

Drug and Alcohol Testing of Drivers

Definitions

For purposes of Policy 8102 and the District's drug and alcohol testing program, the following definitions apply:

“*Drugs*” refer to a “controlled substance” as defined in the Controlled Substance, Drug, Device and Cosmetic Act (hereinafter CSA). 35 P.S. §780-101 et. seq. and as described in Administrative Regulation 4300: *Drug Free Work Place*.

"Safety-sensitive function" means any of the following: (1) driving; (ii) the time spent waiting to be dispatched, at a carrier's or shipper's terminal, plant facility or other property, unless the driver has been relieved from duty; (iii) inspecting, servicing or conditioning equipment; (iv) being in or on a commercial motor vehicle (except resting in the sleeper berth); (v) loading or unloading, including supervising or assisting in loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle; giving or receiving receipts for a shipment being loaded or unloaded; (vi) securing the vehicle and taking all of the other precautionary measures required by DOT's regulations following an accident (49 C.F.R. 392.40 and 392.41); (vii) repairing, obtaining assistance, or attending a disabled vehicle.

"District business" includes, but is not limited to, work performed on or in District property including a District vehicle, and work performed on or in a non-District vehicle being used for conducting District business; the term also includes meal and break times.

"Refusing to be tested" means any of the following: (i) failing to provide an adequate urine specimen for a drug test without a valid medical explanation; (ii) failing to provide adequate breath for an alcohol test without a valid medical explanation; (iii) failing to submit to a test as directed; or (iv) engaging in any conduct which clearly obstructs the testing process.

"Positive alcohol test" means a test in which the alcohol concentration level registers 0.02 or greater.

"Under the influence" means, with respect to drugs, the presence in an employee's system of any detectable amount of a drug, or its metabolites, and speech, actions or an appearance which lead a supervisor to reasonably suspect that the employee's ability to perform their job safely and effectively has been impaired by drugs. This term may also be used to describe noticeable impairment of one's ability to ambulate, converse, comprehend, or perform motorist or other tasks as a result of the consumption of alcohol or drugs.

Prohibitions

The following driver conduct is prohibited: (i) drivers are prohibited from using, being under the influence of, or possessing illegal drugs; (ii) drivers are prohibited from using or being under the influence of legal drugs that are being used illegally; (iii) drivers are

prohibited from using or being under the influence of legal drugs whose use can adversely affect the ability of the driver to perform their job safely; (iv) drivers are prohibited from selling, buying, soliciting to buy or sell, transporting, or possessing illegal drugs while on District time or property; (v) drivers are prohibited from using alcohol within four (4) hours of driving or performing any other safety-sensitive function; (vi) drivers are prohibited from using or being under the influence of alcohol at any time while driving or performing any other safety-sensitive function; (vii) drivers are prohibited from possessing any amount of alcohol (**including possessing medications which contain alcohol**) while on duty or driving, unless the alcohol is manifested and being transported as part of the shipment; (viii) testing positive for drugs and/or alcohol; (ix) refusing to be tested for drugs and/or alcohol; (x) failing to submit to a drug and/or alcohol test as directed by the District; (xi) failing to stay in contact with the District and its medical review officer while awaiting the results of a drug test; (xii) violating any applicable federal and/or state requirement governing the use of drugs or alcohol; (xiii) doing anything to obstruct the District's goals with respect to drug and alcohol testing.

A driver who violates these prohibitions will be subject to discharge. In addition, any driver who is convicted by the judicial system of a felony for a drug or alcohol-related matter will be subject to discharge.

Tests Required

Testing for DOT affected employees will be conducted under the following circumstances:

Pre-employment/pre-duty - (before a driver applicant is hired or an existing non-DOT employee performs DOT duties). The applicant will be informed to report for a drug and alcohol test and asked to sign a general consent and release to be tested. All offers to hire an applicant or transfer an existing employee to a driving position are contingent upon the applicant/employee signing the consent and release form for drug and alcohol testing; signing the District's authorization form to obtain past drug and alcohol test results from previous employers during the last 2 years; taking the required drug and alcohol test and having negative results on both tests; passing required physical exams; complying with any other conditions or requirement of the District.

Post Accident Testing - A driver must submit to a post-accident drug and alcohol test as soon as possible after an accident:

- which involves a fatality.
- if the driver receives a citation for a moving violation and either a person is injured and receives immediate medical treatment away from the scene or one or more vehicles are damaged and must be transported away from the scene.
- if a law enforcement official conducts a test at the scene, the driver must inform the District. A refusal to submit to a post-accident test is equal to a positive test result.

Random Testing - Random testing of drivers will be conducted at the 50% rate for drug tests and the 25% rate for alcohol tests.

Random testing will be unannounced and drivers must report to the collection site immediately after receiving notice of their selection.

Refusal to report to the collection site or submit to the test will be equal to a positive test result.

Reasonable Suspicion Testing - Any affected driver must report to a collection site and provide a specimen if, in the opinion of a District official (who has received training covering the indications of probable drug and/or alcohol abuse), there is reasonable cause to suspect the use of drugs and/or alcohol. The employer or contractor of a driver are responsible for documentation of any observations that lead to that driver being required to report for reasonable suspicion testing.

Specimen collection for reasonable suspicion testing will take place under the following circumstances:

- When a driver's error appears, on the basis of a preliminary investigation, to have caused an accident, injury, or damage to District or employee property or vehicle(s);
- Based upon appearance, speech, body odor or actions, a supervisor reasonably suspects that the driver is under the influence of drugs or alcohol, that the driver's ability to work may be impaired by alcohol, drugs, and/or the withdrawal effects of alcohol and/or drugs.

Drivers who refuse to be tested are subject to discipline up to and including discharge, depending upon the circumstances.

The driver will be escorted to the collection site by an agent of the District and arrangements will be made for the driver to be transported home after the specimen is collected.

A driver who is directed to take a reasonable suspicion test will be placed on unpaid suspension pending the test results. If the result is negative the driver will be reimbursed for the time of suspension. A positive test result will result in discharge.

Return to Duty Testing - If a driver after a voluntary referral to the EAP is determined to need treatment, the employee must take a return to duty test and have a negative result before returning to their position.

Follow-up Testing - After EAP referral, treatment and a return to duty test, the driver must participate in unannounced testing for 1 year after reinstatement. A minimum of 6 specimens and a maximum of 12 specimens will be collected.

Test Procedures

- A. Split sample urine specimens will be collected at a designated collection site under circumstances according to DOT/FEDERAL regulations (Part 40 of Title 49) designed to prevent sample switching and tampering. Urine specimens will be sealed and sent to the designated NIDA certified laboratory for testing. Detailed records will be kept to prevent misidentification of samples.
- B. The following protocol will apply to all specimen collections:
 1. The driver will provide a urine sample at the assigned collection site at the appointed time.
 2. The driver will participate in the chain of custody procedures in order to insure accurate collection by:
 - providing photo identification,
 - completing and signing consent, release of information, and Chain of Custody forms,
 - following DOT/FEDERAL during collection procedures in cooperation with the collection site.
 3. Under split specimen procedures, the driver must provide 45 ml. in a specimen container. The collector will pour 30 ml. into one bottle and seal it, the remaining sample of 15 ml. will be sealed in a second bottle. Both bottles will be sent to the laboratory. The bottle with 30 ml. will be the primary specimen and the second bottle will be held by the laboratory and analyzed only after a verified positive by the MRO and the employee requests the analysis within 72 hours of notification by the MRO.
 4. If the driver refuses to provide the specimen for drug testing, the situation will be considered equal to a positive test and the same consequences will apply.
- C. All positive urine screens will be confirmed through GC/MS testing (Gas Chromatography/Mass Spectrometry) before any discipline is imposed or hiring decisions are made.
- D. A Medical Review Officer (MRO) will review all DOT regulated drug tests performed by the laboratory. The MRO is to determine whether positive test results indicate illegal drug use or whether other medical explanations could account for the result. The MRO will inform the employee of their findings.

On all "positive" drug screen test results, the MRO will make two attempts on two consecutive days to first contact the driver and review their findings. If the driver cannot be reached during the above mentioned time frame, the District management will be contacted and informed to contact the driver and have such person make themselves available to be contacted by the MRO to review their findings. If the

driver does not make themselves available to be contacted by the MRO, the consequences to the driver will be equal to that of a positive test result, which is immediate discharge.

E. Alcohol Tests

All alcohol tests conducted under Policy 4305 require that the driver provide a breath specimen. The driver must provide either a breath or blood specimen, as directed by a law enforcement officer after an accident.

Alcohol tests will be administered using a breath specimen, taken by a breath alcohol technician (BAT) using an approved breath testing device (EBT), except in cases of on-scene post-accident testing conducted by federal, state, or local officials.

Before being tested by the District, each driver will be required to (i) present their personal identification, and (ii) execute a DOT "Breath Alcohol Test Form" provided by the BAT. A driver who refuses to provide their identification, provides a false identification, refuses to execute the DOT "Breath Alcohol Test Form," or who otherwise refuses or fails to cooperate, will be treated as though they had tested positive and will be subject to discharge, in addition to the penalties imposed by DOT.

Prior to each alcohol breath test conducted by the District, the BAT will instruct the driver on how the test will be performed.

To protect each driver, the BAT will attach to the testing device an individually sealed mouthpiece in the driver's view. The driver will then be directed to blow forcefully into the breath testing device until an adequate amount of breath has been maintained.

In the event that a driver is unable to provide an adequate amount of breath for the initial or confirmatory test after several attempts to do so, the driver will be required to submit to an evaluation by a licensed medical physician to determine whether a valid medical condition exists. If the physician determines that a valid medical condition does exist, the test result will be reported to the District as "negative." If the physician determines that a valid medical condition does not exist, the result will be reported to the District as a "confirmed positive."

In the event that the driver provides an adequate breath specimen and the initial test registers an alcohol concentration level that is less than 0.02, the test result will be recorded as a "negative," and no additional tests will be required at that time.

In the event that the driver provides an adequate breath specimen and the initial test registers an alcohol concentration level of 0.02 or greater, a second, confirmatory test will be performed. If the confirmatory test registers an alcohol concentration level of 0.02 or greater, it will be considered a positive test. In the event that the driver provides an adequate breath specimen and the confirmatory test registers less than 0.02, the test result will be reported to the District as "negative."

Consequences

- The consequence of testing positive for drugs and alcohol of either 0.02 or 0.04 is:

Termination.

The driver will be provided with EAP referral information at the time of their discharge.

Confidentiality and Privacy

The District will attempt to ensure that all aspects of the testing process are as private and confidential as reasonably practical. Actual test results will be provided to supervisors and managers who have a need to know such information, to the person tested and any person permitted or required by law or regulation to receive such information. Except as required by law, test results will not be disclosed to co-workers, an driver's family, uninvolved supervisors, or law enforcement authorities, without the specific permission of the person tested.

The District will, however, inform the police of trafficking in illegal drugs by drivers and will turn over to the police any illegal drugs confiscated on District property.

Consequences for Possessing, Using, Selling, Buying, or Transferring Drugs or Alcohol

Drivers caught possessing, using, selling, buying, or transferring drugs or alcohol while at work, on District premises, or while using District vehicles will no longer be permitted to operate District vehicles and appropriate local law enforcement agencies will be informed.

Employees arrested for selling drugs to, or buying them from, another employee will no longer be permitted to operate District vehicles until and unless they are fully exonerated from the charges.