

RESOLUTION 2018-02

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE BEAUMONT-CHERRY VALLEY WATER DISTRICT
AMENDING THE POLICIES & PROCEDURE PART I, SECTION 48:
SUBSTANCE ABUSE**

WHEREAS, in 2016, voters in California passed Proposition 64 which legalized recreational marijuana for persons aged 21 years or older under state law, with legal sales beginning effective January 1, 2018; and

WHEREAS, the Beaumont-Cherry Valley Water District wishes to update the Substance Abuse policy to assure clarity on fitness for duty; and

WHEREAS, the Board of Directors of the Beaumont-Cherry Valley Water District has determined that it is in the best interest of the District to amend the District's Personnel Policies & Procedures Manual to ensure compliance with all applicable laws and to resolve ambiguities; and

WHEREAS, the Board of Directors of the Beaumont-Cherry Valley Water District has carefully reviewed the proposed changes as attached to this Resolution, and

NOW, THEREFORE, BE IT RESOLVED that Section 48 of the District's Personnel Policies & Procedures Manual is hereby amended and immediately enforceable as set forth in Exhibit A.

ADOPTED this 14th day of February, 2018 by the following vote:

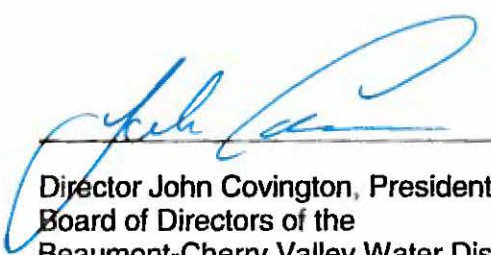
AYES: COVINGTON DIAZ HOFFMAN SLAWSON

NOES:


ABSTAIN:

ABSENT: RAMIREZ

ATTEST:



Director John Covington, President of the
Board of Directors of the
Beaumont-Cherry Valley Water District



Director Claudeen C. Diaz, Secretary to the
Board of Directors of the
Beaumont-Cherry Valley Water District

EXHIBIT A

48. SUBSTANCE ABUSE (In Conformance with Department of Transportation Guidelines)

- A. **Purpose.** The purpose of this policy is to ensure worker fitness for duty and to protect District employees and the public from risks posed by the use of alcohol and other prohibited substances. This policy is also intended to comply with all applicable Federal regulations governing workplace antidrug programs in the transportation industry. The Federal Highway Administration (FHWA) of the Department of Transportation (DOT) has enacted 49 CFR Part 382 that mandates urine drug testing and breathalyzer alcohol testing for safety-sensitive positions and prevents performance of safety-sensitive functions when there is a positive test result. The Department of Transportation has also enacted 49 CFR Part 40 that sets standards for the collection and testing of urine and breath specimens. In addition, the Department of Transportation has enacted 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," which is applicable to certain employees, requiring the establishment of drug free workplace policies and the reporting of certain drug-related offenses to the Department of Transportation. This policy incorporates those requirements of safety-sensitive employees and others when so noted.

The District recognizes that the use of alcohol and/or other prohibited substances in the workplace is not conducive to safe working conditions. In order to promote a safe, healthy and productive work environment for all employees, it is the objective of the District to have a work force that is free from the influence of drugs and alcohol.

Any terms or procedures not defined within the District's policy shall be defined by the Department of Transportation regulations, which are incorporated by reference herein, and as follows: 49 CFR Part 382, 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," and 49 CFR Part 40

- B. **Applicability.** This policy applies to all employees when they are on District property, including in a District vehicle, or when performing any District related business. Certain provisions, where identified, will apply only to safety-sensitive employees. It also applies to off-site lunch periods and breaks when an employee is scheduled to return to work. Any employee which may be required to complete the "return-to-duty" process with a Substance Abuse Professional (SAP) shall not be compensated for time off and shall pay all costs associated with the "return-to-duty" process. A safety-sensitive employee is generally any employee who, in the normal course of business, is required to operate District vehicles or heavy equipment, or performs any function in which the employee's performance, reflexes, and/or judgment impact the safety of him- or herself or others. Additionally, a safety-sensitive employee is:
- i. One in any classification requiring the use of a Class "A" or Class "B" commercial driver's license, as listed in Appendix A;
 - ii. One who desires in the future to voluntarily drive a District vehicle requiring a commercial license, or may be required to operate a District vehicle requiring a commercial license on an emergency basis; or,

- iii. One who performs safety-sensitive functions as specified in Appendix A. A safety-sensitive employee is considered to be performing a safety-sensitive function during any period in which that employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

C. **Prohibited Substances.** "Prohibited substances" addressed by this policy include, but are not limited to the following:

- i. **Drugs.** Marijuana, amphetamines, opiates, phencyclidine (PCP) cocaine and all other substances illegal under state or federal law.
- ii. **Alcohol.** The use of beverages or substances, including any medication, containing alcohol, such that it is present in the body at a level in excess of that stated in DOT guidelines while actually performing, ready to perform, or immediately available to perform, any District business is prohibited. "Alcohol" is defined as: the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol, including methyl or isopropyl alcohol.
- iii. **Controlled Substances.** The Drug Enforcement Agency (DEA) has classified certain medications as controlled substances. While certain controlled substances may be legal if taken in accordance with a medical doctor's prescription and instructions for proper use, any misuse or abuse of controlled substances is prohibited under the District's policy. Additionally, if proper use of a controlled substance impacts an employee's ability to perform his or her job, the employee is required to inform a supervisor. The District will comply with all state and federal laws.
- iv. **Legal Medications.** Using or being under the influence of any legally prescribed medication(s), or non-prescription medication(s) while performing district business or while on District property is prohibited to the extent that such use or influence affects job safety or effective and efficient job performance. An employee who feels his/her performance of work-related duties may be impaired by use of any legal substance which carries a warning label that indicates that mental functioning, motor skills and/or judgment may be adversely affected shall report it to his/her supervisor, and medical advice shall be sought before performing work-related duties.

D. **Prohibited Conduct.** Engaging in unlawful possession or use of a prohibited substance or alcohol on District premises, in a District vehicle or while conducting District business off the premises is absolutely prohibited. Violation will result in removal from duty and referral to a certified Substance Abuse Professional (SAP), and may result in discipline up to and including termination of employment.

- i. **Manufacture, Trafficking, Possession and Use.** Engaging in unlawful manufacture, distribution or dispensing of a prohibited substance or alcohol on District premises, in a District vehicle or while conducting District business off the premises is absolutely prohibited. Violation may result in termination. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.
- ii. **Impaired/Not Fit for Duty.** Any employee who is reasonably suspected of being

impaired, under the influence of a prohibited substance, or not fit for duty shall be removed from job duties and be required to undergo a reasonable suspicion prohibited substance or alcohol test. Employees failing to pass this reasonable suspicion prohibited substance or alcohol test shall remain off duty and be referred to an SAP. A prohibited substance or alcohol test is considered positive (failed) if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in the DOT guidelines (49 CFR Part 40)

- iii. **Alcohol Use.** No safety-sensitive employee may report for duty or remain on duty when his/her ability to perform assigned functions is adversely affected by alcohol or when his/her breath alcohol concentration is 0.04 or greater. No employee shall use alcohol during working hours. No safety-sensitive employee shall use alcohol within four (4) hours of reporting for duty. Violations of this provision are prohibited and will subject the employee to disciplinary action, including removal from safety-sensitive duty and referral to an SAP.
- iv. **Compliance with Testing Requirements.** All safety-sensitive employees are subject to randomized prohibited substance testing and breath alcohol testing. Any safety-sensitive employee who refuses to comply with a request for testing, who provides false information in connection with a test or who attempts to falsify test results through tampering, contamination, adulteration, or substitution shall be removed from duty immediately and be referred to an SAP. Refusal to submit to a test can include an inability to provide a urine specimen or breathe sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior or physical absence resulting in the inability to conduct the test.
- v. **Treatment/Rehabilitation Program.** An employee who tests positive for a prohibited substance and/or alcohol will be afforded an opportunity for treatment in accordance with the following provisions:
 - a. **Positive Substance and/or Alcohol Test.** The option to attend a Rehabilitation Program is available for employees who have tested positive for a prohibited substance on a one-time basis only. Employees will be terminated immediately on the occurrence of a second event with a verified positive test result. Program costs and subsequent prohibited substance and/or alcohol testing costs will be paid by the employee. When recommended by the SAP, participation and completion of the rehabilitation program is mandatory. Failure of an employee to attend and complete a prescribed program will result in termination from employment. Prior to return-to-duty testing, an employee must follow the rehabilitation program recommended by the SAP and agree to and sign a Return-To-Duty Agreement. The duration and frequency of follow-up testing will be determined by the SAP but will not be shorter than one (1) year or longer than five (5) years.
 - b. **Voluntary Admittance.** All employees who feel they require treatment for use of prohibited substances and/or alcohol may request voluntary admission to a rehabilitation program. Requests must be submitted to the General Manager or his/her designee for review. Program costs and

subsequent prohibited substance and/or alcohol testing costs will be paid by the employee. An employee completing a rehabilitation program must agree to and sign a Return-To-Duty Agreement, pass a return-to-duty prohibited substance and/or alcohol test and be subject to unannounced follow-up testing for thirty-six (36) months following return to duty. A positive result on the return-to-duty test or on the unannounced follow-up tests may result in discipline up to and including termination from employment. The District will comply with its obligations under state and federal law.

- vi. **Leave Time.** Participants in the rehabilitation program may use accumulated sick leave, vacation and floating holidays, if any. If no time is available, participants will not be paid by the District and will not accumulate vacation or sick time while on leave under any circumstance.
- E. **Notifying the District of Criminal Drug Conviction.** Pursuant to the "Drug Free Workplace Act of 1988," any employee subject to the Act who fails to immediately notify the District of any criminal drug or alcohol statute conviction shall be subject to disciplinary action, up to and including termination of employment.
- F. **Proper Application of the Policy.** The District is dedicated to ensuring fair and equitable application of this Substance Abuse Policy. Therefore, supervisors are required to administer all aspects of the policy in an unbiased and impartial manner. Any supervisor who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy with respect to his/her subordinates, shall be subject to disciplinary action, up to and including termination of employment.
- G. **Testing for Prohibited Substances.** Analytical urine prohibited substance testing and breath testing for alcohol will be conducted as required under DOT guidelines. All employees shall be subject to testing prior to a final offer of employment and for reasonable suspicion, and in some instances, following a serious accident to which the employee might have contributed. All safety-sensitive employees shall be subject to testing randomly following an accident, as defined in the DOT guidelines. In addition, all safety-sensitive employees will be tested prior to returning to duty after failing a prohibited substance and/or alcohol test. Employees who have returned to duty will be subject to unannounced follow-up tests for up to five (5) years, as determined by an SAP. Safety-sensitive employees who perform safety-sensitive functions as defined in Appendix A and in the DOT guidelines (49 CFR Part 40) shall also be subject to testing on a randomly selected and unannounced basis.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the Department of Health and Human Services (DHHS), including split-sample testing. All testing will be conducted consistent with the procedures put forth in the DOT guidelines.

An initial prohibited substance screen will be conducted on each specimen. For those specimens that are positive, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the prohibited substance levels present are above the minimum thresholds established in the DOT

guidelines.

Tests for alcohol concentration will be conducted utilizing an approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). If the initial test indicated an alcohol concentration of 0.02 or greater, a confirmation test will be performed to confirm the result of the initial test. A safety-sensitive employee who has a confirmed alcohol concentration of 0.02, but less than 0.04, will be removed from his/her position for at least twenty-four (24) hours unless a retest results within 15-20 minutes in an alcohol concentration of 0.02 or less. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of DOT guidelines and this policy.

Any employee who has a confirmed positive prohibited substance or alcohol test will be removed from his/her position, informed of educational and rehabilitation programs available, and must obtain and submit an evaluation by a SAP. The District affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process. However, the District may be obligated under certain circumstances to divulge information to authorized recipients, and complete confidentiality is not guaranteed.

i. **Circumstances Under Which Employees May be Tested.**

- a. **Pre-Employment Testing.** All job applicants who have been offered District employment requiring the regular performance of safety-sensitive tasks, as well as current employees who promote, demote or transfer to safety-sensitive positions, shall undergo urine prohibited substance testing prior to employment. Receipt of satisfactory test results is required prior to their employment and failure of a prohibited substance test will disqualify the candidate from further consideration for employment. Current employees who promote, demote or transfer to safety-sensitive positions shall be required to test negative prior to their assignment. The District will obtain records from previous employers of new employees to conform to DOT guidelines. Probationary employees who receive a positive alcohol and/or substance abuse test, or who fail to provide "clean" records from previous employers, will fail to complete the District's probationary period.
- b. **Reasonable Suspicion Testing .** All employees will be subject to urine and/or breath testing when there is a reason to believe that the employee is under the influence of prohibited substances or alcohol while performing his or her job duties or on District property. A reasonable suspicion referral for testing will be made on the basis of documented, objective facts and circumstances which are consistent with the effects of substance abuse.

Reasonable suspicion determinations will be made by a supervisor or other designated individual who is trained to detect the signs and symptoms of prohibited substance and alcohol use and reasonably concludes that an employee may be using a prohibited substance while performing his or her job duties or on District property. Examples of reasonable suspicion include, but are not limited to, the following:

- (1) Adequate documentation of unsatisfactory work performance or on-the-job behavior that indicates the use of prohibited substances.
- (2) Physical signs and symptoms, including appearance, behavior, speech or body odors, consistent with prohibited substance use.
- (3) Occurrence of a serious or potentially serious accident that appears to have been caused by a lapse in judgment or reflexes by the employee, or that otherwise appears to have been caused by the use of a prohibited substance by the employee.
- (4) Fights (i.e., physical contact), assaults and flagrant disregard or violations of established safety, security, or other operational procedures.

- c. **Post-Accident Testing.** All employees, whether or not in a position classified as safety-sensitive, will be required to undergo prohibited substance and/or breath alcohol testing if they are involved in an accident while operating or assisting in the operation of a motor vehicle for District business that results in a fatality, injury to any person requiring transport to a medical facility, or damage to a vehicle requiring towage from the site. In addition, if the employee is operating a commercial motor vehicle for District business and receives a citation for a moving traffic violation arising from the incident, the employee will be required to undergo testing, regardless of the nature of the incident.

Following an accident in which testing is required, all employees whose performance could have contributed to the accident will be tested as soon as possible, but not to exceed eight (8) hours for alcohol and thirty-two (32) hours for prohibited substances. Any employee who leaves the scene of the accident without appropriate authorization prior to submission to prohibited substance and alcohol testing will be considered to have refused the test and be subject to termination of employment. Post-accident testing covers not only the operation personnel, but any other employees whose performance could have contributed to the accident.

- d. **Random Testing.** Employees working in safety-sensitive classifications will be subjected to randomly selected, unannounced testing. The random selection will be by a scientifically valid method. Each safety-sensitive employee will have an equal chance of being tested each time selections are made. Safety-sensitive employees will be tested either just before departure, or during duty, or just after the safety-sensitive employee has ceased performing his/her duty.

When safety-sensitive employees are off work due to long-term lay-offs, illness, injury, or vacation, the employee's name will be placed back into the pool and another employee name selected.

The number of safety-sensitive employees selected for random testing will be the amount required in the DOT guidelines. Currently, (February 2018) ten percent (10%) of the employee pool is tested for alcohol and twenty five percent (25%) for substance abuse. The employee pool will either be all District safety-sensitive employees or, if the District participates in a consortium of employers, all safety-sensitive employees within the consortium.

e. **Return-to-Duty Testing.** All employees who previously tested positive for a prohibited substance or alcohol test must test negative and be evaluated and released to duty by the SAP before returning to duty. Employees will be required to undergo unannounced follow-up prohibited substance and/or alcohol breath testing following returning to duty. The SAP will determine the duration and frequency. However, it shall not be less than six tests during the first twelve (12) months, nor longer than sixty (60) months in total, following return to duty.

f. **Employee Requested Testing.** Any employee who questions the result of a required prohibited substance or alcohol test may request that an additional test be conducted. This additional test may be conducted at the same laboratory or at a different DHHS certified laboratory. The test must be conducted on the split sample that was provided at the same time as the original sample. All costs for such testing are to be paid by the employee unless the second test invalidates the original test. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in the DOT guidelines. The employee's request for a retest must be made to the supervisor within seventy-two (72) hours of notice of the initial test result. Requests after seventy-two (72) hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee.

ii. **Records Retention.** The District shall maintain complete records of alcohol and/or prohibited substance test results for each employee in a secure location with controlled access. Employee records are confidential and will be available only to the DOT or any government or law enforcement agency authorized by law to access the records. Records will be kept for a minimum of five (5) years regarding the following: driver alcohol tests; positive prohibited substance tests; documentation on refusals to take alcohol or prohibited substance tests; and, employee evaluations and referrals. Records will be kept for a minimum of two (2) years regarding the alcohol and prohibited substance collection process. Records will be kept for a minimum of one (1) year regarding the following: collection process; collection logbooks; documents of random selection process; calibration documents for breath testing device; and, documentation of breath alcohol technician training.

H. **Employee Assessment.** Any employee who tests positive for the presence of prohibited substances or whose breath alcohol concentration is above the minimum thresholds set forth in the DOT guidelines will be assessed by an SAP. An SAP is a District selected licensed physician, psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinically experienced in the diagnosis and

treatment of drug and alcohol related disorders. The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited substance or alcohol abuse or misuse. If an employee is returned to duty following rehabilitation, he/she must agree to and sign a Return-to-Duty Agreement, pass a return-to-duty prohibited substance and/or alcohol test and be subject to unannounced follow-up tests for a period of one (1) to five (5) years, as determined by the SAP. The cost of any rehabilitation and subsequent prohibited substance and/or alcohol testing is borne by the employee and is on a one-time basis only. Subject to applicable state and federal laws, an employee may be terminated from employment on the occurrence of a second verified positive test result. Employees may use accumulated sick leave, vacation, administrative leave, personal necessity leave, and/or floating holidays, if any, to participate in the prescribed rehabilitation program.

- I. **Test Related Time-Off Work Provisions.** Any employee who is relieved from duty due to a positive alcohol or prohibited substance test must use accumulated compensated leave (i.e., vacation, sick leave, administrative leave and/or personnel necessity leave) during the regularly scheduled work time missed. If the employee has insufficient accumulated compensated leave to cover the regularly scheduled work time missed due to a positive alcohol or prohibited substance test, such time shall be without pay. In the event there is a false positive test the District, upon verification, will compensate the employee for any regularly scheduled work time missed as a result thereof.
- J. **Contact Person.** Any questions regarding this policy should be directed to the General Manager.

PROCEDURES

- A. **Reasonable Suspicion Testing.**
 - i. An employee who displays objective signs indicating he or she may be under the influence of alcohol and/or prohibited substances, according to a supervisor trained to detect such signs, or other designated, trained individual (for convenience, referred to hereinafter as "supervisor").

Any employee may identify someone suspected of alcohol and/or prohibited substance abuse to any supervisor (employees should realize, however, that it is against District policy to make false or malicious statements about other employees and doing so can result in disciplinary action). The supervisor must witness first-hand the employee's signs and symptoms.
 - ii. The supervisor is then obligated to ensure that the matter is immediately investigated.
 - iii. When the supervisor(s) reasonably suspect and believe that the employee may be under the influence of alcohol and/or prohibited substances, the employee is then immediately suspended from duty (with pay) and driven by a designated District employee (or others designated) to the District's specified collection site. Testing facilities require the employee in question to show proof of identification, such as a driver's license photo or state-issued photo identification card.

Whenever practical, the General Manager (or his/her designee) should be notified in advance of the employee being taken to the collection site.

- iv. At the collection site, the employee will be required to submit a urine sample in the event that prohibited substances are suspected, or a breath sample in the event that alcohol intoxication is suspected by the on-duty technician. Care will be taken to provide the employee with maximum privacy without compromising the integrity of the sample.
- v. The District will take precautions to prevent the employee being tested from going back to work and driving their own car home if any of the tests are positive. Instead, the employee will be taken home from the collection by a District employee (or others designated).
- vi. The employee whose test results are negative (0.02 alcohol concentration or less, and no indication of prohibited substances) will be reinstated immediately. The employee whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04 will not be permitted to return to duty or perform a safety-sensitive function for twenty-four (24) hours after administration of the test. The employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater, the presence of any illegal substance, or the presence of any legal, controlled substance (medication) for which there is no valid medical explanation provided in writing by a medical doctor,¹ will be referred to a District specified SAP who will assess the employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the employee's termination of employment.
- vii. The employee whose prohibited substance test results are verified negative will be reinstated immediately. The employee whose prohibited substance test is verified positive by the Medical Review Officer² will be referred to a District specified SAP who will assess the employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the employee's termination of employment.

B. Random Testing.

- i. The compliance company notifies the General Manager (or his/her designee), who in turn notifies the supervisor to send the safety-sensitive employee to the collection site for alcohol and/or prohibited substance testing.

¹ In the event that an employee is found to be using a legally prescribed medication, the justification for which is provided in writing by a medical doctor, the District will evaluate whether the use of the legal controlled substance impairs the employee's ability to safely perform his or her job, and reserves the right to reassign, suspend, or terminate the employee, if appropriate, in accordance with applicable state and federal laws.

² A Medical Review Officer is a licensed physician responsible for analyzing laboratory results generated by the District's substance abuse policy testing program.

- ii. The supervisor notifies the safety-sensitive employee to go to the collection site for alcohol and/or prohibited substance testing immediately. Because of a testing facility requirement, the safety-sensitive employee sent to the collection site must have proof of identification, such as a driver's license photo or state-issued photo identification card.
- iii. At the collection site, the safety-sensitive employee will be required to submit a urine sample (in the event that prohibited substances are to be tested for) or a breath sample (in the event that alcohol is being tested for) to the on-duty technician. Care will be taken to provide the safety-sensitive employee with maximum privacy without compromising the integrity of the sample.
- iv. The safety-sensitive employee whose test results are negative (0.02 alcohol concentration or less and no indication of prohibited substances) will be released to return to work. The safety-sensitive employee whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04 will not be permitted to return to duty or perform a safety-sensitive function for twenty-four (24) hours after administration of the test. The safety-sensitive employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater, the presence of any illegal substance, or the presence of any legal, controlled substance (medication) for which there is no valid medical explanation provided in writing by a medical doctor,³ will be referred to a District specified SAP who will assess the safety-sensitive employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the safety-sensitive employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination of employment.
- v. The safety-sensitive employee whose prohibited substance test results are verified negative will be released to return to work. The safety-sensitive employee whose prohibited substance test is verified positive by the Medical Review Officer will be referred to a District specified SAP who will assess the safety-sensitive employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the safety-sensitive employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination of employment.

C. Post Accident.

- i. The employee performing a safety-sensitive function, including operating a motor vehicle, notifies a supervisor that an accident has occurred.
- ii. The supervisor determines that the circumstances of the accident warrant a post-accident test in accordance with DOT guidelines. Thereafter, the supervisor directs the employee to immediately go to the collection site for alcohol and prohibited substance testing. The testing facility requires the

³ See footnote 1.

employee in question to have proof of identification, such as a driver's license photo or state-issued photo identification card.

- iii. At the collection site, the employee will be required to submit a urine sample for prohibited substances and a breath sample for alcohol testing to the on-duty technician. Care will be taken to provide the employee with maximum privacy without compromising the integrity of the sample.
- iv. The General Manager (or his/her designee) will be notified that an accident has occurred and that the employee was instructed to go to the collection site.
- v. The employee whose tests results are negative (0.02 alcohol concentration or less and no indication of prohibited substances) will be released to return to work. The employee whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04 will not be permitted to return to duty or perform a safety-sensitive function for twenty-four (24) hours after administration of the test. The safety-sensitive employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater, or the presence of any illegal substance or controlled, legal substance for which there is no valid medical explanation provided in writing by a medical doctor,⁴ will be referred to a District specified SAP who will assess the safety-sensitive employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the employee's termination.
- vi. The employee whose prohibited substance test results are verified negative will be released to return to work. The employee whose prohibited substance test is verified positive by the Medical Review Officer will be referred to a District specified SAP who will assess the employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the employee's termination of employment.

D. Return to Work and Follow Up.

- i. The compliance company notifies the District to send the employee to the collection site for alcohol and prohibited substance testing.
- ii. The supervisor notifies the employee to immediately go to the collection site for alcohol and prohibited substance testing. The testing facility requires the employee in question to have proof of identification, such as a driver's license photo or state-issued photo identification card.
- iii. At the collection site, the employee will be required to submit a urine sample for prohibited substances and a breath sample for alcohol testing to the on-duty technician. Care will be taken to provide the employee with maximum privacy without compromising the integrity of the sample.

⁴ See footnote 1.

- iv. The employee whose confirmation test results indicate an alcohol concentration greater than 0.02, or whose prohibited substance test is verified positive,⁵ will be terminated from employment.

E. Chain of Custody for Specimens.

- i. At the time a specimen is collected, the employee will be given a copy of the specimen collection procedures.
- ii. Urine will be in a wide-mouthed clinic specimen container which will remain in full view of the employee until split, transferred to, sealed and initialed in two tamper-resistant urine bottles.
- iii. Immediately after the specimens are collected, the urine bottles will, in the presence of the employee, be labeled and then initialed by the employee. If the sample must be collected at the site other than the prohibited substance and/or alcohol testing laboratory, the specimens will be placed in the transportation container. The container will be sealed in the employee's presence and the employee will be asked to initial or sign the container. The container will be sent to the designated testing laboratory on that day or the earliest business day by the fastest available method.
- iv. A chain of custody form will be completed by the on-duty technician during the specimen collection process and attached to and mailed with specimen.

F. Specimen Collection of Strange and/or Unrecognizable Substances.

- i. An employee is observed with a strange and/or unrecognizable substance reasonably suspected to be a prohibited substance.
- ii. The supervisor, in the presence of a witness, places the strange and/or unrecognizable substance in a clear plastic bag. The bag is sealed, labeled and signed by both the supervisor and the witness.
- iii. An incident report is written by the supervisor and signed by both the supervisor and the witness.
- iv. The plastic bag containing the specimen and a copy of the incident report is taken to the collection site for transportation to the laboratory for analysis.

G. Alcohol Concentration.

- i. The employee and the on-duty Breath Alcohol Technician (BAT) at the testing facility complete the alcohol testing form to ensure that the results are properly recorded.
- ii. After an explanation of how the breathalyzer works, an initial breath sample is taken.

⁵ See footnote 1.

- iii. If the results of the initial test show an alcohol concentration of 0.02 or greater, a second or confirmation test must be conducted. The confirmation test must not be conducted less than fifteen (15) minutes after, nor more than twenty (20) minutes after the screening test.
- iv. The confirmation test will utilize Evidential Breath Testing (EBT) devices that print out the results, date and time, a sequential test number, and the name and serial number of the EBT device to ensure that reliability of the results.

H. Deviations from Procedures.

Unless otherwise provided in DOT guidelines, deviations from the foregoing procedures shall not invalidate the results of any prohibited substance tests verified positive by the Medical Review Officer.

References:

DOT 49 CFR Part 382

<https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&ty=HTML&h=L&mc=true&=PART&n=pt49.5.382>

DOT 49 CFR Part 40

[https://www.ecfr.gov/cgi-bin/text-](https://www.ecfr.gov/cgi-bin/text-idx?SID=44edbc0e557a4cc5ff03365810ee5b1c&mc=true&node=pt49.1.40&rgn=div5)

[idx?SID=44edbc0e557a4cc5ff03365810ee5b1c&mc=true&node=pt49.1.40&rgn=div5](https://www.ecfr.gov/cgi-bin/text-idx?SID=44edbc0e557a4cc5ff03365810ee5b1c&mc=true&node=pt49.1.40&rgn=div5)

OR

<https://www.gpo.gov/fdsys/pkg/FR-2017-11-13/pdf/2017-24397.pdf>

DOT 49 CFR Part 29

<https://www.gpo.gov/fdsys/granule/CFR-1999-title49-vol1/CFR-1999-title49-vol1-part29>

Drug-Free Workplace Act of 1988

<https://www.gpo.gov/fdsys/pkg/USCODE-2009-title41/pdf/USCODE-2009-title41-chap10.pdf>

APPENDIX A

SAFETY SENSITIVE CLASSIFICATIONS AND FUNCTIONS

Water Division Safety-Sensitive Classifications

Utility Worker I II III
Production Operator / Supervisor
Field Superintendent
Heavy Equipment Operator
Grade Checker
Recycled Water Supervisor
Transmission and Distribution Supervisor

Safety-Sensitive Function

Operating any vehicle where a Class A or Class B driver's license would be required.

All tasks that involve the operation of heavy equipment, and any function in which the employee's performance, reflexes, and/or judgment impact the safety of the employee or others.

APPENDIX B

VOLUNTARY PARTICIPATION IN RANDOM TESTING

Although my classification is not considered safety-sensitive, I may volunteer at various times to perform a safety-sensitive function. In adherence to the District's policy on random alcohol and controlled substance testing of employees performing safety-sensitive functions, I hereby agree to be included in the pool of employees selected for such testing. I further agree that my voluntary submission to alcohol and controlled substance testing requires that I follow all related procedures as described in the Employee Handbook, and that a positive test result will be handled in the same way it would for an employee regularly in a safety-sensitive classification. This agreement is valid for one year from the date signed.

Employee's signature

Date

Employee's Name Printed