

CONTROLLED SUBSTANCE AND ALCOHOL TESTING FOR DRIVERS

Drivers who operate a district motor vehicle requiring a commercial driver's license to perform safety-sensitive functions are subject to a drug and alcohol testing program that fulfills the requirements of federal regulations.

These District regulations reflect several requirements of the federal drug testing regulations but are not intended in any way to modify or limit the procedures for controlled substance and alcohol testing specifically addressed in federal regulation. District personnel will adhere to the detailed provisions of federal regulation in administering the District's drug and alcohol program.

Consistent with state and federal law, the Board may discipline or discharge any employee who is chemically dependent and whose current use of alcohol or controlled substances affects his qualifications for and performance of his job.

Federal law does not require the District to provide rehabilitation, pay for substance abuse treatment or to reinstate the employee.

References to tests in these regulations include both controlled substances and alcohol tests unless the context specifies otherwise. The terms drugs and controlled substances are interchangeable and have the same meaning. The term "controlled substances" includes but is not limited to marijuana, cocaine, opiates, phencyclidine (PCP) and amphetamines (including methamphetamines). The term "alcohol" includes beverage alcohol, ethyl alcohol, and other low molecular weight alcohols, including methyl and isopropyl alcohol.

The procedures use an evidential breath-testing device for alcohol testing. For controlled substances testing, urine specimen collection and testing by a laboratory certified by the U.S. Department of Health and Human Services shall be required.

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

All drivers subject to this policy who believe they may have a problem associated with controlled substance use or alcohol misuse may contact the Director of Human Resources to receive referrals for treatment of such problems.

Drivers who come forward voluntarily for assistance prior to being asked to take a controlled substance or alcohol test shall not be subject to dismissal from their employment with the District merely for disclosing their need for assistance.

A driver who is prohibited from performing safety-sensitive functions may be assigned to non-safety-sensitive functions or may be placed on paid leave until he complies with the requirements for returning to duty.

Pre-employment test

Applicants for employment include current District employees seeking to transfer into a safety-

sensitive position.

The test will be required of an applicant only after he has been offered the position. Employment with the District is conditional upon the applicant receiving a negative controlled substances test result.

The test will be administered before a driver performs any safety-sensitive functions for the District.

Post-accident tests

Alcohol and controlled substance tests will be conducted as soon after an accident as practicable on any driver who:

1. Was performing safety-sensitive functions if the accident involved loss of human life; or
2. Received a citation under state or local law for a moving traffic violation arising from the accident when any person involved in the accident required immediate medical attention away from the scene; or
3. Received a citation for a moving violation when the vehicle required towing from the scene.

No driver involved in an accident may use alcohol until after he undergoes a post-accident alcohol test or for eight hours after the accident, whichever occurs first, unless a District supervisor or official determines that a post-accident alcohol test will not be required.

If an alcohol test is not administered within two hours or if a drug test is not administered within 32 hours after the accident, the District will prepare and maintain records explaining why the test was not conducted.

Tests conducted by authorized federal, state or local officials will fulfill post-accident testing requirements, provided they conform to applicable legal requirements and are obtained by the District.

Breath tests will validate only the alcohol test and cannot be used to fulfill controlled substance testing obligations.

Before any driver operates a commercial motor vehicle, the District will provide him with post-accident procedures that will make it possible to comply with post-accident testing requirements.

Random tests

Tests will be conducted on a random basis at unannounced times throughout the year. Random tests for alcohol will be conducted just before, during or just after the performance of safety-sensitive functions. Random tests for controlled substances may be conducted less closely in time to performing safety-sensitive functions. Once notified of selection for controlled substance testing, a driver must proceed directly to a collection site to provide a urine specimen.

Drivers will be selected by a scientifically valid random process, and each driver will have an equal chance of being tested each time selections are made.

The number of bus drivers selected for random testing will be in accordance with federal regulations.

Reasonable suspicion tests

Tests must be conducted when a properly-trained supervisor or District official has reasonable suspicion that the driver has violated the District's alcohol or controlled substance prohibitions. This reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the driver's appearance, behavior, speech or body odors. The observations may include indications of chronic and withdrawal effects of controlled substances.

Alcohol tests will be authorized for reasonable suspicion only if the required observations are made during, just before or just after the period of the work day when the driver must comply with alcohol prohibitions. If an alcohol test is not administered within two hours of a determination of reasonable suspicion, the District will prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol tests will terminate after eight hours.

An alcohol test may not be conducted by the person who determines that there is reasonable suspicion to conduct such a test.

The District will provide transportation to and from the testing site when a reasonable suspicion test is required.

The driver may not perform a safety-sensitive function once the reasonable suspicion determination has been made until:

- a. an alcohol test is administered and the employee's alcohol concentration measures less than .02; or
- b. a controlled substance test is administered and a negative result is received.

A supervisor or District official who makes a finding of reasonable suspicion also must make a written record of his observations leading to a reasonable suspicion controlled substance test within 24 hours of the observed behavior or before the results of the controlled substance test are released, whichever is earlier.

Return-to-duty tests

A controlled substance or alcohol test will be conducted if a driver who has violated the District's controlled substance or alcohol prohibition returns to performing safety-sensitive duties.

Drivers whose conduct involved misuse of controlled substances may not return to duty in a safety-sensitive function until the return-to-duty controlled substance test produces a verified negative result.

Drivers whose conduct involved alcohol may not return to duty in safety-sensitive function until the return-to-duty alcohol test produces a verified result that meets federal and District standards.

A driver who voluntarily comes forward for assistance will not be allowed to return to a safety-sensitive function until he has been evaluated by the Substance Abuse Professional, released by the Substance Abuse Professional to perform safety-sensitive functions, and the applicable

return to duty test yields a negative result.

Follow-up tests

A driver who violates the District's controlled substance or alcohol prohibition and is subsequently identified by a substance abuse professional as needing assistance to resolve a controlled substance or alcohol problem will be subject to unannounced follow-up testing as directed by the substance abuse professional in accordance with law. Follow-up alcohol testing will be conducted just before, during or just after the time when the driver is performing safety-sensitive functions.

Records

Drivers' controlled substance and alcohol test results and records will be maintained under strict confidentiality and released only in accordance with law. Upon written request, a driver will receive copies of any records pertaining to his controlled substance or alcohol tests. Records will be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver.

With the driver's consent, the District may obtain any of the information concerning controlled substance and alcohol testing from the driver's previous employer. A driver shall be entitled upon written request to obtain copies of any records pertaining to his use of alcohol or controlled substances including information pertaining to alcohol or controlled substance tests.

Notifications

Each driver will receive educational materials that explain the requirements of the Code of Federal Regulations, Title 49, Part 382, together with a copy of the District's policy and regulations for meeting these requirements. Representatives of employee organizations will be notified of the availability of this information. The information will identify:

1. The person designated by the District to answer driver questions about the materials.
2. Categories of drivers who are subject to the controlled substance and alcohol testing requirements.
3. Sufficient information about the safety-sensitive functions performed by drivers to make clear for what period of the work day driver compliance is required.
4. Specific information concerning prohibited driver conduct.
5. Circumstances under which a driver will be tested for controlled substances and/or alcohol.
6. Procedures that will be used to test for the presence of controlled substances and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of test results and insure that test results are attributed to the correct driver.
7. The requirement that a driver submit to controlled substance and alcohol tests administered in accordance with federal regulations.
8. An explanation of what constitutes refusal to submit to a controlled substance or alcohol test and the attendant consequences.

9. Consequences for drivers found to have violated the controlled substance and alcohol prohibitions, including the requirement that the driver be removed immediately from safety-sensitive functions and the procedures for referral, evaluation and treatment.
10. Consequences for drivers found to have an alcohol concentration between 0.02 and 0.04.
11. Information concerning the effects of controlled substances and alcohol on an individual's health, work and personal life; external and internal signs and symptoms of a controlled substance or alcohol problem, and available methods of intervening when a controlled substance or alcohol problem is suspected, including confrontation, referral to an employee assistance program and/or referral to administrative officials.
12. Personnel, compensation and leave policies for absences related to controlled substance and alcohol testing or treatment.

Each driver must sign a statement certifying that he has received a copy of the above materials.

The District will inform drivers before controlled substance and alcohol tests are performed.

The District will notify a driver of the results of a pre-employment controlled substance test if he requests such results within 60 calendar days of being notified of the disposition of his employment application.

The District will notify a driver of the results of random, reasonable suspicion and post-accident controlled substance tests if the test results are verified positive. The District also will tell the driver which controlled substances were verified as positive.

A controlled substance prescribed by a driver's physician for therapeutic purposes may be used only if the physician has advised the driver that it will not adversely affect his ability to safely operate a commercial motor vehicle. There is no medical exception for taking or possessing medicine that contains alcohol, whether by prescription or "over the counter."

Refusal to Submit to Testing

Any driver who refuses to submit to post-accident, random, reasonable suspicion or follow-up tests will not be allowed to perform or continue to perform safety-sensitive functions. A refusal to submit is defined as follows:

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

Consequences if testing indicates controlled substance or alcohol misuse

If the testing confirms prohibited alcohol concentration levels or the presence of a controlled substance, the driver shall be removed immediately from safety-sensitive functions in accordance with the federal regulations and shall be subject to other disciplinary action up to

and including discharge.

A driver who in any other way violates District prohibitions related to controlled substance or alcohol will receive from the District the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs available to evaluate and resolve controlled substance and alcohol-related problems.

The employee will be evaluated by a substance abuse professional who will determine what help, if any, the driver needs in resolving such a problem, in accordance with federal regulation.

If he is not ready to perform safety-sensitive functions, as determined by the Substance Abuse Professional, after a maximum of 12 weeks from the time he first comes forward, he will be dismissed from his employment with the District.

A driver who has a verified positive test for controlled substances or an alcohol test of greater than 0.04 or who refuses to be tested for alcohol or controlled substances will be subject to disciplinary actions up to and including discharge.

A driver who has an alcohol test result of greater than 0.02 but less than 0.04 will be removed from the performance of a safety-sensitive function for 24 hours, but no further action will be taken against him based upon this information alone. If this occurs multiple times, it will be treated in the same way as other absences according to District policy.

Before the driver is returned to safety-sensitive duties, if at all, the District must insure that he:

1. Has been evaluated by a substance abuse professional.
2. Has complied with any recommended treatment.
3. Has taken a return-to-duty controlled substance and alcohol test with a result indicating an alcohol concentration level of less than 0.02.
4. Is subject to unannounced follow-up controlled substance and alcohol tests. The number and frequency of such follow-up testing will be as directed by the substance abuse professional and consist of at least six tests in the first 12 months following the driver's return to duty.

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