c. The state or local requirement is a motor carrier safety standard applicable to commercial driver's who operate commercial vehicles, as defined.
2. This provision shall not be construed to preempt provisions of state criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees or employers or to the general public.

E. Definitions. For purposes of this AMPP the following definitions apply:

1. Accident. An incident requiring testing as defined under Part 382.303 involving a commercial motor vehicle. Each surviving driver will be tested as soon as practicable.

'382.303 - An accident involving a commercial motor vehicle has defined an "incident/accident," as follows:
 - a. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
 - b. Who receives a citation under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - (1) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - (2) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle
2. Air blank. In evidential breath testing devices (EBTs) using gas chromatography technology, a reading of the device's internal standard. In all other EBTs, a reading of ambient air containing no alcohol.
3. Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol.
4. Alcohol concentration means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test conducted under this part.
5. Alcohol confirmation test. A subsequent test using an EBT, following a screening test with a result of 0.02 or greater, that provides quantitative data about the alcohol concentration.
6. Alcohol screening device (ASD). A breath or saliva device, other than an EBT, that is approved by the National Highway Traffic Safety Administration (NHTSA) and placed on a conforming products list (CPL) for such devices.
7. Alcohol screening test. An analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.
8. Alcohol testing site. A place selected by the employer where employees present themselves for the purpose of providing breath or saliva for an alcohol test.
9. Alcohol Use means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

10. Breath Alcohol Technician (BAT). A person who instructs and assists individuals in the alcohol testing process and operates an EBT.
11. Canceled or invalid test means a test that is deemed to be invalid as listed in Appendix K of the AMPP.
12. Clearinghouse – The FMCSA Commercial Drivers' License Drug and Alcohol Clearinghouse is a web-based system (found at <https://clearinghouse.fmcsa.dot.gov>), which provides FMCSA and employers of commercial motor vehicle (CMV) drivers with the necessary tools to identify drivers who are prohibited from operating CMVs due to DOT drug and alcohol program violations.
13. Clearinghouse Query – A request submitted to the Clearinghouse to obtain information about DOT CDL drivers and any violation of DOT drug/alcohol testing requirements. Employers must retain for three (3) years a record of each query and all information received in response to each query made under this section.
 - a. Pre-employment Query – All employers must conduct a full query of the Clearinghouse prior to employing an individual to perform any DOT safety-sensitive function. Driver authorization is required electronically within the Clearinghouse to conduct a full query.
 - b. Annual Query – All DOT employers must conduct a query at least once per calendar year for all employees subject to controlled substance and alcohol testing under this part. The Annual Query may be initially conducted as a Limited Query to determine if any information exists in the Clearinghouse regarding the individual employee. No information about the driver will be released to an employer during a limited query. If information exists in the Clearinghouse for the individual employee, a full query is required.
 - c. Full Query – Specific consent is required from the employee to conduct a full query of their Clearinghouse record. Once consent is provided, the Clearinghouse will release information to the employer regarding any violations of DOT drug/alcohol testing regulations for that employee.
14. Commercial Motor Vehicle means 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 rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle rating of more than 10,000 pounds; or
 - b. Has a gross combination weight rating of 26,001 or more pounds; or
 - c. Is designed to transport 16 or more passengers, including the driver; or
 - d. Is of any size and is used in the transportation of materials found to be hazardous for the purpose of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the HMR, 49 CFR Part 172, Subpart F.
15. Confirmation Test means a second test following a screening test with a result of 0.02 or greater that provides quantitative data of alcohol concentration.
16. Consortium/Third-party administrator (C/TPA). A service agent that provides or coordinates the provision of a variety of drug and alcohol testing services to employers. C/TPAs typically perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members. C/TPAs are not "employers" for purposes of this part.
17. Continuing education. Training for medical review officers (MROs) and substance abuse professionals (SAPs) who have completed qualification training and are performing MRO or SAP functions, designed to keep MROs and SAPs current on changes and developments in the DOT drug and alcohol testing program.

18. Covered employee means a person who performs a covered function, including persons employed by operators, contractors engaged by operators, and persons employed by such contractors. (A list of covered positions is attached.)
19. Covered Function (safety-sensitive function) means a work function that operates a commercial motor vehicle regulated by Parts 382, 392, and/or 395.
20. Designated employer representative (DER). An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of this part. Service agents cannot act as DERs.
21. DOT means The Department of Transportation.
22. DOT Procedures means the Procedures for Transportation Workplace Drug and Alcohol Testing Programs published by the Office of the Secretary of Transportation in Part 40, as amended, of this title.
23. Driver means any person who operates a commercial motor vehicle. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-motor carrier contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer. For the purpose of Pre-employment/Pre-duty testing only, the term driver includes a person applying to an employer to drive a commercial vehicle.
24. EBT (or evidential breath testing device) means an EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List" (CPL) of evidential breath measurement devices.
25. Employee. Any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing under this part, the term employee has the same meaning as the term "donor" as found on CCF and related guidance materials produced by the Department of Health and Human Services.
26. Employer. A person or entity employing one or more employees (including an individual who is self-employed) subject to DOT agency regulations requiring compliance with this part. The term includes an employer's officers, representatives, and management personnel. Service agents are not employers for the purposes of this part.
27. Error Correction Training. Training provided to BATs, collectors, and screening test technicians (STTs) following an error that resulted in the cancellation of a drug or alcohol test. Error correction training must be provided in person or by a means that provides real-time observation and interaction between the instructor and trainee.
28. HHS. The Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.
29. Office of Drug and Alcohol Policy and Compliance (ODAPC). The office in the Office of the Secretary, DOT, that is responsible for coordinating drug and alcohol testing program matters within the Department and providing information concerning the implementation of this part.
30. Qualification Training. The training required in order for a collector, BAT, MRO, SAP, or STT to be qualified to perform their functions in the DOT drug and alcohol testing program. Qualification training may be provided by any appropriate means (e.g., classroom instruction, internet application, CD-ROM, video).
31. Refresher Training. The training required periodically for qualified collectors, BATs, and STTs to review basic requirements and provide instruction concerning changes in technology (e.g., new testing methods that may be authorized) and amendments, interpretations, guidance, and issues concerning this part and DOT agency drug and alcohol testing regulations. Refresher training can

be provided by any appropriate means (e.g., classroom instruction, internet application, CD-ROM, video).

32. Refuse to submit, refuse, or refuse to take means behavior consistent with DOT Procedures concerning refusal to take a drug test or refusal to take an alcohol test.
34. Screening Test Technician (STT). A person who instructs and assists employees in the alcohol testing process and operates an ASD.
35. Secretary. The Secretary of Transportation or the Secretary's designee.
36. Service agent. Any person or entity, other than an employee of the employer, who provides services to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs and STTs, laboratories, MROs, substance abuse professionals, and C/TPAs. To act as service agents, persons and organizations must meet DOT qualifications, if applicable. Service agents are not employers for purposes of this part.
37. Substance Abuse Professional (SAP). A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

F. District Responsibilities.

1. Alcohol Program Manager (APM): Appendix A contains the name, address, and phone number of the responsible individual(s). The APM or other District designated individual shall be responsible for the preparation of an alcohol misuse plan which complies with requirements of the Department of Transportation regulations as set forth in 49 CFR Parts 382 and 49 CFR Part 40, as amended, Subpart C. The APM shall be responsible for providing oversight and evaluation on the plan; providing guidance and counseling; reviewing of all discipline applied under this plan for consistency and conformance to human resources policies and procedures; scheduling for types of testing (return-to-duty, or follow-up, etc.); maintaining a locked file system on all alcohol test results; and overseeing the referral of employees for evaluation and treatment as it is defined in 49 CFR Part 382. The District shall not falsely represent that an alcohol test is being conducted under the provisions of 49 CFR Part 382.
2. Supervisor(s): District individuals responsible for observing the performance and behavior of employees; observation/documentation of events suggestive of reasonable suspicion; and post-accident testing if determined that it is applicable.
3. Employees: The District shall ensure that each employee is notified and aware of the provisions of the District AMPP and is knowledgeable of the requirements of the District's AMPP. Each employee must fully comply with the provisions of the plan.

SECTION II. EMPLOYEE/SUPERVISOR ALCOHOL TESTING PROVISIONS AND APPLICABILITY

- A. Individuals Subject to Alcohol Testing** – Any applicant/employee, who will operate a commercial vehicle regulated by Part 382, 391, or 395, is subject to alcohol testing under this program. This does not include clerical, accounting, or other functions not subject to Part 382, 391 or 395. The person may be employed by the motor carrier, be a contractor engaged by the motor carrier, or be employed by such a contractor. Refer to Appendix C for specific employee titles/job classifications subject to testing under this program. Refer to Appendix P, DOT/FMCSA Forms and Instructions Pages 3-4, for the instructions 'FMCSA Drug & Alcohol Testing Procedures for Covered Employees' form.
- B. Procedures for Notifying Covered Employees** – This AMPP shall be included in the appropriate District manual. Upon receipt of the District's AMPP, each manager shall post the plan in a prominent location or indicate where a copy is readily accessible to all covered employees. All covered employees will be provided a condensed/summarized version of the plan. The condensed document must indicate where the entire plan may be obtained.

C. Criteria for Employee Notification –

1. General Criteria. The District shall provide written educational materials explaining the alcohol misuse requirements and the District's policies and procedures on how they will comply with those requirements.
 - a. The District will distribute to each covered employee a copy of the plan prior to the start of alcohol testing and to each person subsequently hired/transferred to perform covered functions.
 - b. The District shall provide written notice to representatives of employee organizations on the availability of this written educational information.

NOTE: The District has all covered employees sign an "Acknowledge/Receipt Form" attesting to the fact they have received a copy of the below listed information. Refer to Appendix P, DOT/FMCSA Forms and Instructions Pages 5-6, for the instructions and 'Employee Training, Orientation & Education' form. This process will provide documentation that the requirements for notification to all covered employees prior to the implementation of the District's alcohol misuse prevention plan and alcohol testing have been met.

2. Required Information. The District shall provide written materials to all covered employees who shall include detailed information and discussion of the following elements:
 - a. Name of District representative designated to answer questions for covered employees about the alcohol regulations. See Appendix A.
 - b. List of categories of covered employees who are subject to the alcohol regulations. See Appendix C for listing of employee/supervisor job classifications/titles.
 - c. Information about covered functions which provides sufficient guidance on which portions of the work day the covered employee is required to be in compliance with the AMPP.
 - d. Information concerning covered employee conduct which specifies what is prohibited by the AMPP.
 - e. Circumstances under which a covered employee will be tested for alcohol under the AMPP.
 - f. Procedures that cover:
 - (1) testing for presence of alcohol;
 - (2) protection of employee rights;
 - (3) integrity of breath testing process;
 - (4) safeguarding validity of test results; and,
 - (5) assignment of test results to proper employee.
 - g. Information concerning requirement for covered employee to submit to various types of alcohol tests.
 - h. Information detailing what constitutes a refusal and consequences of such refusal.
 - i. Information detailing consequences of covered employees who violate the prohibitions as set forth in the AMPP. It must address removal from performing covered functions and guidance on referral for evaluation and/or treatment.
 - j. Information detailing consequences of covered employees who test at an alcohol concentration of 0.02 or greater but less than 0.04.
 - k. Information detailing alcohol misuse and:

- (1) how it impacts on an individual's health, work and personal life;
- (2) detecting signs and symptoms of an alcohol problem; and,
- (3) intervening, evaluating and resolving problems associated with alcohol misuse (suspicions, confrontation, referral to EAP and referral to management official).

D. Requirements and Procedures for Implementation of the Commercial Driver's License Drug and Alcohol Clearinghouse (SOURCE: 81 FR 87725, Dec. 5, 2016, unless otherwise noted).

1. Drug and Alcohol Clearinghouse (§382.701).

a. Pre-employment query required.

- (1) Employers must not employ a driver subject to controlled substances and alcohol testing under this part to perform a safety-sensitive function without first conducting a pre-employment query of the Clearinghouse to obtain information about whether the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of §382.211; or that an employer has reported actual knowledge, as defined at §382.107, that the driver used alcohol on duty in violation of §382.205, used alcohol before duty in violation of §382.207, used alcohol following an accident in violation of §382.209, or used a controlled substance, in violation of §382.213.
- (2) The employer must conduct a full query under this section, which releases information in the Clearinghouse to an employer and requires that the individual driver give specific consent.

b. Annual query required.

- (1) Employers must conduct a query of the Clearinghouse at least once per year for information for all employees subject to controlled substance and alcohol testing under this part to determine whether information exists in the Clearinghouse about those employees.
- (2) In lieu of a full query, as described in paragraph (a)(2) of this section, an employer may obtain the individual driver's consent to conduct a limited query to satisfy the annual query requirement in paragraph (b)(1) of this section. The limited query will tell the employer whether there is information about the individual driver in the Clearinghouse, but will not release that information to the employer. The individual driver may give consent to conduct limited queries that is effective for more than one year. Refer to Appendix P, DOT/FMCSA Forms and Instructions Pages 1-2, for the instructions and 'Driver Consent for Annual Limited Query' form.
- (3) If the limited query shows that information exists in the Clearinghouse about the individual driver, the employer must conduct a full query, in accordance with paragraph (a)(2) of this section, within 24 hours of conducting the limited query. If the employer fails to conduct a full query within 24 hours, the employer must not allow the driver to continue to perform any safety-sensitive function until the employer conducts the full query and the results confirm that the driver's Clearinghouse record contains no prohibitions as defined in paragraph (d) of this section.

c. Employer notification. If any information described in paragraph (a) of this section is entered into the Clearinghouse about a driver during the 30-day period immediately following an employer conducting a query of that driver's records, FMCSA will notify the employer.

- d. Prohibition. No employer may allow a driver to perform any safety-sensitive function if the results of a Clearinghouse query demonstrate that the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of §382.211; or that an employer has reported actual knowledge, as defined at §382.107, that the driver used alcohol on duty in violation of §382.205, used alcohol before duty in violation of §382.207, used alcohol following an accident in violation of §382.209, or used a controlled substance in violation of §382.213, except where a query of the Clearinghouse demonstrates:
 - (1) That the driver has successfully completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, of this title; achieves a negative return-to-duty test result; and completes the follow-up testing plan prescribed by the SAP.
 - (2) That, if the driver has not completed all follow-up tests as prescribed by the SAP in accordance with §40.307 of this title and specified in the SAP report required by §40.311 of this title, the driver has completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, of this title and achieves a negative return-to-duty test result, and the employer assumes the responsibility for managing the follow-up testing process associated with the testing violation.
- e. Recordkeeping required. Employers must retain for 3 years a record of each query and all information received in response to each query made under this section. As of January 6, 2023, an employer who maintains a valid registration fulfills this requirement.

2. Driver consent to permit access to information in the Clearinghouse (§382.703).

- a. No employer may query the Clearinghouse to determine whether a record exists for any particular driver without first obtaining that driver's written or electronic consent. The employer conducting the search must retain the consent for 3 years from the date of the last query.
- b. Before the employer may access information contained in the driver's Clearinghouse record, the driver must submit electronic consent through the Clearinghouse granting the employer access to the following specific records:
 - (1) A verified positive, adulterated, or substituted controlled substances test result;
 - (2) An alcohol confirmation test with a concentration of 0.04 or higher;
 - (3) A refusal to submit to a test in violation of §382.211;
 - (4) An employer's report of actual knowledge, as defined at §382.107, of:
 - (i) On duty alcohol use pursuant to §382.205;
 - (ii) Pre-duty alcohol use pursuant to §382.207;
 - (iii) Alcohol use following an accident pursuant to §382.209; and
 - (iv) Controlled substance use pursuant to §382.213;
 - (5) A SAP report of the successful completion of the return-to-duty process;
 - (6) A negative return-to-duty test; and
 - (7) An employer's report of completion of follow-up testing.
- c. No employer may permit a driver to perform a safety-sensitive function if the driver refuses to grant the consent required by paragraphs (a) and (b) of this section.

- d. A driver granting consent under this section must provide consent electronically to the Agency through the Clearinghouse prior to release of information to an employer in accordance with §382.701(a)(2) or (b)(3).
- e. A driver granting consent under this section grants consent for the Agency to release information to an employer in accordance with §382.701(c).

3. Reporting to the Clearinghouse (§382.705).

- a. Employers.
 - (1) Employers must report the following information about a driver to the Clearinghouse by the close of the third business day following the date on which they obtained that information:
 - (i) An alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
 - (ii) A negative return-to-duty test result;
 - (iii) A refusal to take an alcohol test pursuant to 49 CFR 40.261;
 - (iv) A refusal to test determination made in accordance with 49 CFR 40.191(a)(1) through (4), (a)(6), (a)(8) through (11), or (d)(1), but in the case of a refusal to test under (a)(11), the employer may report only those admissions made to the specimen collector; and
 - (v) A report that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§40.307, 40.309, and 40.311 of this title.
 - (2) The information required to be reported under paragraph (b)(1) of this section must include, as applicable:
 - (i) Reason for the test;
 - (ii) Driver's name, date of birth, and CDL number and State of issuance;
 - (iii) Employer name, address, and USDOT number;
 - (iv) Date of the test;
 - (v) Date the result was reported; and
 - (vi) Test result. The test result must be one of the following:
 - (A) Negative (only required for return-to-duty tests administered in accordance with §382.309);
 - (B) Positive; or
 - (C) Refusal to take a test.
 - (3) For each report of a violation of 49 CFR 40.261(a)(1) or 40.191(a)(1), the employer must report the following information:
 - (i) Documentation, including, but not limited to, electronic mail or other contemporaneous record of the time and date the driver was notified to appear at a testing site; and the time, date and testing site location at which the employee was directed to appear, or an affidavit providing evidence of such notification;

- (ii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, indicating the date the employee was terminated or resigned (if applicable);
 - (iii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, showing that the C/TPA reporting the violation was designated as a service agent for an employer who employs himself/herself as a driver pursuant to paragraph (b)(6) of this section when the reported refusal occurred (if applicable); and
 - (iv) Documentation, including a certificate of service or other evidence, showing that the employer provided the employee with all documentation reported under paragraph (b)(3) of this section.
 - (4) Employers must report the following violations by the close of the third business day following the date on which the employer obtains actual knowledge, as defined at §382.107, of:
 - (i) On-duty alcohol use pursuant to §382.205;
 - (ii) Pre-duty alcohol use pursuant to §382.207;
 - (iii) Alcohol use following an accident pursuant to §382.209; and
 - (iv) Controlled substance use pursuant to §382.213.
 - (5) For each violation in paragraph (b)(4) of this section, the employer must report the following information:
 - (i) Driver's name, date of birth, CDL number and State of issuance;
 - (ii) Employer name, address, and USDOT number, if applicable;
 - (iii) Date the employer obtained actual knowledge of the violation;
 - (iv) Witnesses to the violation, if any, including contact information;
 - (v) Description of the violation;
 - (vi) Evidence supporting each fact alleged in the description of the violation required under paragraph (b)(4) of this section, which may include, but is not limited to, affidavits, photographs, video or audio recordings, employee statements (other than admissions pursuant to §382.121), correspondence, or other documentation; and
 - (vii) A certificate of service or other evidence showing that the employer provided the employee with all information reported under paragraph (b)(4) of this section.
 - (6) An employer who employs himself/herself as a driver must designate a C/TPA to comply with the employer requirements in paragraph (b) of this section related to his or her own alcohol and controlled substances use.
- b. C/TPAs. Any employer may designate a C/TPA to perform the employer requirements in paragraph (a) of this section. Regardless of whether it uses a C/TPA to perform its requirements, the employer retains ultimate responsibility for compliance with this section. Exception: An employer does not retain responsibility where the C/TPA is designated to comply with employer requirements as described in paragraph (a)(6) of this section.

c. SAPs.

- (1) SAPs must report to the Clearinghouse for each driver who has completed the return-to-duty process in accordance with 49 CFR part 40, subpart O, the following information:
 - (i) SAPs name, address, and telephone number;
 - (ii) Driver's name, date of birth, and CDL number and State of issuance;
 - (iii) Date of the initial substance-abuse-professional assessment; and
 - (iv) Date the SAP determined that the driver demonstrated successful compliance as defined in 49 CFR part 40, subpart O, and was eligible for return-to-duty testing under this part.
- (2) SAP must report the information required by paragraphs (d)(1)(i) through (iii) of this section by the close of the business day following the date of the initial substance abuse assessment, and must report the information required by paragraph (d)(1)(iv) of this section by the close of the business day following the determination that the driver has completed the return-to-duty process.

- d. Reporting truthfully and accurately. Every person or entity with access must report truthfully and accurately to the Clearinghouse and is expressly prohibited from reporting information he or she knows or should know is false or inaccurate.

REPORTING ENTITIES AND CIRCUMSTANCES

Reporting entity	When information will be reported to clearinghouse
Prospective/Current Employer of CDL Driver	<p>—An alcohol confirmation test with a concentration of 0.04 or higher.</p> <p>—Refusal to test (alcohol) as specified in 49 CFR 40.261.</p> <p>—Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191.</p> <p>—Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance.</p> <p>—Negative return-to-duty test results (drug and alcohol testing, as applicable)</p> <p>—Completion of follow-up testing.</p>
Service Agent acting on behalf of Current Employer of CDL Driver	<p>—An alcohol confirmation test with a concentration of 0.04 or higher.</p> <p>—Refusal to test (alcohol) as specified in 49 CFR 40.261.</p> <p>—Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191.</p> <p>—Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance.</p> <p>—Negative return-to-duty test results (drug and alcohol testing, as applicable)</p> <p>—Completion of follow-up testing.</p>

SAP	<p>—Identification of driver and date the initial assessment was initiated.</p> <p>—Successful completion of treatment and/or education and the determination of eligibility for return-to-duty testing.</p>
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4. Notice to drivers of entry, revision, removal, or release of information (§382.707).

- (a) FMCSA must notify a driver when information concerning that driver has been added to, revised, or removed from the Clearinghouse.
- (b) FMCSA must notify a driver when information concerning that driver has been released from the Clearinghouse to an employer and specify the reason for the release.
- (c) Drivers will be notified by letter sent by U.S. Mail to the address on record with the State Driver Licensing Agency that issued the driver's commercial driver's license. Exception: A driver may provide the Clearinghouse with an alternative means or address for notification, including electronic mail.

5. Drivers' access to information in the Clearinghouse (§382.709).

A driver may review information in the Clearinghouse about himself or herself, except as otherwise restricted by law or regulation. A driver must register with the Clearinghouse before accessing his or her information.

6. Clearinghouse registration (§382.711).

- a. Clearinghouse registration required. Each employer and service agent must register with the Clearinghouse before accessing or reporting information in the Clearinghouse.
- b. Employers.
 - (1) Employer Clearinghouse registration must include:
 - (i) Name, address, and telephone number;
 - (ii) USDOT number, except if the registrant does not have a USDOT Number, it may be requested to provide other information to verify identity; and
 - (iii) Name of the person(s) the employer authorizes to report information to or obtain information from the Clearinghouse and any additional information FMCSA needs to validate his or her identity.
 - (2) Employers must verify the names of the person(s) authorized under paragraph (b)(1)(iii) of this section annually.
 - (3) Identification of the C/TPA or other service agent used to comply with the requirements of this part, if applicable, and authorization for the C/TPA to query or report information to the Clearinghouse. Employers must update any changes to this information within 10 days.
- c. MROs and SAPs. Each MRO or SAP must provide the following to apply for Clearinghouse registration:
 - (1) Name, address, telephone number, and any additional information FMCSA needs to validate the applicant's identity;
 - (2) A certification that the applicant's access to the Clearinghouse is conditioned on his or her compliance with the applicable qualification and/or training requirements in 49 CFR part 40; and

- (3) Evidence of required professional credentials to verify that the applicant currently meets the applicable qualification and/or training requirements in 49 CFR part 40.
 - d. C/TPAs and other service agents. Each consortium/third party administrator or other service agent must provide the following to apply for Clearinghouse registration:
 - (1) Name, address, telephone number, and any additional information FMCSA needs to validate the applicant's identity; and
 - (2) Name, title, and telephone number of the person(s) authorized to report information to and obtain information from the Clearinghouse.
 - (3) Each C/TPA or other service agent must verify the names of the person(s) authorized under paragraph (d)(2) of this section annually.
- 7. **Duration, cancellation, and revocation of access (§382.713).**
 - a. Term. Clearinghouse registration is valid for 5 years, unless cancelled or revoked.
 - b. Cancellation. FMCSA will cancel Clearinghouse registrations for anyone who has not queried or reported to the Clearinghouse for 2 years.
 - c. Revocation. FMCSA has the right to revoke the Clearinghouse registration of anyone who fails to comply with any of the prescribed rights and restrictions on access to the Clearinghouse, including but not limited to, submission of inaccurate or false information and misuse or misappropriation of access rights or protected information from the Clearinghouse and failure to maintain the requisite qualifications, certifications and/or training requirements as set forth in part 40 of this title.
- 8. **Authorization to enter information into the Clearinghouse (§382.715).**
 - a. C/TPAs. No C/TPA or other service agent may enter information into the Clearinghouse on an employer's behalf unless the employer designates the C/TPA or other service agent.
 - b. SAPs. A driver must designate a SAP before that SAP can enter any information about the driver's return-to-duty process into the Clearinghouse.
- 9. **Procedures for correcting information in the database (§382.717).**
 - a. Petitions limited to inaccurately reported information.
 - (1) Under this section, petitioners may challenge only the accuracy of information reporting, not the accuracy of test results or refusals.
 - (2) Exceptions.
 - (i) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of actual knowledge that the driver received a traffic citation for driving a commercial motor vehicle while under the influence of alcohol or controlled substances if the citation did not result in a conviction. For the purposes of this section, conviction has the same meaning as used in 49 CFR part 383.
 - (ii) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of actual knowledge (other than as provided for in paragraph (a)(2)(i) of this section) if that report does not comply with the reporting requirements in §382.705(b)(5).
 - (iii) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of a violation under 49 CFR 40.261(a)(1) or

40.191(a)(1) if that report does not comply with the reporting requirements in §382.705(b)(3).

- b. Petition. Any driver or authorized representative of the driver may submit a petition to the FMCSA contesting the accuracy of information in the Clearinghouse. The petition must include:
 - (1) The petitioner's name, address, telephone number, and CDL number and State of issuance;
 - (2) Detailed description of the basis for the allegation that the information is not accurate; and
 - (3) Evidence supporting the allegation that the information is not accurate. Failure to submit evidence is cause for dismissing the petition.
- c. Submission of petition. The petitioner may submit his/her petition electronically through the Clearinghouse or in writing to: Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance, Attention: Drug and Alcohol Program Manager, 1200 New Jersey Avenue SE., Washington, DC 20590.
- d. Notice of decision. Within 45 days of receiving a complete petition, FMCSA will inform the driver in writing of its decision to remove, retain, or correct the information in the database and provide the basis for the decision.
- e. Request for expedited treatment.
 - (1) A driver may request expedited treatment to correct inaccurate information in his or her Clearinghouse record under paragraph (a)(1) of this section if the inaccuracy is currently preventing him or her from performing safety-sensitive functions, or to remove employer reports under paragraph (a)(2) of this section if such reports are currently preventing him or her from performing safety-sensitive functions. This request may be included in the original petition or as a separate document.
 - (2) If FMCSA grants expedited treatment, it will subsequently inform the driver of its decision in writing within 14 days of receipt of a complete petition.
- f. Administrative review.
 - (1) A driver may request FMCSA to conduct an administrative review if he or she believes that a decision made in accordance with paragraph (d) or (e) of this section was in error.
 - (2) The request must prominently state at the top of the document: "Administrative Review of Drug and Alcohol Clearinghouse Decision" and the driver may submit his/her request electronically through the Clearinghouse or in writing to the Associate Administrator for Enforcement (MC-E), Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE, Washington, DC 20590.
 - (3) The driver's request must explain the error he or she believes FMCSA committed and provide information and/or documents to support his or her argument.
 - (4) FMCSA will complete its administrative review no later than 30 days after receiving the driver's request for review. The Associate Administrator's decision will constitute the final Agency action.
- g. Subsequent notification to employers. When information is corrected or removed in accordance with this section, or in accordance with 49 CFR part 10, FMCSA will notify any employer that accessed the incorrect information that a correction or removal was made.

10. Availability and removal of information (§382.719).

- a. Driver information not available. Information about a driver's drug or alcohol violation will not be available to an employer conducting a query of the Clearinghouse after all of the following conditions relating to the violation are satisfied:
 - (1) The SAP reports to the Clearinghouse the information required in §382.705(d);
 - (2) The employer reports to the Clearinghouse that the driver's return-to-duty test results are negative;
 - (3) The driver's current employer reports that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§40.307, 40.309, and 40.311 of this title; and
 - (4) Five years have passed since the date of the violation determination.
- b. Driver information remains available. Information about a particular driver's drug or alcohol violation will remain available to employers conducting a query until all requirements in paragraph (a) of this section have been met.
- c. Exceptions.
 - (1) Within 2 business days of granting a request for removal pursuant to §382.717(a)(2)(i), FMCSA will remove information from the Clearinghouse.
 - (2) Information about a particular driver's drug or alcohol violation may be removed in accordance with §382.717(a)(2)(ii) and (iii) or in accordance with 49 CFR part 10.
- d. Driver information remains available. Nothing in this part shall prevent FMCSA from using information removed under this section for research, auditing, or enforcement purposes.

11. Fees (§382.721).

FMCSA may collect a reasonable fee from entities required to query the Clearinghouse. Exception: No driver may be required to pay a fee to access his or her own information in the Clearinghouse.

12. Unauthorized access or use prohibited (§382.723).

- a. Except as expressly authorized in this subpart, no person or entity may access the Clearinghouse. No person or entity may share, distribute, publish, or otherwise release any information in the Clearinghouse except as specifically authorized by law. No person may report inaccurate or misleading information to the Clearinghouse.
- b. An employer's use of information received from the Clearinghouse is limited to determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle. No employer may divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle.
- c. Violations of this section are subject to civil and criminal penalties in accordance with applicable law, including those set forth at §382.507.
- d. Nothing in this part shall prohibit FMCSA from accessing information about individual drivers in the Clearinghouse for research, auditing, or enforcement purposes.

13. Access by State licensing authorities (§382.725).

- a. In order to determine whether a driver is qualified to operate a commercial motor vehicle, the chief commercial driver's licensing official of a State must obtain the driver's record

from the Clearinghouse if the driver has applied for a commercial driver's license from that State.

- b. By applying for a commercial driver's license, a driver is deemed to have consented to the release of information from the Clearinghouse in accordance with this section.
- c. The chief commercial driver's licensing official's use of information received from the Clearinghouse is limited to determining an individual's qualifications to operate a commercial motor vehicle. No chief driver's licensing official may divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining an individual's qualifications to operate a commercial motor vehicle.
- d. A chief commercial driver's licensing official who does not take appropriate safeguards to protect the privacy and confidentiality of information obtained under this section is subject to revocation of his or her right of access under this section.

14. Penalties (\$382.727).

An employer, employee, MRO, or service agent who violates any provision of this subpart shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. 521(b)(2)(C).

SECTION III. ALCOHOL TESTS REQUIRED

A. Pre-Employment/Pre-Assignment Breath Alcohol Testing

- 1. Pre-employment breath alcohol testing is an allowed and supported option available to DOT-regulated employers (except under USCG and FMCSA rules) who may conduct pre-employment breath alcohol testing if the following conditions are met:
 - a. The testing must be accomplished for all applicants,
 - b. The testing must be conducted as a post-offer requirement (i.e., the employer needs to inform the applicant that he or she has the job if he/she passes a DOT breath alcohol test), and
 - c. The testing and its consequences must comply with requirements of 49 CFR Part 40, as amended.

Pre-employment (post-offer) breath alcohol testing will be conducted under this policy and such testing will be conducted for all DOT-applicants.

Any final candidate who has refused to submit to pre-employment breath alcohol or drug testing or one who is disqualified for employment due to a confirmed positive test will not be employed. There will be no exceptions even for otherwise well-qualified applicants or hard-to-fill positions. Disqualified applicants may reapply six months from date of disqualification.

- 2. Pre-assignment breath alcohol testing is required for any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing and is transferred in or returning to a DOT-regulated position within the District, including any employee who will operate a commercial vehicle regulated by Part 382, 391, or 395. This does not include clerical, accounting, or other functions not subject to Part 382, 391 or 395.
 - a. The testing and its consequences must comply with requirements of 49 CFR Part 40, as amended.

B. Post-Accident Testing.

- 1. The District shall promptly determine and test each surviving covered employee for alcohol if that employee's performance contributed to the accident or cannot be completely discounted as a contributing factor to the accident. The decision not to administer an alcohol test under this section shall be based on the District's determination, using the best available information at the

time of the determination, that the employee's performance could have not have contributed to the accident.

2. Each employee shall be required to submit to an alcohol test within 2 hours of the accident. If a test is not administered within 2 hours, the District will prepare and maintain on file a record stating why the test was not administered. If a test is not administered within 8 hours following the accident the District shall cease all attempts to conduct an alcohol test and shall prepare and maintain on file written documentation indicating why the alcohol test was not conducted.
3. An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the District or District representative of his/her location if he/she leaves the scene of the accident prior to submission to such test, may be deemed by the District to have refused to submit to testing.
4. The employee must remain available for alcohol testing and may not consume any alcohol for 8 hours following the accident or until the alcohol test has been conducted. Notwithstanding the previous statement, employees should seek and obtain emergency medical care whenever necessary or a covered employee should not be prohibited from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident.
5. The following steps will be used to guide supervisor to a satisfactory outcome in a post-accident situation. Refer to Appendix P, DOT/FMCSA Forms and Instructions Pages 9-10, for the instructions and 'Post-Accident Drug & Alcohol' form.
 - a. Verify the post-accident decision. Does the definition of accident in Section I apply to the current situation? Does the possibility exist that the employee's performance contributed to the accident or cannot be completely discounted as a factor which contributed to the accident? Anonymous tips must be taken seriously, but should not be the sole reason to initiate a request for a specimen. If witnesses saw a specific event or behavior, ask them to describe what they saw. How far away were they? Before proceeding further, individual may need to obtain approval from the division manager/departments head or designee to proceed with post-accident testing.
 - b. Isolate and inform the employee. Remove the employee from the work area. Explain that you have reason to believe his/her performance contributed to the accident or cannot be completely discounted as a contributing factor to the accident and therefore, they will be required to submit to an alcohol test.
 - c. Transport the employee. The potentially affected employee should not be allowed to proceed alone to or from the collection site (the collection site may be at the accident scene). In addition to the safety concerns for the employee, acDistricting the employee also assures that there is no opportunity en route to the collection site for the employee to ingest anything that could affect the outcome of the alcohol test.
 - d. Document the events. Record the activity performed that supports the determination to conduct a post-accident alcohol test. This documentation of the employee's activity should be prepared and signed by the supervisor and remain on file.

C. Reasonable Suspicion Testing. Reasonable suspicion testing is designed to provide management with a tool (in conjunction with supervisor training on the signs and symptoms of alcohol misuse) to identify alcohol affected employees who may pose a danger to themselves and others in their job performance. Employees may be at work in a condition that raises concern regarding their safety or productivity. Supervisors must then make a decision as to whether there is reasonable suspicion to believe an employee is using or has used alcohol.

1. Supervisor Reasonable Suspicion Determinations:
 - a. The District's determination that reasonable suspicion exists to require a covered employee to undergo an alcohol test shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. The required observations shall be made by a supervisor who has received at least 60 minutes of training in detecting the symptoms of alcohol misuse.

- b. The supervisor's observation must be made just before, during, or just after the employee is performing a covered function.
 - c. The supervisor who makes such a determination that reasonable suspicion exists shall not be authorized to conduct the breath alcohol test on that employee.
- 2. In making a determination of reasonable suspicion, the factors to be considered include, but are not limited to the following:
 - a. Adequately documented pattern of unsatisfactory work performance, for which no apparent non-impairment-related reason exists, or a change in an employee's prior pattern of work performance, especially where there is some evidence of alcohol related behavior on or off the work site.
 - b. Physical signs and symptoms consistent with alcohol abuse.
 - c. Evidence of prohibited alcohol use, possession, sale, or delivery while on duty.
 - d. Occurrence of a serious or potentially serious accident that may have been caused by human error, or flagrant violations of established safety, security, or other operational procedures.
- 3. The following steps will be used to guide the supervisor to a satisfactory outcome in a reasonable suspicion situation. Refer to Appendix P, DOT/FMCSA Forms and Instructions Pages 7-8, for the instructions and 'Reasonable Suspicion Drug/Alcohol Testing' form.
 - a. Verify the reasonable suspicion decision. Anonymous tips must be taken seriously, but should not be the sole reason to initiate a request for a specimen. Hearsay is not an acceptable basis for reasonable suspicion referral. If witnesses saw a specific event or behavior, ask them to describe what they saw. How far away were they? How long did they observe the person? What, if anything, caused them to believe it was alcohol related? On what basis did they reach their conclusion? Before proceeding further, obtain concurrence or approval from the manager/department head or designee to proceed with reasonable suspicion alcohol testing.
 - b. Isolate and inform the employee. Remove the employee from the work location. Explain that there is reasonable suspicion to believe the employee's performance is being affected by alcohol. Ask the employee to explain the suspected behavior and to describe the events that took place from his/her perspective. Ask if there is any medication or physical condition that would explain the behavior. A persuasive explanation may or may not deter you from asking for the employee to submit to an alcohol test. If there is still a reasonable suspicion that alcohol is a factor in the situation, a request for testing should be made; if no reasonable belief is determined then a request for testing should not be made. If the decision to test is made, inform the employee that they are being requested to acDistrict the appropriate District official or representative to the specimen collection site to conduct an alcohol test. Inform the employee of the consequences of refusal to submit to alcohol testing.
 - c. Review your findings. During the conversation, observe physical and mental symptoms. Be sure to document any characteristics that either support or contradict initial information. In all cases, a reasonable suspicion decision must be made by a supervisor who has received the required training. This creates greater objectivity, provides additional observation, and generally strengthens the defensibility of the reasonable suspicion determination.
 - d. Transport the employee. The potentially affected employee should not be allowed to proceed alone to or from the collection site. In addition to the safety concerns for the employee, acDistricting the employee also assures that there is no opportunity en route to the collection site for the employee to ingest anything that could affect the alcohol test result.
 - e. Document the events. Record the behavioral signs and symptoms that support the determination to conduct a reasonable suspicion alcohol test. This documentation of the

employee's conduct should be prepared and maintained on file to document the request for reasonable suspicion alcohol testing.

- f. Denial should be an expected reaction. If a person knows he/she will test positive, he/she may give many explanations and protestations, wanting to avoid alcohol testing. If he/she is not under the influence or affected by alcohol, vehement denial also would be expected. Listen to the employee and carefully evaluate the employee's explanation. Remember, a request to submit to an alcohol test is not an accusation; it is merely a request for additional objective data.
- g. Following administration of alcohol test. After returning from the collection site, the employee should not be allowed to return to performing any covered functions if their alcohol test result is positive. The employee should make arrangements to be transported home. The employee should be instructed not to drive any motor vehicle due to the reasonable suspicion belief that he/she may be under the influence of alcohol.

If the employee insists on driving themselves, the proper local enforcement authority may be notified that an employee who the District believes may be under the influence of alcohol is leaving the District premises driving a motor vehicle.

- 4. The District shall conduct an alcohol test within two hours of a determination to test under reasonable suspicion. If the test is not conducted within two hours of the reasonable suspicion determination the District shall prepare and maintain a written document explaining why the test was not conducted. The District shall continue all efforts to conduct the alcohol test. If the test is not conducted within eight hours the District shall cease all attempts to conduct the test and shall prepare and maintain written documentation as to why the test was not conducted. Upon request such records shall be made available to the Federal Motor Carrier Safety Administration.
- 5. The District shall not permit a covered employee to report for duty or remain on duty requiring the performance of covered functions while the employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse, nor shall the employee be permitted to perform or continue to perform covered functions until:
 - a. An alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or
 - b. The start of the employee's next regularly scheduled duty period, but not less than 24 hours following the determination that there is reasonable suspicion to believe that the employee has violated the prohibitions as contained in the AMPP.
- 6. Except as provided above, the District shall not take any action under 49 CFR Part 382 against a covered employee based solely on the employee's behavior and appearance in the absence of an alcohol test. However, this does not prohibit the District from taking any disciplinary action otherwise consistent with local and/or state laws.

D. Random Testing

The primary purposes of random testing are to deter the alcohol misuse and to ensure an alcohol free workforce. DOT regulations require that covered employees shall be subject to alcohol testing on a random basis. The District shall conduct the number of tests equal to at least **the current annual DOT minimum percentage requirement** of all covered employees each calendar year, spread reasonably over a 12-month period. The District will conduct random selection and testing on at least a quarterly schedule.

- 1. The following is a discussion of the key aspects of the random testing selection process.
 - a. Employees remain in the random selection pool at all times, regardless of whether or not they have been previously selected for testing.
 - b. Employees shall be selected for testing by using a computer-based random number generator or equivalent random selection method that is matched with an employee's social security number or employee ID number.

- c. The process will be unannounced as well as random. Employees will be notified that they have been selected for testing after they have reported for duty on the day of collection.
 - d. Employees will be selected for random testing based on the number of covered employees at the time and the necessary testing rate.
 - e. Alcohol breath testing will be conducted on different days of the week throughout the annual cycle to prevent employees from matching their alcohol misuse patterns to the schedule for testing.
2. Steps for random testing:
- a. The DPM (or designee), on a pre-determined date, shall use the random selection procedures to compile a list of covered employees selected for random testing during that testing cycle.
 - 1. The DPM (or designee) shall ensure that the list of social security numbers or employee identification numbers will identify the correct employees who are to be randomly tested during the testing cycle.
 - 2. It is the intent of this plan to notify employees of their selection for random testing after they have reported for duty.
 - a. The list of employees to be tested will be provided to the appropriate manager or supervisor.
 - b. The list of employees selected will be retained by the DPM (or designee) in a secure location.
 - 3. Notification of employees:
 - a. The appropriate manager/supervisor will notify the employee to be tested to report to the manager/supervisor's office at a specified time.
 - b. The employee will not be notified of the test until after reporting for duty.
 - c. Employees shall report immediately to the breath alcohol testing site within the allowable time determined by the District official, once notified by the appropriate District official.

E. Return-to-Duty Testing.

- 1. If the substance abuse professional makes a determination that some form of evaluation and/or treatment is required then the employee must comply with the recommended provisions in order to be considered eligible to return-to-duty.
- 2. The District shall ensure that before an employee may return to duty to perform covered functions after engaging in prohibited conduct, as set forth in section IV of the plan, that the employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.
- 3. An employee who refuses to take or fails an alcohol test (at 0.04 or higher) may be subject to disciplinary action up to and including termination, pursuant to District policy.

However, any individual with an alcohol or drug abuse problem who voluntarily comes forward before a disciplinary problem occurs or a test is required, and who thereafter cooperates with the District for treatment and rehabilitation **will not** be subject to disciplinary action for doing so.

However, creating a threat to safety by failure to satisfactorily or successfully participate in treatment, or withdrawal from treatment before completion, may result in disciplinary action up to and including termination.

An employee may not return to duty until the employee passes an alcohol test and the Medical Review Officer (MRO) and/or Substance Abuse Professional (SAP), and the District has determined that the employee may return to duty. Successful compliance of the SAP's treatment and passing the Return-to-Duty test does not guarantee continued employment; these requirements are preconditions an employee must meet in order to be considered to enter back into a DOT covered function. An employee who returns to duty shall be subject to a reasonable program of follow-up drug testing, without prior notice, for up to 60 months after his or her return to duty, as determined by the SAP.

Any subsequent positive test result will be considered an aggravated offense and **may result in disciplinary action, up to and including termination.**

F. Follow-up Testing.

1. Following the determination that a covered employee is in need of assistance in resolving problems associated with alcohol misuse, the employee will be subject to unannounced follow-up alcohol testing as directed by a substance abuse professional. An employee who returns to duty shall be subject to a reasonable program of follow-up alcohol testing, without prior notice, for up to 60 months after his/her return to duty, as determined by the SAP.
2. The employee shall be subject to at least six, unannounced alcohol follow-up tests during the first 12 months following his/her return to duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the first year of testing has been completed, if the substance abuse professional makes the determination that such testing is no longer warranted.
3. The District may require a covered employee to submit to drug follow-up testing when the substance abuse professional has reason to suspect drug involvement. The drug testing must comply with the requirements contained in 49 CFR Part 40, as amended, Subpart A.
4. Follow-up testing shall be conducted just before the employee is to perform, while an employee is performing or just after the employee has ceased performing a covered function.

G. Provisions Governing Retesting of Covered Employees.

1. A covered employee tested and found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not be permitted to perform or continue to perform covered functions until:
 - a. The start of the employee's next regularly scheduled duty period, but not less than 24 hours following administration of the alcohol test.
 - b. Employees will not be compensated for the time off, even if the time-off falls on regular working hours or shift.
2. Except as provided above, the District shall not take any action under 49 CFR Part 382 against a covered employee based solely on test results showing an alcohol concentration less than 0.04. However, this does not prohibit the District from taking any disciplinary action otherwise consistent with local and/or state law.

SECTION IV. ALCOHOL PROHIBITED CONDUCT

- A. General.** The District shall provide guidance to all covered employees regarding the various types of alcohol prohibited conducts. A covered employee who engages in prohibited conduct shall be advised of available resources to evaluate and resolve problems associated with alcohol misuse.
- B. Alcohol Concentration.** A covered employee shall be prohibited from reporting for duty or remaining on duty requiring the performance of covered functions while having an alcohol concentration of 0.04 or greater. If a District representative has actual knowledge that a covered employee has an alcohol concentration of 0.04 or greater, the employee shall not be permitted to perform or continue to perform covered functions.

- C. **Pre-Duty Use.** The District shall prohibit a covered employee from using alcohol within 4 hours prior to performing covered functions, or, if an employee is called to duty to respond to an emergency, within the time period after the employee has been notified to report for duty. If the District has actual knowledge that a covered employee has used alcohol within 4 hours prior to performing covered functions or within the time period after the employee has been notified to report for duty, the employee shall not be permitted to perform or continue to perform covered functions.
- D. **On-Duty Use.** The District shall prohibit a covered employee from using alcohol while performing covered functions. If a District representative has actual knowledge that a covered employee is using alcohol while performing covered functions, the employee shall not be permitted to perform or continue to perform covered functions.

SECTION V. USE OF EMPLOYEE WHO REFUSES ALCOHOL TEST

- A. **General.** Refusal to submit to a post-accident, reasonable suspicion or follow-up alcohol test shall result in the covered employee not being allowed to perform or to continue to perform any covered functions.
- B. **Additional Requirements.** The District will impose such additional disciplinary actions as it deems appropriate. This may include removal from performing covered functions, suspension (with or without pay), and even termination.

SECTION VI. DISCIPLINARY ACTIONS

- A. **General.** A covered employee who has engaged in prohibited conduct as described in § 382.215 through 382.223 (alcohol concentration, on-duty use, pre-duty use, use following an accident and refusal to submit to an alcohol test) shall not be permitted to perform covered functions or continue to perform covered functions.
- B. **Required Referrals and Evaluations.**
 - 1. No covered employee who has violated the rules on alcohol misuse or refuses to submit to testing can perform any covered function unless and until that employee has:
 - a. Been evaluated by a SAP to determine whether the employee is in need of assistance in resolving problems related to alcohol use.
 - b. Completed any treatment recommended by the SAP.
 - c. Been evaluated by a SAP to ensure that the employee has properly followed the treatment program.
 - e. Undergone a return-to-duty alcohol test with resulting alcohol concentration of less than 0.02.
- C. **Evaluation,** treatment and rehabilitation may be provided by the operator, SAP under contract, or SAP not affiliated with the operator.
 - 1. A SAP cannot refer an employee to that SAP's private practice, to a person or organization from which the SAP receives remuneration or in which the SAP has financial interests.
 - 2. The District may provide for the evaluation and rehabilitation (if applicable) under their policy, a SAP under contract, or a SAP not affiliated with the District. The District shall ensure that a SAP who determines that covered employee who requires assistance in resolving problems associated with alcohol misuse does not refer the employee to the SAP's private practice or to a person or organization from which the SAP receives remuneration or has a financial interest. This does not prohibit a SAP from referring an employee for assistance to a public agency (State, County, or Municipality); a person under contract with the District to provide treatment for alcohol on behalf of the District; the sole source of therapeutically appropriate treatment under the employee's health

insurance policy; or sole source of therapeutically appropriate treatment reasonably accessible to the employee.

D. Levels of Disciplinary Actions. *The District has carefully selected the appropriate levels of disciplinary action(s) that the District intends to take against employees who fail to comply with the applicable alcohol testing regulations.* The FMCSA regulations do not mandate that an employee be terminated for failure to comply with the alcohol testing regulations. Disciplinary action as set forth below will be taken under each of the described circumstances.

1. **Refusal to report for assessment with a substance abuse professional.** *If an employee refuses to report for assessment, evaluation, and/or referral for treatment with a substance abuse professional, he/she may be subject to disciplinary action up to and including termination, pursuant to District policy.*
2. **Refusal to enter or successfully complete a rehabilitation program.** *If an employee, after assessment, is referred for rehabilitation and the employee refuses to enter or successfully complete such a rehabilitation assessment program, he/she may be subject to disciplinary action up to and including termination, pursuant to District policy.*
3. **Repeat usage.** *In all cases of an employee having an alcohol concentration of 0.02 or greater, and who has tested a second time, at alcohol concentrations 0.04 or greater, may be subject to disciplinary action up to and including termination, pursuant to District policy.*
4. **Refusal to submit to an alcohol test.** *An employee who refuses to provide an adequate breath for alcohol testing without a valid medical explanation after he/she has received notice of the requirement to be tested in accordance with the requirements of the AMPP, or who engages in conduct that clearly obstructs the testing procedure, may be subject to disciplinary action up to and including termination, pursuant to District policy.*
5. **On-duty use of alcohol.** *On-duty use or possession of alcohol on District time or on District premises may be subject to disciplinary action up to and including termination, pursuant to District policy.*
6. **Results of an alcohol (confirmation) test indicating an alcohol concentration of 0.04 or greater.** *An employee, who tested for alcohol in a concentration of 0.04 or greater, may result in disciplinary action up to and including termination, pursuant to District policy.*
7. **Results of an alcohol (confirmation) test indicate an alcohol concentration of 0.02 or greater, but less than 0.04.** *When an employee has tested for alcohol in a concentration of 0.02 or greater, but less than 0.04, that employee will be removed from performing a covered function and disciplined, pursuant to District policy.* The employee will not be allowed to perform covered functions until an alcohol test is administered and the employee's alcohol concentration measures less than 0.02 or the start of the employee's next regularly scheduled duty period, but not less than 24 hours following the administration of the alcohol test.

SECTION VII. ALCOHOL TESTING SITES

A. Where an alcohol test takes place

1. A DOT alcohol test must take place at an alcohol-testing site meeting the requirements of this section.
2. If you are operating an alcohol-testing site, you must ensure that it meets the security requirements of §40.223, as amended.
3. If you are operating an alcohol-testing site, you must ensure that it provides visual and aural privacy to the employee being tested, sufficient to prevent unauthorized persons from seeing or hearing test results.

4. If you are operating an alcohol-testing site, you must ensure that it has all needed personnel, materials, equipment, and facilities to provide for the collection and analysis of breath and/or saliva samples, and a suitable clean surface for writing.
5. If an alcohol testing site fully meeting all the visual and aural privacy requirements of paragraph 3 is not readily available, this part allows a reasonable suspicion or post-accident test to be conducted at a site that partially meets these requirements. In this case, the site must afford visual and aural privacy to the employee to the greatest extent practicable.
6. An alcohol-testing site can be in a medical facility, a mobile facility (e.g., a van), a dedicated collection facility, or any other location meeting the requirements of this section.

B. Steps that must be taken to protect the security of alcohol testing sites.

1. If you are a BAT, STT, or other person operating an alcohol testing site, you must prevent unauthorized personnel from entering the testing site.
 - a. The only people you are to treat as authorized persons are employees being tested, BATs, STTs, and other alcohol testing site workers, DERs, employee representatives authorized by the employer (e.g., on the basis of employer policy or labor-management agreement), and DOT agency representatives.
 - b. You must ensure that all persons are under the supervision of a BAT or STT at all times when permitted into the site.
 - c. You may remove any person who obstructs, interferes with, or causes unnecessary delay in the testing process.
2. As the BAT or STT, you must not allow any person other than you, the employee, or a DOT agency representative to actually witness the testing process (see §40.241-§40.255, as amended).
3. If you are operating an alcohol testing site, you must ensure that when an EBT or ASD is not being used for testing, you store it in a secure place.
4. If you are operating an alcohol testing site, you must ensure that no one other than BATs or other employees of the site have access to the site when an EBT is unsecured.
5. As a BAT or STT, to avoid distraction that could compromise security, you are limited to conducting an alcohol test for only one employee at a time.
 - a. When an EBT screening test on an employee indicates an alcohol concentration of 0.02 or higher, and the same EBT will be used for the confirmation test, you are not allowed to use the EBT for a test on another employee before completing the confirmation test on the first employee.
 - b. As a BAT who will conduct both the screening and the confirmation test, you are to complete the entire screening and confirmation process on one employee before starting the screening process on another employee.
 - c. You are not allowed to leave the alcohol-testing site while the testing process for a given employee is in progress, except to notify a supervisor or contact a DER for assistance in the case an employee or other person who obstructs, interferes with, or unnecessarily delays the testing process.

SECTION VIII. ALCOHOL TESTING EQUIPMENT, FORMS AND SUPPLIES

A. Alcohol screening devices

1. EBTs and ASDs on the NHTSA conforming products lists (CPL) for evidential and non-evidential devices are the only devices you are allowed to use to conduct alcohol screening tests under this part. An ASD that is on the NHTSA CPL for DOT alcohol tests may be used only if there are

instructions for its use in this part. An ASD can be used only for screening tests for alcohol, and may not be used for confirmation tests.

B. Confirmation Devices.

1. EBTs on the NHTSA CPL for evidential devices that meet the requirements of paragraph 2 of this section are the only devices you may use to conduct alcohol confirmation tests under this part. Note that, among devices on the CPL for EBTs, only those devices listed without an asterisk (*) are authorized for use in confirmation testing in the DOT alcohol testing program.
2. To conduct a confirmation test, you must use an EBT that has the following capabilities:
 - a. Provides a printed triplicate result (or three consecutive identical copies of a result) of each breath test;
 - b. Assigns a unique number to each completed test, which the BAT and employee can read before each test and which is printed on each copy of the result;
 - c. Prints, on each copy of the result, the manufacturer's name for the device, its serial number, and the time of the test;
 - d. Distinguishes alcohol from acetone at the 0.02 alcohol concentration level;
 - e. Tests an air blank; and
 - f. Performs an external calibration check.

C. Quality Assurance Plans for Evidential Breath Testing Devices.

1. Each EBT used shall have an approved quality assurance plan (QAP) to include the following:
 - a. The QAP must specify the methods used to perform external calibration checks on the EBT, the tolerances within which the EBT is regarded as being in proper calibration, and the intervals at which these checks must be performed. In designating these intervals, your QAP must take into account factors like frequency of use, environmental conditions (e.g., temperature, humidity, altitude) and type of operation (e.g., stationary or mobile).
 - b. Your QAP must also specify the inspection, maintenance, and calibration requirements and intervals for the EBT.
2. The manufacturer must include, with each EBT, instructions for its use and care consistent with the QAP.
3. As the user of the EBT (e.g., employer, service agent), you must do the following:
 - a. You must follow the manufacturer's instructions (see paragraph 2 of this section), including performance of external calibration checks at the intervals the instructions specify.
 - b. In conducting external calibration checks, you must use only calibration devices appearing on NHTSA's CPL for "Calibrating Units for Breath Alcohol Tests."
 - c. If an EBT fails an external check of calibration, you must take the EBT out of service. You may not use the EBT again for DOT alcohol testing until it is repaired and passes an external calibration check.
 - d. You must maintain records of the inspection, maintenance, and calibration of EBTs as provided in §40.333(a)(2), as amended.
 - e. You must ensure that inspection, maintenance, and calibration of the EBT are performed by its manufacturer or a maintenance representative certified either by the manufacturer or by a state health agency or other appropriate state agency.

D. Quality Assurance Plans for Non-Evidential Screening Devices.

1. Each Non-Evidential Screening Device used shall have an approved quality assurance plan (QAP) to including the following:
 - a. As an ASD manufacturer, you must submit, for NHTSA approval, a QAP for your ASD before NHTSA places the ASD on the CPL. Your QAP must specify the methods used for quality control checks, temperatures at which the ASD must be stored and used, the shelf life of the device, and environmental conditions (e.g., temperature, altitude, humidity) that may affect the ASD's performance.
 - b. As a manufacturer, you must include with each ASD instructions for its use and care consistent with the QAP. The instructions must include directions on the proper use of the ASD, and, where applicable the time within which the device must be read, and the manner in which the reading is made.
 - c. As the user of the ADS (e.g., employer, STT), you must follow the QAP instructions.
 - d. You are not permitted to use an ASD that does not pass the specified quality control checks or that has passed its expiration date.
 - e. As an employer, with respect to breath ASDs, you must also follow the device use and care requirements of §40.233, as amended.

E. Alcohol Testing Forms

1. The DOT Alcohol Testing Form (ATF) must be used for every DOT alcohol test beginning February 1, 2002. The ATF must be a three-part carbonless manifold form. The ATF is found in the forms section of this plan. You may view this form on the ODAPC web site (<http://www.dot.gov/ost/dapc>).
2. As an employer in the DOT alcohol testing program, you are not permitted to modify or revise the ATF except as follows:
 - a. You may include other information needed for billing purposes, outside the boundaries of the form.
 - b. You may use an ATF directly generated by an EBT which omits the space for affixing a separate printed result to the ATF, provided the EBT prints the result directly on the ATF.
 - c. You may use an ATF that has the employer's name, address, and telephone number preprinted. In addition, a C/TPA's name, address, and telephone number may be included, to assist with negative results.
 - d. You may use an ATF in which all pages are printed on white paper. The ATF may be modified by using colored paper, or have clearly discernible borders or designation statements on Copy 2 and Copy 3. When colors are used, they must be green color Copy 2 and blue for Copy 3.
 - e. As a BAT or STT, you may add, on the "Remarks" line of the ATF, the name of the DOT agency under whose authority the test occurred.
 - f. As a BAT or STT, you may use a ATF that has your name, address, and telephone number preprinted, but under no circumstances can your signature be preprinted.
3. As an employer, you may use an equivalent foreign-language version of the ATF approved by ODAPC. You may use such a non-English language form only in a situation where both the employee and BAT/STT understand and can use the form in that language.
4. Using the ATF for non-DOT tests, or non-DOT forms for DOT tests.
 - a. As an employer, BAT, or STT, you are prohibited from using the ATF for non-DOT alcohol tests. You are also prohibited from using non-DOT forms for DOT alcohol tests. Doing either subjects you to enforcement action under DOT agency regulations.

- b. If the STT or BAT, either by mistake, or as the only means to conduct a test under difficult circumstances (e.g., post-accident test with insufficient time to obtain the ATF), uses a non-DOT form for a DOT test, the use of a non-DOT form does not, in and of itself, require the employer or service agent to cancel the test. However, in order for the test to be considered valid, a signed statement must be obtained from the STT or BAT in accordance with §40.271(b), as amended.

SECTION IX. ALCOHOL TESTING PERSONNEL

A. Personnel that conduct DOT alcohol tests.

1. Screening test technicians (STTs) and breath alcohol technicians (BATs) meeting their respective requirements of this subpart are the only people authorized to conduct DOT alcohol tests.
2. An STT can conduct only alcohol screening tests, but a BAT can conduct alcohol screening and confirmation tests.
3. As a BAT- or STT-qualified immediate supervisor of a particular employee, you may not act as the STT or BAT when that employee is tested, unless no other STT or BAT is available and DOT agency regulations do not prohibit you from doing so.

B. Training requirements for STTs and BATs

To be permitted to act as a BAT or STT in the DOT alcohol testing program, you must meet each of the requirements of this section:

1. Basic information. You must be knowledgeable about the alcohol testing procedures in this part and the current DOT guidance. These documents and information are available from ODAPC (Department of Transportation, 400 7th Street, SW., Room 10403, Washington DC, 20590, 202-366-3784, or on the ODAPC web site, <http://www.dot.gov/ost/dapc>)).
2. Qualification training. You must receive qualification training meeting the requirements of this paragraph.
 - a. Qualification training must be in accordance with the DOT Model BAT or STT Course, as applicable. The DOT Model Courses are available from ODAPC (Department of Transportation, 400 7th Street, SW., Room 10403, Washington DC, 20590, 202-366-3784, or on the ODAPC web site, <http://www.dot.gov/ost/dapc>). The training can also be provided using a course of instruction equivalent to the DOT Model Courses. On request, ODAPC will review BAT and STT instruction courses for equivalency.
 - b. Qualification training must include training to proficiency in using the alcohol testing procedures of this part and in the operation of the particular alcohol testing device(s) (i.e., the ASD(s) or EBT(s)) you will be using.
 - c. The training must emphasize that you are responsible for maintaining the integrity of the testing process, ensuring the privacy of employees being tested, and avoiding conduct or statements that could be viewed as offensive or inappropriate.
 - d. The instructor must be an individual who has demonstrated necessary knowledge, skills, and abilities by regularly conducting DOT alcohol tests as an STT or BAT, as applicable, for a period of at least a year, who has conducted STT or BAT training, as applicable, under this part for a year, or who has successfully completed a "train the trainer" course.
3. Initial Proficiency Demonstration. Following the completion of qualification training under paragraph 2 of this section, you must demonstrate proficiency in alcohol testing under this part by completing seven consecutive error-free mock tests (BATs) or five consecutive error-free tests (STTs).
 - a. Another person must monitor and evaluate your performance, in person or by a means that provides real-time observation and interaction between the instructor and trainee,

- and attest in writing that the mock collections are "error-free." This person must be an individual who meets the requirements of paragraph (2)(d) of this section.
- b. These tests must use the alcohol testing devices (e.g., EBT(s) or ASD(s)) that you will use as a BAT or STT.
 - c. If you are an STT who will be using an ASD that indicates readings by changes, contrasts, or other readings in color, you must demonstrate as part of the mock test that you are able to discern changes, contrasts, or readings correctly.
 4. Schedule for qualification training and initial proficiency demonstration. The following is the schedule for qualification training and the initial proficiency demonstration you must meet:
 - a. If you became a BAT or STT before August 1, 2001, you were required to have met the requirements set forth in paragraphs (2) and (3) of this section, and you do not have to meet them again.
 - b. If you become a BAT or STT on or after August 1, 2001, you must meet the requirements of paragraphs (2) and (3) of this section before you begin to perform BAT or STT functions.
 5. Refresher training. No less frequently than every five years from the date on which you satisfactorily complete the requirements of paragraphs 2 and 3 of this section, you must complete refresher training that meets all the requirements of paragraphs 2 and 3 of this section. A BAT or STT that completed qualification training before January 1, 1998 is not required to complete refresher training until January 1, 2003.
 6. Error Correction Training. If you make a mistake in the alcohol testing process that causes a test to be cancelled (i.e., a fatal or uncorrected flaw), you must undergo error correction training. This training must occur within 30 days of the date you are notified of the error that led to the need for retraining.
 - a. Error correction training must be provided and your proficiency documented in writing by a person who meets the requirements of paragraph 2(d) of this section.
 - b. Error correction training is required to cover only the subject matter area(s) in which the error that caused the test to be cancelled occurred.
 - c. As part of the error correction training, you must demonstrate your proficiency in the alcohol testing procedures of this part by completing three consecutive error-free mock tests. The mock tests must include one uneventful scenario and two scenarios related to the area(s) in which your error(s) occurred. The person providing the training must monitor and evaluate your performance and attest in writing that the mock tests were error-free.
 7. Documentation. You must maintain documentation showing that you currently meet all requirements of this section. You must provide this documentation on request to DOT agency representatives and to employers and C/TPAs who are negotiating to use your services.
 8. Other persons who may serve as BATs or STTs.
 - (a) Anyone meeting the requirements of this section to be a BAT may act as an STT, provided that the individual has demonstrated initial proficiency in the operation of the ASD that he or she is using, as provided in paragraph (3) of this section.
 - (b) Law enforcement officers who have been certified by state or local governments to conduct breath alcohol testing are deemed to be qualified as BATs. They are not required to also complete the training requirements of this section in order to act as BATs. In order for a test conducted by such an officer to be accepted under DOT alcohol testing requirements, the officer must have been certified by a state or local government to use the EBT or ASD that was used for the test.

C. Required information the employer shall provide about the DER.

1. The employer must provide to the SSTs and BATs the name and telephone number of the appropriate DER (and C/TPA, where applicable) to contact about any problems or issues that may arise during the testing process.

SECTION X. SUBSTANCE ABUSE PROFESSIONALS

A. SAP qualifications

1. To be permitted to act as a SAP in the DOT drug and alcohol testing program, each of the following requirements must be met:
 - (a) Credentials. One of the following credentials is required:
 - (1) A licensed physician (Doctor of Medicine or Osteopathy)
 - (2) A licensed or certified social worker
 - (3) A licensed or certified psychologist
 - (4) A licensed or certified employee assistance professional; or
 - (5) A drug and alcohol counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC).
 - (b) Basic knowledge. A SAP must be knowledgeable in the following areas:
 - (1) A SAP must be knowledgeable about and have clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.
 - (2) A SAP must be knowledgeable about the function as it relates to employer interests in safety-sensitive duties.
 - (3) A SAP must be knowledgeable about this part, the DOT agency regulations applicable to the employers for whom you evaluate employees, and the DOT SAP Guidelines, and you keep current on any changes to these materials. These documents are available from ODAPC (Department of Transportation, 400 7th Street, SW., Room 10403, Washington DC, 20590 (202-366-3784), or on the ODAPC web site (<http://www.dot.gov/ost/dapc>).
 - (c) Qualification training. He must receive qualification training meeting the requirements of this paragraph (c).
 - (1) Qualification training must provide instruction on the following subjects:
 - (i) Background, rationale, and coverage of the Department's drug and alcohol testing program;
 - (ii) 49 CFR Part 40, as amended and DOT agency drug and alcohol testing rules;
 - (iii) Key DOT drug testing requirements, including collections, laboratory testing, MRO review, and problems in drug testing;
 - (iv) Key DOT alcohol testing requirements, including the testing process, the role of BATs and STTs, and problems in alcohol tests;
 - (v) SAP qualifications and prohibitions;

- (vi) The role of the SAP in the return-to-duty process, including the initial employee evaluation, referrals for education and/or treatment, the follow-up evaluation, continuing treatment recommendations, and the follow-up testing plan;
 - (vii) SAP consultation and communication with employers, MROs, and treatment providers;
 - (viii) Reporting and recordkeeping requirements;
 - (ix) Issues that SAPs confront in carrying out their duties under the program.
- (2) Following a SAP's completion of qualification training under paragraph (c)(1) of this section, he must satisfactorily complete an examination administered by a nationally-recognized professional or training organization. The examination must comprehensively cover all the elements of qualification training listed in paragraph (c)(1) of this section.
- (3) The following is the schedule for qualification training a SAP must meet:
 - (i) If you became a SAP before August 1, 2001, you must meet the qualification training requirement no later than December 31, 2003.
 - (ii) If you become a SAP between August 1, 2001, and December 31, 2003, you must meet the qualification training requirement no later than December 31, 2003.
 - (iii) If you become a SAP on or after January 1, 2004, you must meet the qualification training requirement before you begin to perform SAP functions.
- (d) Continuing education. During each three-year period from the date on which the SAP satisfactorily completes the examination under paragraph (c)(2) of this section, he must complete continuing education consisting of at least 12 professional development hours (e.g., CEUs) relevant to performing SAP functions.
 - (1) This continuing education must include material concerning new technologies, interpretations, recent guidance, rule changes, and other information about developments in SAP practice, pertaining to the DOT program, since the time he met the qualification training requirements of this section.
 - (2) A SAP's continuing education activities must include document able assessment tools to assist you in determining whether you have adequately learned the material.
- (e) Documentation. A SAP must maintain documentation showing that you currently meet all requirements of this section. You must provide this documentation on request to DOT agency representatives and to employers and C/TPAs who are using or contemplating using your services.

B. Certification organizations and recognition for its members as SAPs.

- (a) If the SAP represents a certification organization that wants DOT to authorize its certified drug and alcohol counselors to be added to §40.281(a)(5), as amended, he may submit a written petition to DOT requesting a review of his petition for inclusion.
- (b) He must obtain the National Commission for Certifying Agencies (NCCA) accreditation before DOT will act on your petition.
- (c) He must also meet the minimum requirements of Appendix M to this part before DOT will act on your petition.

NOTE: For complete information on SAP's responsibilities, see Appendix M.

SECTION XI. CONFIDENTIALITY AND RELEASE OF INFORMATION

A. General

Except as otherwise provided in this subpart, as a service agent or employer participating in the DOT drug or alcohol testing process, you are prohibited from releasing individual test results or medical information about an employee to third parties without the employee's specific written consent.

- (a) A "third party" is any person or organization to whom other subparts of this regulation do not explicitly authorize or require the transmission of information in the course of the drug or alcohol testing process.
- (b) "Specific written consent" means a statement signed by the employee that he or she agrees to the release of a particular piece of information to a particular, explicitly identified, person or organization at a particular time. "Blanket releases," in which an employee agrees to a release of a category of information (e.g., all test results) or to release information to a category of parties (e.g., other employers who are members of a C/TPA, companies to which the employee may apply for employment), are prohibited under this part.

B. Release of drug or alcohol test information for legal proceedings.

- (a) An employer may release information pertaining to an employee's drug or alcohol test without the employee's consent in certain legal proceedings.
 - (1) These proceedings include a lawsuit (e.g., a wrongful discharge action), grievance (e.g., an arbitration concerning disciplinary action taken by the employer), or administrative proceeding (e.g., an unemployment compensation hearing) brought by, or on behalf of, an employee and resulting from a positive DOT drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test results).
 - (2) These proceedings also include a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information sought is relevant to the case and issues an order directing the employer to produce the information. For example, in personal injury litigation following a truck or bus collision, the court could determine that a post-accident drug test result of an employee is relevant to determining whether the driver or the driver's employer was negligent. The employer is authorized to respond to the court's order to produce the records.
- (b) In such a proceeding, you may release the information to the decision maker in the proceeding (e.g., the court in a lawsuit). You may release the information only with a binding stipulation that the decision maker to whom it is released will make it available only to parties to the proceeding.
- (c) If you are a service agent, and the employer requests its employee's drug or alcohol testing information from you to use in a legal proceeding as authorized in paragraph (a) of this section (e.g., the laboratory's data package), you must provide the requested information to the employer.
- (d) As an employer or service agent, you must immediately notify the employee in writing of any information you release under this section.

C. Reporting medical information from the verification process by the MRO.

- (a) The MRO must, except as provided in paragraph (c) of this section, report drug test results and medical information he learned as part of the verification process to third

parties without the employee's consent if he determines, in his reasonable medical judgment, that:

- (1) The information is likely to result in the employee being determined to be medically unqualified under an applicable DOT agency regulation; or
 - (2) The information indicates that continued performance by the employee of his or her safety-sensitive function is likely to pose a significant safety risk.
- (b) The third parties to whom the MRO is authorized to provide information by this section include the employer, a physician or other health care provider responsible for determining the medical qualifications of the employee under an applicable DOT agency safety regulation, a SAP evaluating the employee as part of the return to duty process (see §40.293(g), as amended), a DOT agency, or the National Transportation Safety Board in the course of an accident investigation.
- (c) If the law of a foreign country (e.g., Canada) prohibits the MRO from providing medical information to the employer, he may comply with that prohibition.

D. Information labs, MROs and other service agents must release to employees.

- (a) An MRO or service agent must provide, within 10 business days of receiving a written request from an employee, copies of any records pertaining to the employee's use of alcohol and/or drugs, including records of the employee's DOT-mandated drug and/or alcohol tests. They may charge no more than the cost of preparation and reproduction for copies of these records.
- (b) A laboratory must provide, within 10 business days of receiving a written request from an employee, and made through the MRO, the records relating to the results of the employee's drug test (*i.e.*, laboratory report and data package). They may charge no more than the cost of preparation and reproduction for copies of these records.
- (c) A SAP must make available to an employee, on request, a copy of all SAP reports (see §40.311, as amended). However the SAP must redact follow-up testing information from the report before providing it to the employee.

E. Additional parties to which employers and service agents must release information.

An employer or service agent must release information under the following circumstances:

- (a) If they receive a specific, written consent from an employee authorizing the release of information about that employee's drug or alcohol tests to an identified person, they must provide the information to the identified person. For example, as an employer, when you receive a written request from a former employee to provide information to a subsequent employer, you must do so. In providing the information, you must comply with the terms of the employee's consent.
- (b) An employer must, upon request of DOT agency representatives, provide the following:
- (1) Access to their facilities used for this part and DOT agency drug and alcohol program functions.
 - (2) All written, printed, and computer-based drug and alcohol program records and reports (including copies of name-specific records or reports), files, materials, data, documents/documentation, agreements, contracts, policies, and statements that are required by this part and DOT agency regulations. They must provide this information at your principal place of business in the time required by the DOT agency.
 - (3) All items in paragraph (b)(2) of this section must be easily accessible, legible, and provided in an organized manner. If electronic records do not meet these standards they must be converted to printed documentation that meets these standards.

- (c) A service agent must, upon request of DOT agency representatives, provide the following:
 - (1) Access to their facilities used for this part and DOT agency drug and alcohol program functions.
 - (2) All written, printed, and computer-based drug and alcohol program records and reports (including copies of name-specific records or reports), files, materials, data, documents/documentation, agreements, contracts, policies, and statements that are required by this part and DOT agency regulations. You must provide this information at your principal place of business in the time required by the DOT agency.
 - (3) All items in paragraph (b)(2) of this section must be easily accessible, legible, and provided in an organized manner. Electronic records do not meet these standards; they must be converted to printed documentation that meets these standards.
- (d) If requested by the National Transportation Safety Board as part of an accident investigation, they must provide information concerning post-accident tests administered after the accident.
- (e) If requested by a Federal, state or local safety agency with regulatory authority over them or the employee, they must provide drug and alcohol test records concerning the employee.
- (f) Except as otherwise provided in this part, a laboratory must not release or provide a specimen or a part of a specimen to a requesting party, without first obtaining written consent from ODAPC. If a party seeks a court order directing you to release a specimen or part of a specimen contrary to any provision of this part, you must take necessary legal steps to contest the issuance of the order (e.g., seek to quash a subpoena, citing the requirements of §40.13, as amended). This part does not require you to disobey a court order, however.

F. Records employers must keep.

- (a) An employer must keep the following records for the following periods of time:
 - (1) They must keep the following records for five years:
 - (i) Records of alcohol test results indicating an alcohol concentration of 0.02 or greater;
 - (ii) Records of verified positive drug test results;
 - (iii) Documentation of refusals to take required alcohol and/or drug tests (including substituted or adulterated drug test results);
 - (iv) SAP reports; and
 - (v) All follow-up tests and schedules for follow-up tests.
 - (2) They must keep records for three years of information obtained from previous employers under §40.25, as amended, concerning drug and alcohol test results of employees.
 - (3) They must keep records of the inspection, maintenance, and calibration of EBTs, for two years.
 - (4) They must keep records of negative and cancelled drug test results and alcohol test results with a concentration of less than 0.02 for one year.

- (b) They do not have to keep records related to a program requirement that does not apply to them (e.g., a maritime employer who does not have a DOT-mandated random alcohol testing program need not maintain random alcohol testing records).
- (c) They must maintain the records in a location with controlled access.
- (d) A service agent may maintain these records for employers. However, the employer must ensure that they can produce these records at their principal place of business in the time required by the DOT agency. For example, as a motor carrier, when an FMCSA inspector requests your records, you must ensure that you can provide them within two business days.
- (e) If you store records electronically, where permitted by this part, you must ensure that the records are easily accessible, legible, and formatted and stored in an organized manner. If electronic records do not meet these criteria, you must convert them to printed documentation in a rapid and readily auditable manner, at the request of DOT agency personnel.

SECTION XII. EMPLOYEE ASSISTANCE PROGRAM (EAP)

A. Scope of Program.

The EAP will provide education and training on alcohol misuse to all employees. The education shall include:

1. Any employee who comes forward (on a voluntary basis) before disciplinary problems occur or a drug test is required, will receive reasonable accommodation (including but not limited to unpaid leave) for treatment of a drug and/or alcohol related problem.
2. The District will maintain a "Post Treatment" testing program to protect the recovering employee, fellow employee, the public and our customers. These types of follow-up treatment programs have proven successful for increasing recovery.
3. Informational material displayed on bulletin boards, employee break rooms, locker rooms, etc., and distributed to employees. A community service hot-line telephone number for employee assistance displayed on bulletin boards and distributed to employees.
4. Distribution of District's policy regarding the alcohol misuse to all employees.
5. The District also reserves the right to modify the EAP program as it deems necessary.
6. Financial responsibility for participation in treatment programs is the employee's. Insurance benefits may be available.

B. Supervisor Training.

1. Supervisory personnel responsible for those employees covered under Part 382 will receive training under the alcohol misuse prevention plan. The training shall include at least one 60-minute period of training on the specific, contemporaneous physical, behavioral, speech, and performance indicators of probable alcohol misuse. This training shall be for supervisors who may determine whether an employee must be alcohol tested for reasonable suspicion.

SECTION XIII. RECORDKEEPING PROCEDURES

- ### **A. General.**
- The District APM or designee shall maintain the alcohol testing records in accordance with the provisions set out in the AMPP. These records will be maintained in a secure location with controlled access. Records shall be maintained for the specified periods of time as required in 49 CFR Parts 382 and 40, as amended.

B. Record Retention Provisions.

1. The following types of records shall be maintained for a minimum period of 5 years.
 - a. Records of employee alcohol test results with results indicating an alcohol concentration of 0.02 or greater.
 - b. Documentation of refusals to take required alcohol tests.
 - c. Calibration documentation of each EBT used in alcohol testing, including records of the results of external calibration checks.
 - d. Employee referrals and evaluations.
 - e. Management Information System (MIS) annual alcohol misuse report data.
 - f. Documents pertaining to “missed tests.”
2. The following types of records shall be maintained for a minimum period of 2 years.
 - a. Records related to the collection process (except calibration of EBT devices).
 - b. Records related to training.
 - c. Records of the inspection and maintenance of each EBT used in employee testing.
 - d. Documentation of the District's compliance with the Quality Assurance Plan (QAP) for each EBT it uses for alcohol testing under the AMPP.
 - e. Records of the training and proficiency testing of each BAT/STT used in employee testing.
3. The following types of records shall be maintained for a minimum period of 1 year.
 - a. Records of all test results below 0.02.

C. Maintenance of Specific Types of Records.

1. The following types of records related to the collection process shall be maintained:
 - a. Calibration documentation for EBT devices.
 - b. Documentation of BAT/STT training.
 - c. Documents generated in connection with decisions to administer reasonable suspicion alcohol tests.
 - d. Documents generated in connection with decisions to administer post-accident alcohol tests.
 - e. Documents verifying existence of a medical explanation of the inability of a covered employee to provide adequate breath for alcohol testing.
2. The following types of records related to test results shall be maintained:
 - a. District's copy of the alcohol test form, including the results of the test.
 - b. Documents related to the refusal of any covered employee to submit to a required alcohol test.
 - c. Documents presented by a covered employee to dispute the result of an alcohol test administered under the AMPP.

3. Records related to other violations outlined in the AMPP.
4. The following types of records related to referrals and evaluations:
 - a. Records pertaining to a determination by a SAP concerning a covered employee's need for assistance.
 - b. Records concerning a covered employee's compliance with the recommendations of the SAP.
5. Records related to the District's MIS annual alcohol misuse testing data and "missed test" information.
 - a. The District shall submit the required alcohol misuse MIS testing data and "missed test" information to FMCSA as prescribed by the regulations.

The report shall contain the following MIS informational elements:

 - Number of covered employees.
 - Number of covered employees subject to testing under the alcohol misuse rule of another DOT agency.
 - Number of screening tests.
 - Number of confirmation tests.
 - Number of confirmation tests indicating an alcohol concentration of 0.02 or greater, but less than 0.04, by type of test.
 - Number of alcohol tests indicating an alcohol concentration of 0.04 or greater, by type of test.
 - Number of covered employees with a confirmation test indicating an alcohol concentration of 0.04 or greater or who have violations of other alcohol misuse provisions who were returned to duty in a covered position.
 - Number of covered employees who were administered alcohol and drug tests at the same time, with both a positive drug test and an alcohol test indicating an alcohol concentration of 0.04 or greater.
 - Number of covered employees who were found to have violated other provisions of §382.201 – 382.211, and any action taken in response to the violation.
 - Number of covered employees who refuse to submit to an alcohol test required by Part 382 and any action taken in response to the refusal.
 - Number of supervisors who have received required training during the reporting period in determining the existence of reasonable suspicion of alcohol misuse.
6. The following types of records related to education and training of employees and supervisors:
 - a. Materials on alcohol misuse awareness, including a copy of the District's policy on alcohol misuse.
 - b. Documentation of compliance with the requirements of §382.601.
 - c. Documentation of training provided to supervisors for the purposes of qualifying the supervisors to make a determination concerning the need for alcohol testing based on reasonable suspicion.
 - d. Certification that any training conducted under the AMPP complies with the requirements of 40 CFR Part 382 and 40, as amended.

SECTION XIV. CONTRACTOR MONITORING

- A. The District may (1) cover contractor employees under operator's plan or (2) may provide in contract that contractor must establish and implement alcohol breath testing, education, and training in accordance with Part 382 and Part 40, as amended for covered functions.
- B. Contractors shall retain copies of appropriate alcohol testing records as required by 49 CFR Part 382 and Part 40, as amended. The records and access to the contractor's property shall be readily accessible for inspection by the District, FMCSA, and representatives of those state agencies under which jurisdiction the District operates.
- C. Confirmation of contractor compliance/monitoring - Refer to Appendix H for specific guidance in how to develop an effective contractor compliance and monitoring program.
- D. The District can, as an alternative to the above guidance provide coverage for the contractors employees by including them in the District's alcohol testing program for the duration of the contract or work project. When contractor employees are covered under the District's AMPP, the contractor shall ensure that their employees comply with all the provisions contained in the District's AMPP.

APPENDIX A

DRUG AND ALCOHOL DISTRICT PERSONNEL

DRUG AND ALCOHOL PROGRAM MANAGERS (DPM)

Darryl Johnson, Assistant Superintendent of Human Resources
4200 Ashe Road
Bakersfield, CA 93313
Office: (661) 831-8331 ext. 6353
Fax: (661) 398-2141
E-mail: dj@pbvusd.k12.ca.us

Melissa Brown, Director of Human Resources
4200 Ashe Road
Bakersfield, CA 93313
Office: (661) 831-8331 ext. 6355
Fax: (661) 398-2141
E-mail: mebrown@pbvusd.k12.ca.us

DESIGNATED EMPLOYER REPRESENTATIVES (DER)

Darryl Johnson
Assistant Superintendent of Human Resources
4200 Ashe Road
Bakersfield, CA 93313
Office: (661) 831-8331 ext. 6353
Fax: (661) 398-2141
E-mail: dj@pbvusd.k12.ca.us

Tiffany Brasier
Director of Talent Management (Certificated)
4200 Ashe Road
Bakersfield, CA 93313
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Fax: (661) 398-2141
E-mail: tbrasier@pbvusd.k12.ca.us

Melissa Brown
Director of Human Resources
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Bakersfield, CA 93313
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Fax: (661) 398-2141
E-mail: mebrown@pbvusd.k12.ca.us

Neftali Perez Lopez
Director of Transportation
4200 Ashe Road
Bakersfield, CA 93313
Office: (661) 831-8331 ext. 6160
Fax: (661) 398-2141
E-mail: nperezlopez@pbvusd.k12.ca.us

EMPLOYEE ASSISTANCE PROGRAM MANAGERS (EAPM)

Darryl Johnson, Assistant Superintendent of Human Resources
4200 Ashe Road
Bakersfield, CA 93313
Office: (661) 831-8331 ext. 6353
Fax: (661) 398-2141
E-mail: dj@pbvusd.k12.ca.us

Melissa Brown, Director of Human Resources
4200 Ashe Road
Bakersfield, CA 93313
Office: (661) 831-8331 ext. 6355
Fax: (661) 398-2141
E-mail: mebrown@pbvusd.k12.ca.us

APPENDIX B

DRUG AND ALCOHOL PROVIDERS

DRUG PROGRAM SERVICE PROVIDERS

MEDICAL REVIEW OFFICER (MRO)

Dr. Jeff Freeseemann
ABC Occupational Medical Center
8501 Brimhall Rd 300, Suite A
Bakersfield, CA 93312
Office: (661) 861-1880
Fax: (661) 912-0444

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION (SAMHSA) CERTIFIED LABORATORY

Phamatech, Inc.
15175 Innovation Drive
San Diego, CA 92128
Office: (858) 643-5555
Fax: (858) 635-5843

SUBSTANCE ABUSE PROFESSIONAL (SAP)

1) First Step Counseling
1522 18th St. Suite 218
Bakersfield, CA 93301
Contact: Melinda Rangel, CADAC II, ICADC, SAP, IS
Office: (661) 404-4770
Fax: (661) 843-7080
E-mail: mgrangel.sap@gmail.com
Area of service: Bakersfield

Contact CCS for additional providers in other areas.

COLLECTION PROVIDER

1) CCS,
2) Phamatech Laboratories & Diagnostics, and
3) ABC Occupational Medical Center

THIRD PARTY ADMINISTRATOR (TPA)

Contraband Control Specialists, Inc. (CCS)
1927 21st St
Bakersfield, CA 93301
Phone (661) 336-0617

EMPLOYEE ASSISTANCE PROGRAM PROVIDER

Resource List (See Program Administrators Darryl Johnson and Melissa Brown)

ALCOHOL PROGRAM SERVICE PROVIDERS

BREATH ALCOHOL TECHNICIAN (BAT)

- 1) CCS,
- 2) Phamatech Laboratories & Diagnostics, and
- 3) ABC Occupational Medical Center

SUBSTANCE ABUSE PROFESSIONAL (SAP)

- 1) First Step Counseling

Contact CCS for additional providers in other areas.

THIRD PARTY ADMINISTRATOR (TPA)

Contraband Control Specialists, Inc. (CCS)
1927 21st St
Bakersfield, CA 93301
Phone (661) 336-0617

EMPLOYEE ASSISTANCE PROGRAM PROVIDER

Resource List (See Program Administrators Darryl Johnson and Melissa Brown)

APPENDIX C

EMPLOYEE / SUPERVISORY POSITIONS SUBJECT TO DRUG AND ALCOHOL TESTING (JOB CLASSIFICATIONS/TITLES)

Covered Positions

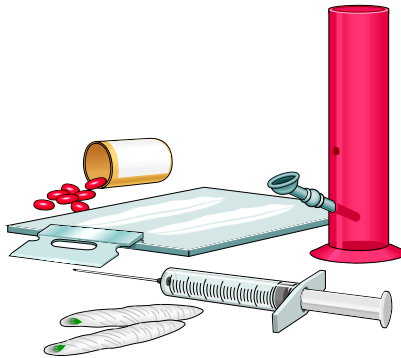
- 1) Driver with Commercial Drivers License

Supervisors and Managers Subject to Required Training

See Attached List:
List Title/Position and Full Names

Drugs In The Workplace:

“Recognizing The Substance Abusing Employee”



Prepared for
Supervisors and Managers

by
Gary “ZEE” Zvirblis,
ZEE Consulting & ASSOCIATES

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All About The Course

Recognizing The Substance Abusing Employee

On-going supervisory training is a necessary and fundamental part of a Company's drug and alcohol control program.

This course "**Recognizing The Substance Abusing Employee**" is geared for the first line supervisor. However, all members of management would benefit from this training and is required for anyone in the "**decision loop**" for employee testing.

The primary purpose of this course is to train, revisit and improve a supervisor's skill in identifying substance abusers in the workplace. Special attention is paid towards drug symptomatology and employee job, behavior, and performance warning signs.

Supervisors will learn critical and important definitions such as: 1) under the influence, 2) employee fitness-for-duty, 3) proof-of-wellness, 4) reasonable cause criteria (the **legal three-prong** test), and 5) the legal threshold regarding reasonable cause testing of an employee.

Supervisors will be updated on their primary role in controlling drug and alcohol abuse in the workplace. Those areas include: 1) **observation**, 2) **investigation**, 3) **documentation**, 4) **communication**, and 5) **intervention**. Hands-on practical examples will be provided to the supervisors to further refine their skills and prepare them for the most common situations occurring in the workplace today.

Supervisors will view slides of actual users, drugs and paraphernalia commonly found in the workplace.

1

Impact areas

SUMMARY OF PHYSICAL/BEHAVIORAL INDICATIONS TO SUGGEST DRUG ABUSE

- *Pupils dilated or constricted*
- *Talking or walking too fast*
- *Nose may constantly run, appears to or person sniffs frequently*
- *Frequent absence from work or school*
- *Time distortion, including tardiness, unusual meal times and missed appointments*
- *Chronic forgetfulness or broken promises*
- *Frequent auto accidents and/or traffic violations*
- *Falling asleep during the day*
- *Loss of interest and motivation at work or school*
- *Needle marks*
- *Frequent respiratory infections*
- *Unreal self-perception of work, school or athletic performance*
- *Weight loss*
- *Mental confusion or paranoia*
- *Work or school performance deteriorates*
- *Sudden disappearances from work*
- *Discipline and alienation problems*
- *Sudden or new violent tendencies*
- *Presence of bizarre thoughts or ideas*
- *Frequent "reddish" eyes*
- *Skin develops lesions or acne worsens*

Behavior and Job Performance Warning Signs

ABSENTEEISM:

Acceleration of absenteeism and tardiness, especially Mondays, Fridays, and before/after holidays
Frequent unreported absences, later explained as "emergencies"
Unusually high incidence of colds, flu, upset stomach and headaches
Frequent use of unscheduled vacation time
Leaving work area more than necessary, i.e., frequent trips to the restroom
Unexplained disappearance from the job with difficulty in locating employee
Requesting to leave work early for various reasons

MOOD:

Appears to be depressed all the time or extremely anxious all the time
Irritable, Suspicious
Complains about others
Emotional unsteadiness, i.e., outbursts of crying

ACCIDENTS:

Taking of needless risks
Disregard for safety of others
Higher than average accident rate, on and off the job

ACTIONS:

Withdrawn or improperly talkative
Spends excessive amount of time on the phone
Argumentative, displays violent behavior
Has exaggerated sense of self-importance
Avoids talking with supervisor regarding work issues

RELATIONSHIP TO OTHERS ON THE JOB:

Overreaction to real or imagined criticism (paranoia)
Avoiding or withdrawing from peers
Complaints from co-workers
Borrowing money from fellow employees
Complaints of problems at home such as separation, divorce and child discipline problems
Persistent job transfer requests

WORK PATTERNS:

Inconsistency in quality of work
High and low periods of productivity
Poor judgement/more mistakes than usual and general carelessness
Lapses in concentration
Difficulty in recalling instructions and handling complex tasks
Difficulty in remembering own mistakes
Using more time to complete work and missing deadlines

2

Reasonable Suspicion

Definition - “Reasonable Cause” determination

Facts, circumstances, physical evidence, physical signs and symptoms or a pattern of performance and/or behavior that would cause a prudent person to reasonably conclude that an employee may be under the influence or intoxicated by a prohibited material or if there is reason to believe that the use of prohibited material is adversely affecting job performance.

The “Three-Prong Test” for Reasonable cause testing

- ❶ *The reason the investigation began*
- ❷ *Supporting Evidence and/or Information*
 - ✎ *Symptoms*
 - ✎ *Behavior*
 - ✎ *Performance*
 - ✎ *Physical Evidence*
- ❸ *Laboratory Confirmation Outcome*
 - ✎ *Positive*
 - ✎ *Negative*
 - ✎ *Refused*

Definition - Fitness for duty

As regards this policy, an individual's ability to perform his/her assigned job, free from impairments due to the use of prohibited substances.

Definition - Proof-of-wellness

Statement by a company-approved treatment specialist that the employee is free from conditions that would adversely affect work performance.

Reasonable Suspicion/Supervisor Action Steps

OBSERVE AND DOCUMENT

- Personal observation of employee
- Third-person report of observed employee action
- Rumor or tip

INVESTIGATE/CORROBORATE AND DOCUMENT

- Work record -
 - Absenteeism and Tardiness
 - Work-related injuries
 - Off-the-job-activities (arrests for DUI or UTI)
 - Requests for salary advance
 - Wage garnishment actions
 - Impact areas, “behavior and job performance warning signs”

- Validity/reason for third-party report (good faith belief)

COMMUNICATE AND CONFIRMATION

- Second trained supervisor or administrator
- Inform your superior

INTERVENE/CONFRONT

- Timing is a consideration (health and safety comes first)
- Refrain from conclusions, accusations, or being diagnostic

INCIDENT REPORT

- Timely
- Document facts only
- Treat documents confidentially

CONSISTENCY AND UNIFORMITY

- Know the rules and follow them
- Uniform implementation and enforcement

Job Performance

*As a supervisor, it is your responsibility to be aware of any employees whose job performance (quality or quantity), work habits, or behavior indicates he or she may be under the influence of drugs or alcohol. It **IS NOT** your job to diagnose the cause of the poor performance or poor work habits, but merely to make the judgement that there is sufficient cause for concern.*

OBSERVATION AND DOCUMENTATION

In order to properly supervise job performance/work habits, you must be in a position to observe employees on a regular basis. If you have reasonable cause to believe an employee is abusing alcohol or using drugs or may be under the influence of a drug or alcohol on the job, it is important to be able to observe and document his/her behavior, especially at high risk times such as after lunch or after breaks.

On September 3, 2019, about 2:45 pm, I observed John Doe, second shift driver, heading toward his truck. As he crossed the yard, a distance of about 70 ft., he walked very unsteadily. He was weaving back and forth, stumbled and almost fell three times. When he reached the truck cab he had considerable difficulty getting into the seat.

I walked immediately to his truck to prevent him from driving away. I opened the cab door, got up on the step, reached in, and pulled the keys out of the ignition. As I reached across John to get the keys, I smelled the odor of alcohol (beverage).

I stated that I was taking the keys because it wasn't safe for him to drive the vehicle. John began pushing and swearing at me stating, "you dumb *****" and, "you're the worst ***** supervisor here." His speech was slurred and his manner was threatening. I asked him to come to my office immediately and implemented the substance abuse screening procedures.

DOCUMENTING BEHAVIOR AND PERFORMANCE PROBLEMS

It is important to remember that when documenting performance or behavior problems, the observations be directly related to the employee's inability to do his/her work duties satisfactorily. **Do not attempt to diagnose the problem.** It is your job to be aware of the signs and symptoms of drug and alcohol use and abuse, to observe and document those signs and symptoms, and to follow the appropriate drug and alcohol screening test procedures to make sure the employee is not under the influence of drugs or alcohol while on the job.

PATTERNS OF POOR PERFORMANCE AND WORK HABITS

Any single poor performance/work habit behavior (unless extreme) is probably not a cause for drug or alcohol testing, although it still may require attention. But when such performance or habits occur in patterns, especially when recurring, close attention and, perhaps, intervention may be warranted.

For instance: absenteeism, in itself, is a significant supervisory problem but, in the absence of other signs would not indicate an evaluation under this addendum. But absenteeism along with increased mistakes, mood swings, signs of drowsiness, and slurred speech would likely warrant sending the employee for a drug and/or alcohol test.

Watery eyes and sniffles may be the sign of a cold, but when coupled with rapid and wide mood swings, dilated pupils, increased startle reaction and rambling speech may indicate a need to test.

PROBLEMS SUPERVISORS ENCOUNTER

Supervision is a difficult job, especially when dealing with substance abuse issues. Below are some common mistakes supervisors can make:

ENABLING:

You are an enabler when you cover up, ignore, or rationalize an employee's behavior so you don't have to confront the situation or discipline someone you like. Remember, if a person has a drug or alcohol use or abuse problem that shows up on the job, the rest of his/her life is probably a mess also. Often, the only time a person will seek help is when his/her job is on the line. You are not helping the person by ignoring the poor performance or behavior and, at the same time, you are jeopardizing other employees, clients and the company.

AN "IT WILL GET BETTER" ATTITUDE:

It won't. If it is a serious drug or alcohol use or abuse problem, it will only get worse if it is not confronted.

PLAYING FAVORITES:

If you see the behavior, so do his/her co-workers. If you don't deal with the situation, you are saying that you are afraid, you condone the behavior, or you favor that employee. This can have serious consequences to an entire work group.

Remember! *In order to make this or any other supervisory program work, you must be:*

FIRM, FAIR AND CONSISTENT

SUPERVISORY INTERVENTION

If you feel that your observations and documentation reasonably indicate that the employee may be under the influence of drugs or alcohol or it appears drugs/alcohol may be affecting the employee's work performance or the employee's fitness for duty status, take the following action:

- Contact your supervisor who will obtain authorization to test the employee, then set up a time and place for the drug and alcohol screening test.
- Then, meet with the employee as soon as possible, structuring the discussion per the following steps:
 - ▶ Review history of work problems and indicate why you are concerned. Focus on performance and behavior **not** drug or alcohol use or abuse!
 - ▶ Tell the employee that the situation must be changed and that per the company policy and standards of enforcement, a drug or alcohol test is required.

NOTE: Do not debate with the employee; merely say that you accept the employee's explanation as their understanding of the situation, but there is sufficient cause for concern to warrant a drug or alcohol testing. Ask the employee for his/her cooperation and, if necessary, remind the employee that failure to take the test will result in disciplinary action, up to and including termination.

- ▶ Ask the employee for comments and listen openly to the response.
 - ▶ State that another conversation will be held upon receipt of the test results. Set a specific time and place for this meeting (it should be immediately after test results are received).
- At the second meeting, structure the discussion per the following format:
 - ▶ State the test results.
 - ▶ If the test results are positive, take necessary action per the policy and standard of enforcement.
- If the results are negative:
 - ▶ State that, as discussed earlier, the situation must be changed and there will be consequences if it is not.
 - ▶ Ask the employee what he/she will do to solve the problem. Document the employee's solutions with target dates.
 - ▶ Review the employee's realistic solutions and offer your recommendations.
 - ▶ Decide on and record specific action and a follow-up date.
 - ▶ Remind the employee of the availability and confidentiality of the EAP program.

DIRECT OBSERVATION/EVALUATION OF EMPLOYEE

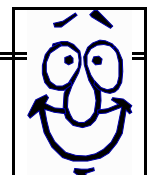
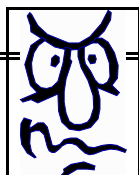
Below is a list of physical evaluation procedures to be used when a person is suspected of drug or alcohol use. It is not necessary to do every procedure to establish "reasonable suspicion" to justify drug or alcohol testing of an employee. Most of these procedures, if not all, can be done by anyone who has been properly trained to recognize drug or alcohol use.

- Listen to the employee's speech
- Observe gait and balance
- Look for sleepy appearance, droopy eyelids, mouth breathing and dry lips
- Smell for odor of alcohol, marijuana or any other abnormal smell consistent with drug use
- Assess responses for attention span, concentration and giddiness
- Assess for depth perception problems through observation of employee's work or ability to estimate distance
- Observe employees eyes: pupil reaction due to light changes, redness, increased moisture, puffy or swollen eyelids, overly alert expression and constricted or dilated pupils
- Look for sweating, tremors, skin lesions, complexion problems, active pores, abnormal skin color and any indication of lowered body temperature
- Assess for suspiciousness, delusion or paranoia and hallucinations
- Assess for time distortion: current time, length of work thus far, next break, estimation as to completion of project or work assignment
- Observe for general physical and behavioral signs of drug or alcohol use

REMEMBER! Supervisors and managers are not drug recognition experts. The Department of Transportation (DOT) nor the courts require "expert" status to conduct "reasonable suspicion" testing. The above observation/evaluation checklist has been provided to you to assess for possible drug or alcohol use while the employee engages in his/her regularly assigned duties or during the course of your investigation.

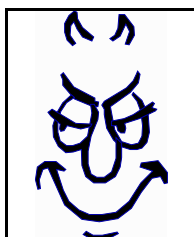
Drug Influence Behavior

Stimulants	<p>Hyperactive Very talkative Nervous Unable to stand or sit still Lowered inhibitions Suspicious, paranoid, excitement Gritting teeth</p>	<p>Poor perception of time Easily confused Poor concentration Nervous habits: ...twitch, grinding teeth, nail biting, and knee bouncing, etc.</p>
Hallucinogens	<p>Extreme panic Reduced attention span Confusion Very talkative Laughing for no reason Poor vision</p>	<p>Hair standing on end and or goose flesh Fine tremors in fingers Poor muscle coordination Synesthesia (sensory confusion) Photo-phobia</p>
Opiates	<p>Appears to asleep but communicates Poor motor coordination Slow breathing and slow thick speech Slow, deliberate movements Possible vomiting (fresh use) Scratching face, nose and body areas Droopy eye-lids (ptosis) Depressed reflexes Weight loss</p>	
Marijuana	<p>Altered perception Euphoria Impaired short-term memory and judgement Impaired physical coordination Body tremors (hands) Craving sweets Releases/lowers inhibitions Emotional extremes</p>	
Alcohol	<p>Reduced social inhibitions Divided/reduced attention Slowed reflexes Impaired judgement Impaired vision Impaired coordination Slurred, mumbled or incoherent speech Emotional effect such as euphoria, depression, suicidal tendencies Laughing or crying for no apparent reason Dizziness</p>	

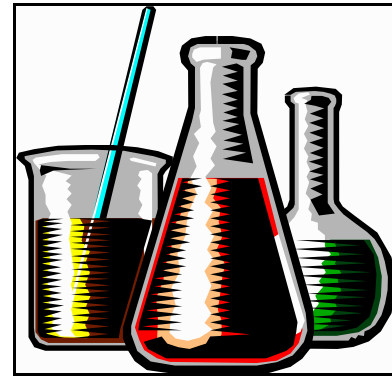


Drug Influence Behavior

Depressants	<p>"Drunken behavior" without odor</p> <p>Coordination problems</p> <p>Slurred to incoherent speech</p> <p>Drowsiness</p> <p>Staggering</p> <p>Droopy eyelids</p> <p>Unkempt appearance</p> <p>Sluggishness</p> <p>Eyes tend to roll up into head</p> <p>Disorientation</p>
Inhalants	<p>Inebriation similar to alcohol (with unusual odor)</p> <p>Problems standing without falling</p> <p>Euphoria</p> <p>Poor sense of time and distance</p> <p>Excessive salivation and nasal secretion</p> <p>Dizziness, light-headed</p> <p>Sneezing and coughing</p> <p>Poor coordination and sense of spinning</p> <p>Double vision</p>
PCP	<p>Slow, slurred speech and/or fragmented speech patterns</p> <p>Disorientation</p> <p>Poor memory</p> <p>Excitement and/or agitation</p> <p>Feels like "Superman"</p> <p>Extreme mood swings</p> <p>Loss of personal identity</p> <p>Violent behavior (use caution)</p> <p>Nakedness</p> <p>Can mimic effects of Stimulants, Hallucinogens, Depressants</p> <p>Blank stare, delusions, amnesia, bizarre behavior</p> <p>Confused intoxication</p>
Steroids	<p>Aggressive, combative behavior</p> <p>Mood swings</p> <p>Fluid retention</p> <p>Body-acne</p> <p>Out breaks of rage (roid-rage)</p> <p>Easy to excite</p>



Approximate Duration of Detectability of Selected Drugs in Urine



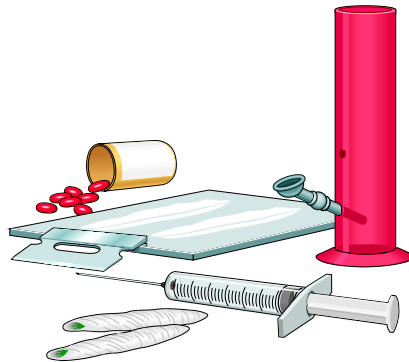
SUBSTANCE	PLASMA LIFE	DETECTABILITY
Amphetamines	4-6 Hrs	48 Hrs
Methamphetamine	4-6 Hrs	48 Hrs
Barbiturates	Short	24 Hrs
	Intermediate	48-72 Hrs
	Long	7 Days or Longer
Benzodiazepines	6-12 Hrs	72 Hrs
Cocaine	3-5 Hrs	48 Hrs
Methadone	24 Hrs	72 Hrs
Codeine/Morphine/Heroin	4-6 Hrs	48-72 Hrs
Cannabinoids (Marijuana) Single Use	1 X's Per Wk	72 Hrs
Moderate Use	4 X's Per Wk	96 Hrs
Heavy Use	Daily	10 Days
Chronic Use	+ Daily	21-27 Days (47)
Methaqualone	8-12 Hrs	7 Days +
Phencyclidine (PCP)	10-36 Hrs	3-10 Days
Alcohol	2-3 Hrs	0 to 10-12 Hrs (see chart)

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Resume for Gary “ZEE” Zvirblis

- * Sergeant (retired) with the Kern County Sheriff's Department with 23 years experience
- * Founder and creator of the Kern County Sheriff's Department Drug Education Program for Industry
- * Over thirty-years experience in Drug Enforcement and Drug Education/Training and Demand Reduction experience
- * State of California Certified Instructor for Under the Influence of Controlled Substances, Clandestine Drug Manufacturing and Drug Enforcement
- * Court Tested and Accepted Expert in State and Federal Courts:
 - Under the Influence of Controlled Substances
 - Sales, Possession for Sale and Possession of Drugs
 - Clandestine Drug Manufacturing
 - All Aspects of Drugs in the Workplace
- * Performed more than 1200 examinations and evaluations that resulted in arrests and convictions for Under the Influence of Controlled Substances
- * Instructor in the Field of Drug Enforcement:
 - Instructor US DOT Highway Safety Administration National Training Team
 - Federal Executive Board of Los Angeles - Office of the President
 - California Department of Justice
 - U.S. Department of Forestry
 - California Crime Prevention Task Force
 - Numerous other Law Enforcement Agencies
 - University of Southern California
 - U.S. Department of the Navy
- * Published over 34 handbooks and/or papers in the field of Drugs in the Workplace, Drug Enforcement/Investigations, Students and Drug Abuse, Drugs and Our Schools and Under the Influence of Controlled Substances.
- * Owner of ZEE Consulting & Associates, a Professional Company which is recognized as a leading authority on the topic of "Drugs in the Workplace" in the United States today.
- * ZEE Consulting & Associates was one of the original developers of the "Fitness for Duty" exam to determine drug influence in the workplace.
- * ZEE Consulting & Associates has successfully trained over 9500 persons to be able to determine "reasonable suspicion" in the workplace. This has resulted in the reduction of illegal drug use in the workplace and has survived judicial review.

Drug-Free Workplace: Employee Training



Prepared for Employees

by
Gary “Zee” Zvirblis,
Zee Consulting & ASSOCIATES

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1

All About The “Big 6”

Over the past thirty years this county has witnessed, attempted to deal with, and felt the pain of our current drug epidemic. This is our third epidemic and by far the worst. Over the past thirty years hundreds of substances have been tried, used and abused. However, over the past ten years, the users have settled in on five illegal drugs and one legal (if 21 years or older).

Popular illegal substance(s): **marijuana, methamphetamine, cocaine, PCP and heroin.**

Popular legal substance(s): **alcohol.**

Marijuana

What is marijuana?

A crude product from the plant Cannabis Sativa. It contains at least 421 known chemicals. 61 of these are cannabinoids which are psycho-active (affecting mind or behavior) and only found in Marijuana.

How is it Used?

Marijuana is most commonly inhaled from smoking it in the form of a cigarette or from a pipe.

What are the Immediate Effects?

When marijuana is smoked, a feeling of euphoria (high) is experienced within 10 to 30 minutes, and usually lasts for one to three hours.

What Does the Pot Smoker Feel and/or Effects?

- ▶ Release of inhibitions
- ▶ Impairs judgment
- ▶ Creates hallucinations and illusions
- ▶ Alters reality; makes escape from problems (seem) easier

- ▶ Deludes the user into thinking everything is okay, even when faced with danger
- ▶ Frequently causes a lower or decreasing self-achievement level
- ▶ Dangerously distorts the mind's ability to judge timing and distance

What are the Symptoms of Marijuana Use?

- ▶ Red, sleepy looking eyes
- ▶ Slightly dilated pupil with slow reaction to light reflex and/or rebound dilation
- ▶ Runny nose
- ▶ Dry mouth, slow or slurred speech, sore throat
- ▶ Acne
- ▶ Alters depth and time perception
- ▶ Headaches and/or dizziness
- ▶ Slow, staggering and/or deliberate gait
- ▶ Very talkative disposition
- ▶ Craving for sweet foods (munchies) and liquids
- ▶ Emotional extremes: depression - hysteria - paranoia

Odor of marijuana about the person (Marijuana products have a sweet, musty odor which can cling to user's body, clothing and surroundings. Deodorizing sprays, perfume, cologne and incense are used to cover up this unique, strong odor.)

What are the recurrent effects on the brain/lungs

- ▶ Decreased short term memory
- ▶ Decreased attention span
- ▶ Decreased motivation
- ▶ Decreased ability to reason
- ▶ Increased reaction time
- ▶ Decreased talking ability
- ▶ Decreased visual perceptual task performance
- ▶ Arrested development
- ▶ Increased irritation, inflammation and narrowing or partial obstruction of airways
- ▶ Interference with normal tissue growth and the division of cells in the lungs
- ▶ Increased respiratory infections

Behavior & Performance Indicators

- ▶ Decreased job performance and loss of interest regarding work issues
- ▶ Time distortion, tardiness and absenteeism
- ▶ Depression, self-centeredness, manipulative, lying, and secretive
- ▶ Hostility, mood swings and low tolerance for frustration and authority
- ▶ Fatigue, lethargy and recurrence of non-specific illnesses
- ▶ Amotivational syndrome
- ▶ Denial syndrome regarding adverse impact on life and lack of responsibility for one's actions
- ▶ Withdrawal from or recent change in co-workers, friends and family

COCAINE

What is Cocaine?

It is a central nervous system stimulant, the most powerful known to man. It is a white crystalline powder with a bitter taste that produces numbness of the tongue.

What are the Immediate Effects?

When cocaine is "**snorted**," the effects begin within a few minutes, peak within 15 to 20 minutes, and disappear within a few hours.

The user may have a sense of well-being and feel more energetic or alert. The state of excitation and euphoria is followed within 30 to 60 minutes by a physical and psychological let down. Depression and dullness succeed alertness; Irritability and tension follow euphoria.

When free-based (**smoked**), the immediate rush lasts from two to three minutes. Smoking free-base (crack/rock) produces a shorter and more intense "high" than most other ways of using the drug. Smoking (inhalation) is the most direct and rapid way to get the drug to the brain. Because large amounts are getting to the brain more quickly, smoking also increases the risks associated with using the drug. These risks include confusion, slurred speech, anxiety and serious psychological problems.

What are the Symptoms of a Cocaine Use?

- ▶ Dilated pupils
- ▶ Reddish sclera
- ▶ Walks and talks too fast
- ▶ Irritable, anxious, restless
- ▶ Reddish area under nose
- ▶ Powder or debris on nasal hair
- ▶ Time distortion
- ▶ Violent "attitude"
- ▶ Paranoia and aggression
- ▶ Nose may run or person sniffs frequently
- ▶ Elevated: pulse, blood pressure, temperature and respiration

Behavior & Performance Indicators

- ▶ Resorting to illegal activities to support habit, accidents and violence
- ▶ Mood swings, depression, paranoia, irritability and suicidal tendencies
- ▶ Mental confusion and forgetfulness and decreased interest in health and hygiene
- ▶ Severe "crash," causing a strong desire to take more cocaine for relief
- ▶ Chronic sleep problems, fatigue and exhaustion and respiratory illness
- ▶ Cocaine abusers often depend on other drugs, including alcohol, to help them sleep or to combat the jittery feeling that characterizes the cocaine high.
- ▶ Loss of friends, former values, interest in and motivation toward work, sports, etc.
- ▶ Weight loss resulting from loss of appetite
- ▶ Compulsive behavior, i.e.,straightening a tie or licking the lips while under the drugs influence
- ▶ Chronic sore throat and voice problems, headaches, nose bleeds and/or runny nose
- ▶ Nasal ulcers and/or perforation of the nasal septum, seizures.

AMPHETAMINE - METHAMPHETAMINE

What Are Amphetamines?

The stimulants ("uppers," "speed," "crank," "meth," "ice") are a class of drugs which stimulate the central nervous system and produce an increase in alertness and activity. They include cocaine and the amphetamines. Caffeine is a mild, legal stimulant.

What Medical Use Do Stimulants Have?

Current medical use of synthetic amphetamine stimulants is usually restricted to treating narcolepsy (a rare disorder marked by an uncontrollable need for sleep) and minimal brain damage in children. They are also prescribed for short-term appetite control but such medications have caused serious abuse problems.

Why Do People Use Amphetamines?

Some people take these drugs under medical supervision to control their appetite. Others take amphetamines to feel alert and energetic or euphoric to get "high." They often report a euphoric sense of well-being.

Can Users Become Dependent On Amphetamines?

Yes. Users who take small amounts of amphetamines orally every now and then to combat fatigue or get "high" usually do not have trouble. However, people with a history of sustained low dose use quite often become dependent and feel they need the drug to get by. These users frequently keep on taking amphetamines to avoid the "down" in mood they experience when the "high" wears off.

Some people try to relieve the insomnia which follows an extended period of drug taking with sleeping pills or alcohol. These users often begin taking amphetamines again to shake off drowsiness or to regain the "high" and so continue the up/down cycle, which is extremely hard on the body.

What Specific Dangers Associated With Amphetamine Abuse?

Even small, infrequent doses of amphetamines can produce toxic effects in some people.

- Restlessness
- Anxiety, Panic
- Mood swings
- Circulatory and cardiac disturbances
- Paranoid thoughts, hallucinations
- Convulsions and coma have all been reported.

Heavy, frequent doses of amphetamines can produce brain damage which results in speech disturbance and difficulty in turning thoughts into words. Taking more amphetamines increases these risks, which are greatest when the drug is injected. In addition, users who inject amphetamines intravenously can contract serious and life threatening infections from non-sterile equipment. Finally, death can result from injected amphetamine overdose.

What Are The Signals Of Chronic Amphetamine Abuse?

Long-term users often have acne resembling a measles rash, trouble with teeth, gums and nails, and dry lifeless hair.

Is Violence Associated With Heavy Amphetamine Abuse?

As heavy users who inject amphetamines accumulate larger and larger amounts of the drug in their bodies, the resulting toxicity can produce what is known as an amphetamine psychosis. People in this extremely suspicious, paranoid state frequently exhibit bizarre -- sometimes violent -- behavior.

PCP

What is Phencyclidine (PCP)?

Phencyclidine ("angel dust") is a drug which was developed as a surgical anesthetic for humans in the late 1950s. Because of its unusual and unpleasant side effects in human patients, i.e., delirium, extreme excitement and visual disturbance, PCP was soon restricted to legal use as a veterinary anesthetic and tranquilizer.

What Are PCP's Effects?

Effects of the drug vary according to dosage levels. A floating euphoria is described, sometimes associated with a feeling of numbness (part of the drug's anesthetic effects). Increased doses produce an excited, confused intoxication, which may include any of the following: muscle rigidity, loss of concentration and memory, visual disturbances, delirium, feelings of isolation, convulsions, speech impairment, violent behavior, fear of death, and changes in users' perceptions of their bodies.

Research shows that PCP seems to scramble the brain's internal stimuli, altering how users perceive and deal with their environment. Everyday activities like driving and even walking can be a task for PCP users.

What Makes PCP So Dangerous?

One danger of PCP intoxication is that it can produce violent and bizarre behavior even in people not otherwise prone to such behavior. Violent actions may be directed at themselves or others and often account for serious injuries or death. Bizarre behavior can lead to death through drowning, burns, falls from high places, and automobile accidents. More people die from accidents caused by the erratic and unpredictable behavior produced by the drug than from the drug's direct effect on the body.

A temporary, schizophrenic-like psychosis, which can last for days or weeks, has also occurred in users of moderate or higher doses of the drug. During these episodes, users are excited, incoherent and aggressive; or they may be quite the opposite: uncommunicative, depressed and withdrawn. Paranoia, a state in which the user feels persecuted, often accompanies this condition.

How Do Users Get PCP?

PCP, which, until recent years, was legal for veterinary medicine, has been barred from manufacture in the United States because of its abuse potential. Today's PCP is made illicitly. However, it is easily synthesized in bootleg laboratories. Because of its bad reputation on the street, dealers often sell it as mescaline or other drugs more attractive to users. Users can never be sure what they're buying.

Street PCP comes in various forms: as the powdered "angel dust," as tablets, as crystals, and in pills named "hogs" or "PeaCePills." Smoking the dust, usually mixed with marijuana, parsley and mint leaves, has become the preferred method of PCP use. The smoker can control the drug's effects better than the pill taker can.

Is PCP A Big Problem?

Statistics tell us that PCP use is on the rise. In the 1960s and early 1970s, PCP was not very popular with the drug community because of its unpleasant effects, but now it is becoming a drug of choice. More and more hospital emergency rooms and drug crisis centers are seeing cases of PCP-induced panic and overdose.

NARCOTICS/OPIATES

What Are Narcotics?

Narcotics are drugs that relieve pain and often induce sleep. The opiates, which are narcotics, include opium and drugs derived from opium, such as morphine, codeine and heroin. Narcotics also include certain synthetic chemicals that have a morphine-like action, such as methadone.

Which Narcotics Are Abused?

Heroin ("junk," "smack") accounts for 90 percent of the narcotic abuse in the United States. Sometimes medicinal narcotics are also abused, including paregoric containing opium, cough syrups containing codeine, and methadone, meperidine and morphine.

Who Becomes Dependent On Heroin?

Anyone can become heroin dependent if he or she takes the drug regularly. Although environmental stress and problems of coping have often been considered as factors that lead to heroin addiction, physicians or psychologists do not agree that some people just have an "addictive personality" and are prone to dependence. All we know for certain is that continued use of heroin causes dependence.

What Are The Physical Dangers Of Narcotic Dependence?

Physical dangers depend on the specific drug, its source and the way it is used. Most medical problems are caused by the uncertain dosage level, use of unsterile needles and other paraphernalia, contamination of the drug, or combination of a narcotic with other drugs, rather than by the effects of the heroin (or other narcotic) itself.

The life expectancy of a heroin addict who injects the drug intravenously is significantly lower than that of one who does not. An overdose can result in death. If, for example, an addict obtains pure heroin and is not tolerant of the dose, he or she may die minutes after injecting it. Infections from unsterile solutions, syringes and needles cause many diseases. Serum hepatitis is common. Skin abscesses, inflammation of the veins and congestion of the lungs also occur.

What Are The Withdrawal Symptoms Of Heroin?

When a heroin-dependent person stops taking the drug, withdrawal begins within 4-6 hours after the last injection. Full-blown withdrawal symptoms -- which include shaking, sweating, vomiting, a running nose and eyes, muscle aches, chills, abdominal pains and diarrhea -- begin some 12-16 hours after the last injection. The intensity of any of these symptoms depends upon the degree of drug dependence the addict has developed.

ALCOHOL

What is Alcohol?

It is a central nervous system depressant and if taken in great enough quantities can produce minor to moderate pain relief. It slows down brain functions, depresses pulse, blood pressure and respiration. It is the most popular drug of abuse today and causes more accidents, injuries, errors and deaths than all the previous drugs combined. Its legal status has produced a wide spread social acceptance across our country.

There are six million alcoholics employed in American businesses. According to the National Council on Alcoholism, one out of every ten employees is an alcoholic. Alcohol use cost industry six billion dollars per year. There are over one million arrests per year for Driving Under the Influence (DUI). It is the major factor in over 50% of all traffic accidents nationwide.

What are the effects of alcohol use?

- Greatly impaired driving ability
- Reduced coordination and reflex action
- Impaired vision and judgement
- Inability to divide attention
- Lowers inhibitions
- Depressed genital reflex
- Fatigue
- Insomnia
- Weight loss

What are the symptoms of alcohol use?

- Slurred, broken, lowered or slow speech
- Bloodshot and watery eyes
- Flushed complexion
- Poor balance, walk or standing abilities
- Horizontal Gaze Nystagmus (HGN) - involuntary jerking of the eyeballs
- Dizziness
- Odor - alcoholic beverage or cover mint on breath
- Visual problems (depth perception and focus) distance and lights

What is alcohol addiction?

A slow progressive problem which causes the user to become increasingly dependent on the drug. The change one goes through many times is so gradual that the user himself fails to notice the change. The failure to notice is quickly replaced with denial by the user, family, friends and co-workers. It will produce uncontrollable drinking habits in time that then bring the person into an addicted or dependent state.

How many is too many?

.08% blood/alcohol legal limit for California (UTI @ .08% or higher)

One (1) drink = 12 oz Beer, or 4 oz Wine, or 1 1/4 oz of 80 proof liquor

<u>Individual Weight</u>	<u># Drinks in 2 hrs</u>	<u>% Alcohol in System</u>
90-109	3	.09%
150-169	4	.09%
230- up	6	.09%

Your blood/alcohol concentration drops about .015% per hour (if you have **no** more drinks).

2

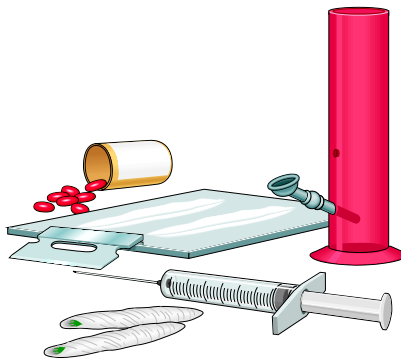
Impact areas

SUMMARY OF PHYSICAL/BEHAVIORAL INDICATIONS TO SUGGEST DRUG ABUSE

- Pupils dilated or constricted
- Talking or walking too fast
- Nose may constantly run, appears to or person sniffs frequently
- Frequent absence from work or school
- Time distortion, including tardiness, unusual meal times and missed appointments
- Chronic forgetfulness or broken promises
- Frequent auto accidents and/or traffic violations
- Falling asleep during the day
- Loss of interest and motivation at work or school
- Needle marks
- Frequent respiratory infections
- Unreal self-perception of work, school or athletic performance
- Weight loss
- Mental confusion or paranoia
- Work or school performance deteriorates
- Sudden disappearances from work
- Discipline and alienation problems
- Sudden or new violent tendencies
- Presence of bizarre thoughts or ideas
- Frequent "reddish" eyes
- Skin develops lesions or acne worsens

Drugs In The Workplace:

“Employee Education Training”



*Prepared for **Employees***

*by
Gary “Zee” Zvirblis,
Zee Consulting & ASSOCIATES*

An Employer's Guide to Dealing With Substance Abuse

If you're in business, you must face some facts:

- ✓ Seventy percent of all illegal drug users are employed either full- or part-time. This suggests over 10 million people are current users of illicit drugs.¹
- ✓ One in twelve full-time employees report current use of illicit drugs.²
- ✓ One in every ten people in this country has an alcohol problem.³
- ✓ "Drug use is one of the most serious problems confronting society today."⁵
- ✓ Sixty-five percent of those persons entering the full-time work force for the first time have experience in illegal drug use; 42 percent in the past year and 19 percent in the past month.⁶
- ✓ One in four narcotics users **sell drugs to co-workers**, friends, and neighbors to support a drug habit.⁶
- ✓ \$60 billion is the cost to the business community for drug abuse; over half of that cost is in **lost productivity**.⁶

The **U.S. Chamber of Commerce** determined substance abusing employees are:

- ✓ 2.2 times more likely to request early **dismissal** or **time off**,
- ✓ 2.5 times more likely to have **absences** of eight days or more,
- ✓ 3.0 times more likely to be **late** for work,
- ✓ 3.6 times more likely to **injure** themselves or another person in a workplace accident,
- ✓ 5.0 times more likely to be involved in an **accident** off the job (which, in turn, affects attendance or performance on the job),
- ✓ 5.0 times more likely to file a **worker's compensation** claim,
- ✓ 7.0 times more likely to have **wage garnishments**,
- ✓ One-third less productive and incur 300 percent higher **medical costs** and **benefits**.

¹National Institute on Drug Abuse

²National Institute on Drug Abuse

³National Institute on Drug Abuse & Alcoholism

⁵ Nat'l Treasury Employees Union v. Von Raab, 102 L Ed 2d 206, 109 S Ct 1384, 1395 (1989)

⁶US Chamber of Commerce

The **U.S. Chamber of Commerce** also reported that a recent survey of drug users who were seeking help for their drug habits revealed that:



- ✓ 75 percent said they **used drugs on the job**,
- ✓ 64 percent admitted drugs had **affected their job performance** adversely,
- ✓ 44 percent said they had **sold drugs to other employees**,
- ✓ 18 percent said they had **stolen from co-workers** to support their habits.

What do those numbers mean to you?

They mean that every day, across this country, in towns large and small, from small businesses to large corporations, the problems of substance abuse are hurting the workplace.

That means a major business problem for you. Because substance abuse affects the bottom line, it costs you money. How? Look how substance abusing workers compare to drug-free workers:

More: Workdays missed

 Likely to injure self or others

 Workers' compensation claims filed

Less: Productivity

That means **Real Dollar Costs** to you in all these areas:

Absenteeism

Sick Leave

Workers' Compensation

Thefts, Insurance Claims

Tardiness

Overtime Pay

Substance Abuse =

\$\$\$\$ Lost

The **Insurance Institute for Highway Safety** sponsored a study of **317 randomly** selected tractor-trailer drivers who provided blood and urine specimens for drug analysis. The tests were conducted at truck-weighing stations, thus gathering information on drug and alcohol use while driving. The study showed **29 percent** had some drug or mixture of drugs and/or alcohol in their bodies.

How do employees view drug use and testing in the workplace?

Institute for a Drug-Free Workplace survey by the Gallup Organization.

- ✓ **86 percent** said drug testing would be effective in **detering drug use** in the workplace (only 3 percent said it would not).
- ✓ **82 percent** said they **supported** company policies against drug use with only 7 percent opposing such policies.
- ✓ Employees in companies who do not have drug testing, nearly **two-thirds** would **favor** it in their company.

But there are also Hidden Costs that drive up your bill for substance abuse:

- ☞ Diverted supervisory and managerial time
- ☞ Friction among workers
- ☞ Damage to equipment
- ☞ Poor decisions
- ☞ Damage to Company image
- ☞ Personnel turnover

How do you protect your company and your workers from those who, through the abuse of illegal drugs or prescription drugs or alcohol, endanger your workplace and your profits? **Establish a substance abuse program.**

How do you go about setting up a substance abuse program that is suited to the needs of your company? **Developing a comprehensive program involves five basic steps.** This “guide” will explain briefly each step of that program. It will offer some ideas for taking each step and will serve as a “road-map” to assist you through the process. It will also serve as a “check list” to assist you in determining which service provider(s) would best serve your program.

Five Steps to a Workplace Substance Abuse Program

- ① *A written substance abuse policy*
- ② *A supervisory training program*
- ③ *An employee education and awareness program*
- ④ *Access to an employee assistance program (EAP)*
- ⑤ *A drug testing program (enforcement)*

Five
Basic
Steps...
One Step
At A
Time!

Sound a bit overwhelming, especially if you have a small business? Take one step at a time. Read this guide to see what you might be able to start with now. No program is set up all at once. Any effort on your part will begin to send the message that you are concerned about substance abuse and do not want it in your workplace. If you are concerned about the amount of work and time required to put a program in place, locate a **qualified consultant**. They can help put the program together or they can put the program together for you, and assist you with program administration.

Think you don't need a program because you don't have a problem. Remember the statistics covered earlier. Very few clients/companies had any idea as to the number of substance abusers they currently employed. Companies are usually very shocked as to the actual numbers and many times, which employees were involved. This problem is very much like a family problem. It's always somewhere else, and much worse over there. When it comes to substance abuse at work, or at home, the worst thing you can do is: **nothing**.

Think you may not recognize the problem? Don't feel bad, most companies feel the same way. Think of what tomorrow may bring. If your company has a policy about substance abuse, it sends a clear signal to present and future employees about where your company stands.

Measurable Cost - Hidden Cost - Public Liability:

When you add up all the costs involved in ignoring the problem, can you afford not to set up a substance abuse program?

Fact: The percentage of employers with a formal written policy is growing every year (60 percent growth between 1988 and 1990 - Bureau of Labor Statistics).



substance abuse
1990 - Bureau of

Behavior & Job Performance Warning Signs

ABSENTEEISM:

- ▶ Acceleration of absenteeism and tardiness, especially Mondays, Fridays, and before/after holidays
- ▶ Frequent unreported absences, later explained as "emergencies"
- ▶ Unusually high incidence of colds, flu, upset stomach and headaches
- ▶ Frequent use of unscheduled vacation time
- ▶ Leaving work area more than necessary, i.e., frequent trips to the restroom
- ▶ Unexplained disappearance from the job with difficulty in locating employee
- ▶ Requesting to leave work early for various reasons

MOOD:

- ▶ Appears to be depressed all the time or extremely anxious all the time
- ▶ Irritable, Suspicious, Complains about others
- ▶ Emotional unsteadiness, i.e., outbursts of crying

ACCIDENTS:

- ▶ Taking of needless risks, Disregard for safety of others
- ▶ Higher than average accident rate, on and off the job

ACTIONS:

- ▶ Withdrawn or improperly talkative
- ▶ Spends excessive amount of time on the phone
- ▶ Argumentative, displays violent behavior
- ▶ Has exaggerated sense of self-importance
- ▶ Avoids talking with supervisor regarding work issues

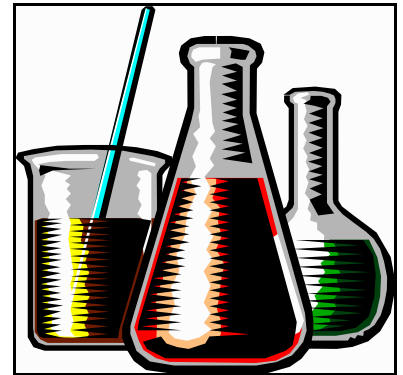
RELATIONSHIP TO OTHERS ON THE JOB:

- ▶ Overreaction to real or imagined criticism (paranoid)
- ▶ Avoiding or withdrawing from peers
- ▶ Complaints from co-workers
- ▶ Borrowing money from fellow employees
- ▶ Complaints of problems at home such as separation, divorce and child discipline problems
- ▶ Persistent job transfer requests

WORK PATTERNS:

- ▶ Inconsistency in quality of work, high and low periods of productivity
- ▶ Poor judgement/more mistakes than usual and general carelessness
- ▶ Lapses in concentration, difficulty in recalling instructions and handling complex tasks
- ▶ Difficulty remembering own mistakes, using more time to complete work and missing deadlines

Approximate Duration of Plasma Life and Detectability of Selected Drugs in Urine



SUBSTANCE	PLASMA LIFE	DETECTABILITY
Amphetamines	4-6 Hours	48 Hours
Methamphetamine	4-6 Hours	48 Hours
Barbiturates	Short	24 Hours
	Intermediate	48-72 Hours
	Long	7 Days or Longer
Benzodiazepines	6-12 Hours	72 Hours
Cocaine	3-5 Hours	48 Hours
Methadone	24 Hours	72 Hours
Codeine/Morphine/Heroin	4-6 Hours	48-72 Hours
Cannabinoids (Marijuana) Single Use	1 X's Per Wk	72 Hours
Moderate Use	4 X's Per Wk	96 Hours
Heavy Use	Daily	10 Days
Chronic Use	+ Daily	21-27 Days (47)
Methaqualone	8-12 Hours	7 Days +
Phencyclidine (PCP)	10-36 Hours	3-10 Days
Alcohol	2-3 Hours	0 to 10-12 Hours (see chart)

Resume for Gary "Zee" Zvirblis

- * Sergeant (retired) with the Kern County Sheriff's Department with 23 years experience
- * Founder/creator of the K.C. Sheriff's Department Drug Education Program for Industry
- * Twenty-eight years experience in Drug Enforcement, Education/Training & Demand Reduction
- * State of California Certified Instructor for Under the Influence of Controlled Substances, Clandestine Drug Manufacturing and Drug Enforcement
- * Court Tested and Accepted Expert in State and Federal Courts:
 - Under the Influence of Controlled Substances
 - Sales, Possession for Sale and Possession of Drugs
 - Clandestine Drug Manufacturing
 - All Aspects of Drugs in the Workplace
- * Performed more than 1200 examinations and evaluations that resulted in arrests and convictions for Under-the-Influence of Controlled Substances
- * Instructor in the Field of Drug Enforcement and Use for:
 - Federal Executive Board of Los Angeles - Office of the President
 - California Department of Justice
 - U.S. Department of Forestry
 - California Crime Prevention Task Force
 - Numerous other Law Enforcement Agencies
 - University of Southern California
 - U.S. Department of the Navy
- * Published over 41 handbooks and/or papers in the field of Drugs in the Workplace, Drug Enforcement/Investigations, Students and Drug Abuse, Drugs and Our Schools and Under the Influence of Controlled Substances.
- * Owner of Zee Consulting & Associates, founded in 1983, a professional company recognized as a leading authority on the topic of "Drugs in the Workplace" in the United States today and was one of the original developers of the "Fitness-for-Duty" exam to determine drug influence.
- * President/Owner of Contraband Control Specialists, Inc. (founded in 1996), a private investigation firm specializing in employee substance abuse misconduct in the workplace and on-site specimen collection for drug/alcohol testing.
- * Zee Consulting & Associates has successfully trained over 15,000 persons to be able to determine "under-the-influence" on the work site. This has resulted in the reduction of illegal drug use in the workplace and has survived judicial review.

Resources from:

U.S. Department of Transportation – Office of the Secretary

Office of Drug & Alcohol Policy and Compliance

Click on the link below to access the employer training manual:

What Employers Need to Know About DOT Drug & Alcohol Testing (English)

http://www.dot.gov/odapc/employer_handbook

Click on the links below to access the employee training materials, in either English or Spanish:

What Employees Need to Know About DOT Drug & Alcohol Testing (English)

<http://www.dot.gov/odapc/employee-handbook-english>

What Employees need to know about DOT Drug & Alcohol Testing (Spanish)

<http://www.dot.gov/partners/drug-and-alcohol-testing/what-employees-need-know-about-dot-drug-alcohol-testing-spanish>

DOT FMCSA
Drug and Alcohol Testing Policy Addendum
Employee Education Material

The addendum and educational material is for employers and employees regulated by the Federal Motor Carrier Safety Administration (FMCSA).

The Company is providing this information regarding the Commercial Driver's License Drug and Alcohol Clearinghouse. The Clearinghouse rule took effect January 6, 2020. All queries and reporting will be for information as of the effective date and not any information prior to the effective date of January 6, 2020.

The Company has a requirement to publish educational materials to drivers about the Clearinghouse and other regulatory changes contained in the Clearinghouse Final Rule issued December 5, 2016. The Company is required to notify drivers that drug and alcohol test information will be reported to the Clearinghouse beginning January 6, 2020 and to encourage drivers to seek substance abuse treatment if they currently have a problem with the misuse of alcohol and/or use of controlled substance(s).

Information about a driver reported to the Clearinghouse will include the driver's name, date of birth, and commercial driver's license (CDL) number and State of issuance. Other information about specific tests and regarding the return to duty process will be reported. The information reported will be available when queries are made by existing and hiring employers, FMCSA, State Driver Licensing Agencies, and State law enforcement personnel.

The Clearinghouse will notify a driver using the method indicated during the driver's Clearinghouse registration—either mail or email—any time information about the driver is added, revised, or removed. If the driver has not yet registered for the Clearinghouse, these notifications will be sent by mail using the address associated with the driver's commercial driver's license (CDL). There is a petition process for drivers to request corrections to their Clearinghouse record (§ 382.717). Drivers may challenge only the accuracy of information reported, not the accuracy or validity of test results or refusals.

Driver violation records will be available in the Clearinghouse for five years from the date of the violation determination, or until the violation is resolved through the successful completion of the return-to-duty (RTD) process and follow-up testing plan, whichever is later.

Only DOT drug and alcohol test results authorized by the Federal Motor Carrier Safety Administration (FMCSA) are reported to the Clearinghouse. The identifying number for the driver will always be the CDL driver's license number and the state of issue.

Do Drivers Need to Register in the Clearinghouse?

Yes and no. Clearinghouse registration is not a required step for drivers but it is highly recommended. If a driver is never required to provide consent to a pre-employment or other full query, and never incurs a drug and alcohol program violation, then the driver will not need to register for the Clearinghouse.

However, a driver will need to be registered to provide electronic consent in the Clearinghouse for a prospective or current employer to conduct a full query of his or her driver record. A full query releases detailed violation information contained in a driver's Clearinghouse record to the querying employer. Beginning January 6, 2020, a full query will be required during a pre-employment driver investigation for a commercial driver's license (CDL) holder who will perform safety-sensitive functions, including operating a commercial motor vehicle (CMV). A driver must also be registered to view the information electronically in his or her own Clearinghouse record.

This information would include any violation information available in the Clearinghouse, along with the status of their return-to-duty (RTD) process, if applicable.

Once registered, a driver will be able to perform the following in the Clearinghouse:

- View their own driver record electronically.
- Provide consent to release detailed violation information to a current or prospective employer.
- Identify a substance abuse professional (SAP) so the SAP may enter specific information regarding the driver's return-to-duty (RTD) activities.

Information about a driver reported to the Clearinghouse will include the driver's name, date of birth, and commercial driver's license (CDL) number and State of issuance. Other information about specific tests and regarding return to duty process will be reported. The information reported will be available when queries are made by existing and hiring employers, FMCSA, State Driver Licensing Agencies, and State law enforcement personnel.

The Clearinghouse will notify a driver using the method indicated during the driver's Clearinghouse registration—either mail or email—any time information about the driver is added, revised, or removed. If the driver has not yet registered for the Clearinghouse, these notifications will be sent by mail using the address associated with the driver's commercial driver's license (CDL). There is a petition process for drivers to request corrections to their Clearinghouse record (§ 382.717). Drivers may challenge only the accuracy of information reported, not the accuracy or validity of test results or refusals.

What Driver Information does the MRO report into the Clearinghouse?

For positive drug test results and MRO determined refusals to test, the Medical Review Officer (MRO) will report information as follows to the Clearinghouse.

- Reason for the test;
- Federal Drug Testing Chain of Custody Form (CCF) specimen ID number;
- Driver's name, date of birth, and commercial driver's license (CDL) number and State of issuance;
- Employer's name, address, and USDOT Number, if applicable;
- Date of the test and date of the verified result;
- Test result;
- In the case of an adulterated specimen, the adulterant/reason must also be provided.

If an MRO changes a verified drug test, the MRO will submit that change to the Clearinghouse within one business day of making the change in the reported results.

What Driver Information does the Employer report into the Clearinghouse?

- An alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
- A CDL driver's refusal to submit to a Department of Transportation (DOT) test for drug or alcohol use as determined by the employer;
- Actual knowledge of drug or alcohol use while working, as defined in § 382.107;
 - Actual knowledge for the purpose of subpart B of this part, means actual knowledge by an employer that a driver has used alcohol or controlled substances based on the employer's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use, except as provided in §382.121. Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under §382.307. As used in this section, "traffic citation" means a ticket, complaint, or other document charging driving a CMV while under the influence of alcohol or controlled substances.
- Negative Return to Duty test results;

- The date the driver successfully completed all follow-up tests as ordered by the substance abuse professional (SAP).

What Driver Information does the SAP report into the Clearinghouse?

The Substance Abuse Professional (SAP) reports information on a driver who has entered the SAP program. The information reported includes the date of completion of the initial assessment, and the date the SAP determines that the driver is eligible for RTD testing.

Queries and Consent

An employer must conduct a pre-employment query for a prospective employee in the Clearinghouse prior to hiring the employee for a position requiring him or her to perform safety-sensitive functions, such as operating a commercial motor vehicle (CMV). The employer must also query the Clearinghouse annually for all currently employed CDL drivers.

The Clearinghouse rule states, “No employer may query the Clearinghouse to determine whether a record exists for any particular driver without first obtaining that driver’s written or electronic consent.” The type of consent required depends on the type of query. For a limited query, a general consent is required. For a full query, the driver must provide specific consent to the employer prior to each full query. This consent must be provided electronically within the Clearinghouse. For all pre-employment a full query is required.

Any employer accessing the Clearinghouse with a query will have access to any violation information that has been reported for a driver by any employer.

How is Driver Information Protected in the Clearinghouse?

The Federal Motor Carrier Safety Administration (FMCSA) takes the protection of personal information very seriously. The Clearinghouse will meet all relevant Federal security standards and FMCSA will verify the effectiveness of the security protections on a regular basis.

- Clearinghouse information will not be available to the public; only authorized users will be able to register and access the Clearinghouse for designated purposes.
- The Clearinghouse will require authentication, via a login.gov username and password, to access records. Login.gov, a shared service which offers secure online access to participating government systems, also requires the completion of a user verification process to ensure the proper person is using those credentials.
- Drivers registered in the Clearinghouse will be able to access their Clearinghouse records at any time, and at no cost to them. Drivers will only be able to access their own information, not information about other drivers.
- FMCSA will only share detailed drug and alcohol violation information with a prospective or current employer, and/or their designated consortium/third-party administrator (C/TPA), when an employer or designated C/TPA has requested and received specific consent from the driver. Drivers will be able to see the information that would be released to an employer before consenting to the release.
- Driver information will only be used by FMCSA and other enforcement agencies as required to enforce drug and alcohol testing regulations.

If you have questions about the Clearinghouse, please contact your Company Designated Employer Representative (DER).

Appendix R

Code of Federal Regulations 49 CFR Part 40, as amended

**Please refer to Code of Federal Regulations
Title 49: Transportation, Part 40, as amended**

**This information may be accessed using the following web site
addresses:**

https://www.transportation.gov/sites/dot.gov/files/docs/PART40_20160808.pdf

<https://www.fmcsa.dot.gov/regulations/title49/part/382>